



International Bridges to Justice (IBJ)

IBJ Myanmar Program Annual Report – 2020

Broadening Justice to Address Poverty and Conflict in Myanmar

Outcome 1: Stronger cost-effective Justice Centres provide no-cost legal advice and representation to indigent and vulnerable accused individuals achieving more individual justice and systemic change

Output 1.1: Sustain 5 fully staffed Justice Centres

Key Achievements

- IBJ has established **five justice centres** in Taungoo, Mandalay, Taunggyi, Naypyitaw and Hpa-An.
- Each justice centre is led by a Senior Lawyer and is supported by a team of junior lawyers, intake lawyers, program officers and administration and finance officers. The justice centres are supported by IBJ Myanmar program team based in Taunggyi. The specific staffing for justice centres is based on considerations of operational needs, justice contextual demands, and workforce analysis and planning.
- Recognising the importance of **creating space for women's leadership and influence** in the criminal justice sector, four out of the five senior lawyers in the justice centres are women.
- IBJ strives to **achieve gender parity**, and this is evidenced by a **women-strong multi-disciplinary team** of 23 women staff members out of the 35-local staff, including the interim country director.
- Despite being thrown off operational balance due to COVID-19 uncertainties, the five justice centres operated by IBJ swiftly **put in place health and safety measures**. The justice centres were kept operational and functional to provide **frontline legal aid** during the public health crisis.
- IBJ's **workplace policies** are effectively enforced to ensure the **operational procedures and decision-making processes are consistent**. Some of the policies are: Child Policy, Anti-corruption Policy, Code of Employee Ethics 2020, and COVID-19 Safety Guidelines 2020. This reflects IBJ's core values to provide a **conducive and respectful work environment**.
- The pandemic promoted **digitalisation of the justice centres** with staff members adeptly using digital tools and technology to ensure justice is always accessible and available.

Over the past year the Naypyitaw Justice Centre has emerged as a formidable legal aid service provider in the community, **responding to the justice concerns of the local community**. While providing legal representation, the justice centre has **also secured the trust and confidence** of the local community, which is supportive of the justice centre's activities. This is a huge shift given the initial skepticism of local lawyers' communities regarding the added value of the justice centre in Naypyidaw. IBJ staff now enjoy the support of both the community of lawyers and community leaders.

Another important development in 2020 was the decision to close the Kalaw Justice Centre. The decision was taken after consultation and a needs assessment, which showed that the legal needs of the community were largely met by a strong community of lawyers committed to legal aid. Therefore, **IBJ focused on working in Ho-Pong** which is a Pa-Oh **ethnic autonomous district** in Shan state. IBJ's intake lawyer, who is from the Pa-oh ethnic speaking community, was successful in establishing a relationship between the Taunggyi Justice Centre and the Ho-Pong Township Court, the police, and the legal aid board.

One of the **strengths of IBJ's justice centres has been the versatility in human resource planning and strategic placement of staff members between the justice centres**. In 2019, when the Kalaw Justice Centre closed, the admin-finance officer was transferred to Naypyitaw Justice Centre. A junior lawyer and a program officer were hired, completing the recruitment for the Justice Centre. Similarly, the junior lawyer from Taungoo took up the offer to join the Taunggyi Justice Centre team so that the intake lawyer in the Taunggyi Justice Centre could focus on legal aid in Ho-Pong. The program officer from Naypyitaw moved to Taungoo to replace the program officer in Taungoo, who had resigned. IBJ has a high staff retention and is often viewed as a place that opens opportunities to work for lawyers that want to promote zealous, ethical, and impactful legal aid. IBJ has effectively reframed the status of the 'intake lawyer' from being the most junior position to being a distinct and important position in our mission. The intake lawyer regularly visits prisons, police and the courts to promote early representation.

"I always wanted to devote myself pro bono work for the poor people. However, as a private lawyer there are financial constraints. Then, I started cooperating with Taungoo Justice Center in 2018. As IBJ's pro bono referral system covers minimum case cost and travel expenses for pro bono lawyers, I could devote myself into pro bono legal aid work. Besides, I also received technical legal capacity trainings and monthly peer-learning programs to try new things. In 2019, I faced charges of criminal trespass while going with the JC lawyer for a field investigation. IBJ intervened to protect not only the JC lawyer, but also me as a pro bono/ cooperating lawyer. Since then, the bond to legal aid gets stronger. I joined IBJ Myanmar as an Intake lawyer in Taungoo JC team in 2020 which is the proudest thing I have ever done."

U Soe Moe Aung, Intake Lawyer (Taungoo Justice Center)

The justice centres have been **operational despite the COVID-19 restrictive measures** and the partial and full shutdowns. Since the March 16th, 2020 notification on COVID-19 restrictions, working from home has largely been the norm. A rotational system where a "duty- lawyer" is always present and accessible in the justice centres has been put in place. Health and safety kits such as masks, disinfectants and counter shields for client counselling have been provided. Internal trainings and COVID-19 guidelines have been developed for the staff to work in a safe and healthy environment.



The COVID-19 context has redefined global work culture, compelling many to make an unprecedented shift to working remotely, while making major adjustments in order to balance their private and professional lives. The justice centres have made the digital leap successfully, reorienting to a new work norm. In conformity with the Myanmar government health and safety rules, IBJ staff have been implementing the project remotely and virtually through established management and organisational structures, well-defined roles and well-established reporting lines. A significant development during this year was the change in senior management with the appointment of an interim country director and the country program manager. Towards the end of 2020, the senior lawyers were promoted to justice centre managers, which is an important step towards the nationalisation envisioned by the Project.

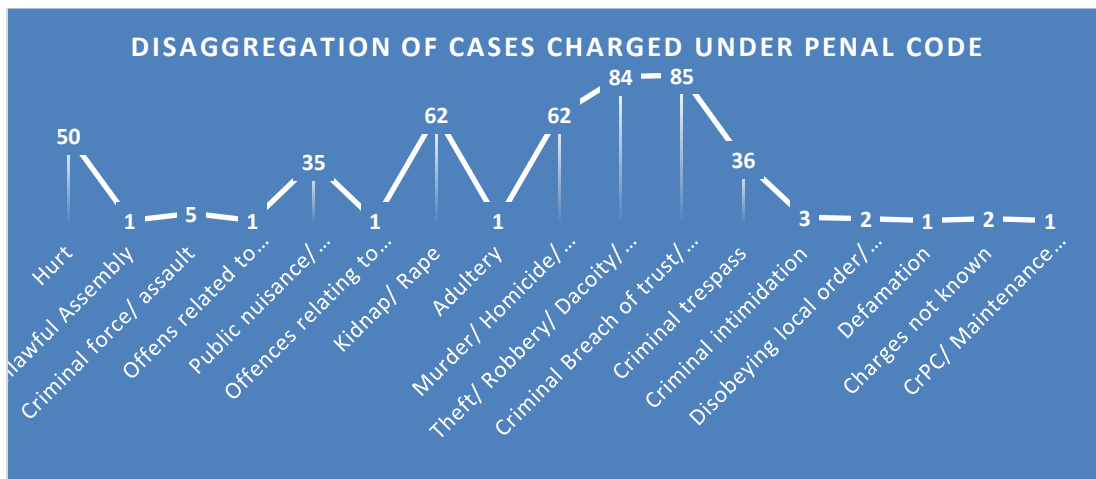
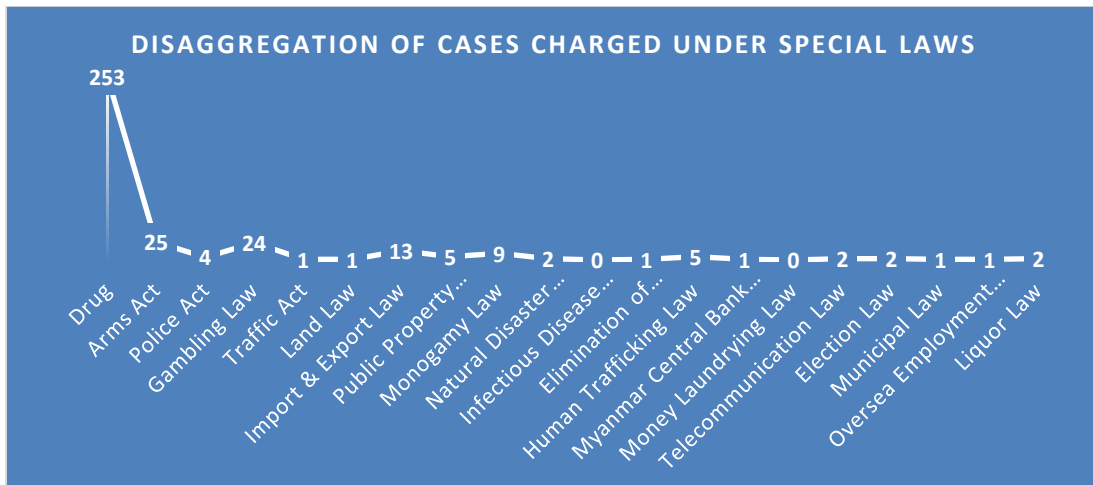
Output 1.2: Provide direct legal representation in 2,592 cases

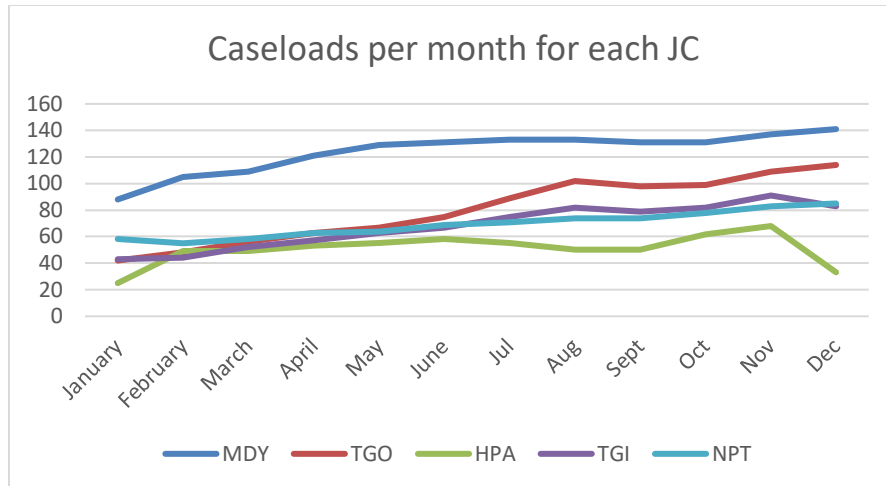
Key Achievements

- In 2020, the justice centres' intake of new cases was 784, represented directly by the justice centres of which 673 were ordinary trial cases.
- 566 cases were closed in 2020.
- Despite the COVID-19 situation, the justice centres intakes have over-achieved the annual target of 720 by the intake of 784 cases in 2020.
- Out of the 784 clients, 133 were female which was 22% of the total number of clients.
- Out of the 784 clients, 177 were of non-Bama ethnicity, which was 23% of the total number of clients.
- There were 35 juvenile clients.
- Out of the 784 total JC cases, 432 cases were charged under the Penal Code, and 352 cases were charged under various special laws such as the Narcotics law, the Arms Act, the Police Act, the Gambling Law, the Traffic Act, the Land Law, the Import/Export Law, the Public Property Protection Act, the Monogamy Law, the Natural Disaster Management Law, the Infectious Disease Prevention Law, the Elimination of Prostitution Law, the Myanmar Central Bank Law, the Anti-Money Laundering Law, the Telecommunication Law, the Election Law, the Municipal Law, the Overseas Employment Law, and the Liquor Law.
- IBJ has provided a platform for the social role of lawyers by expanding the number of cooperating lawyers (referred to in this report as 'pro bono lawyers') in each justice center.
- 392 referrals have been made to pro bono lawyers who have vetted and are committed to providing services through the justice centers.

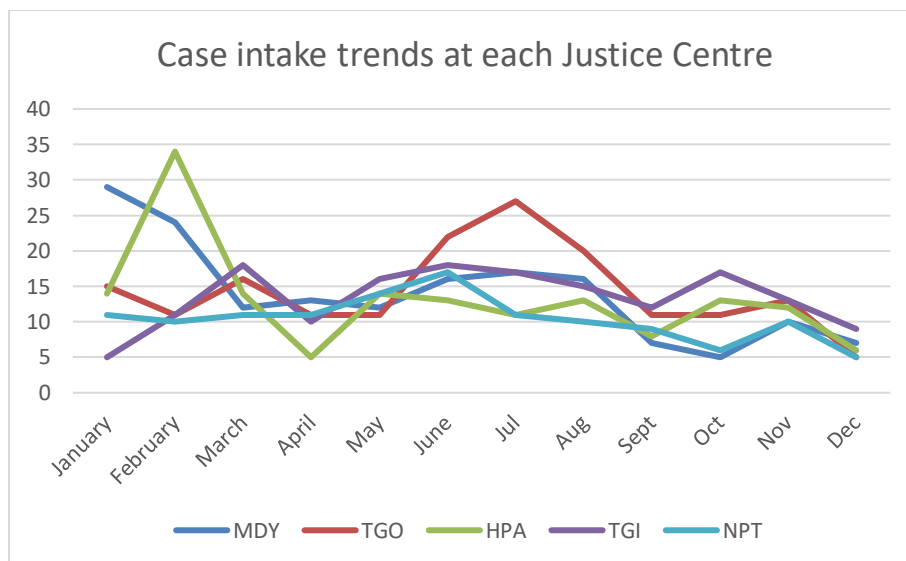
- The number of pro bono lawyers in IBJ network is 200 out of whom 150 are female lawyers. (This does not include law student interns and paralegals)

Drug-related offences form the bulk of the cases IBJ lawyers handle. A review of the cases related to drugs dealt with by the IBJ lawyers indicates that many clients have been subjected to disproportionate and harsh charges and sentences. In providing legal representation and intervention, IBJ observes that the criminal justice system is often used to punish and harass individuals in ways that may be counter-productive to public health education and programs. The graphs below illustrate the types of criminal offences that were handled by the Justice Centres in 2020.





The Project proposes two modalities for providing legal representation. Representation is provided directly through justice centre lawyers and also through a network of cooperating lawyers/ pro bono lawyers working closely with the justice centres. From the start of the project to the end of the reporting period, IBJ provided direct legal representation to 784 cases which is a 9% increase from the Year 1 project target of 720 cases. The graph below traces the periods during which there was a decrease of intake cases that was largely attributable to the justice system running at reduced service and during periods in which restrictive measures were imposed due to the renewed COVID-19 pandemic. The case intake in Mandalay Justice Centre noticeably dropped. This was because Mandalay is a big city, and it was the city most affected by stay-at-home orders and the severe restrictions on movements imposed because of the pandemic. Despite the restrictions, after a slowdown in October, the justice centers came close to meeting their monthly targets in November, with 58 new intakes recorded and 28 closed cases. With the police and the courts conducting a routine, end-of year caseload review in December, the project recorded 64 closed cases and 32 intakes of new cases.



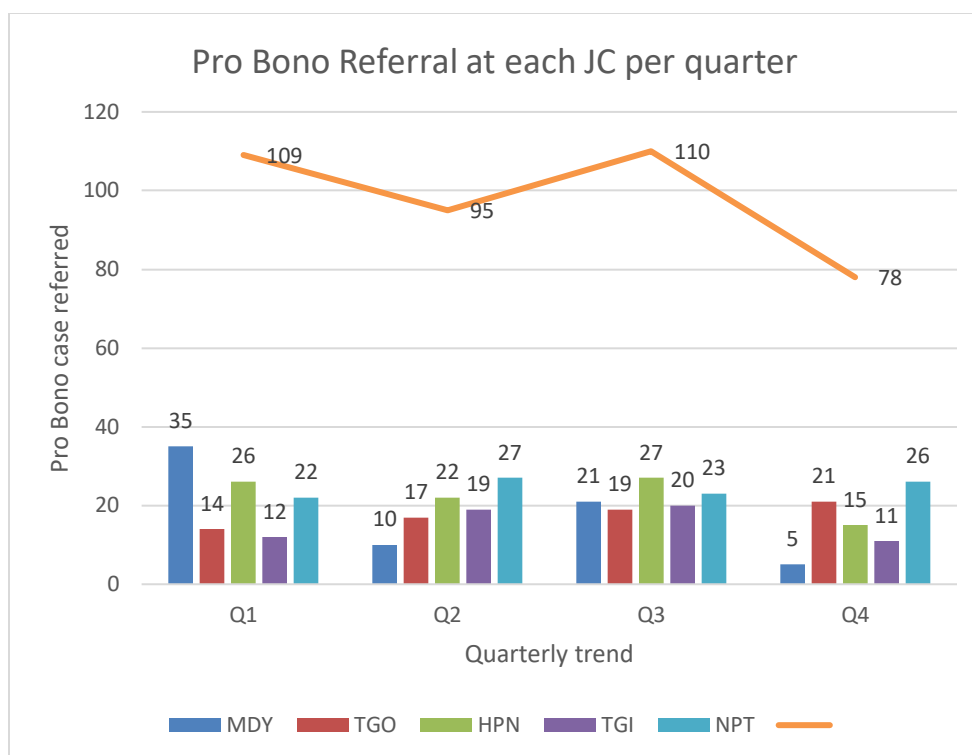
Representation by Justice Centre Lawyers

The total intake of cases varies greatly from justice centre to justice centre. At the start of the project, the plan was for the two largest centres to intake 15 new cases each month, while the three smaller centres would intake 10 cases each month, for a total of 180 new cases each quarter. IBJ over-achieved by intaking 235 new justice centre-represented cases in the first quarter of the year and 203 in the second quarter. This was remarkable given the expected slowdown in April due to the Thingyan holiday and the unexpected challenges posed by the governmental shutdowns and travel restrictions due to the COVID-19 pandemic. As the chart below shows, intake by month did vary, with a drop of 21% from August to September, largely because of the impact of the renewed COVID-19 pandemic. In November, there was a better case intake with the virtual court hearings held in Taunggyi and Hpa-An and the lawyers' regular visits to prisons and police stations. In the same month, a lockdown was declared in Mandalay which resulted in no intake of cases and travel restrictions were imposed in Naypyitaw.

The pandemic caused court closure, reduced justice services, sporadic virtual court hearings, and lack of access to prisons and police stations. Because of the uncertainties created by these conditions, it was difficult for the justice centre lawyers to adequately serve clients needing representation without assistance from IBJ's network of attorneys. It was imperative to develop a strategy that would reduce the intake of cases by the justice centre lawyers and increase referrals to cooperating lawyers. At the end of 2020, given the uncertainties, the strategy of the justice centres is to focus on increasing support to the cooperating lawyers to provide high quality, client-centred legal representation. IBJ would ensure this through a multi-pronged approach of sharing legal aid service provision checklists, policies, conducting trainings, mentoring and supervision.

Pro Bono Representation

The second modality of providing representation of otherwise eligible clients is the modality of providing service through vetted and well-trained external pro bono lawyers. As in many jurisdictions, Myanmar has a long-standing tradition of lawyers providing "free-of-cost" legal services, especially in the absence of a consolidated government-funded legal aid service delivery program. A critical contribution of this program is the promotion of the availability of lawyers and the institutionalization of pro bono legal service. Justice centres connect those in need of legal representation with lawyers capable and qualified to provide it. The project goal is to refer at least 480 cases. At the end of 2020, 392 cases were identified and referred. The graph below demonstrates the referrals per quarter. There is a decrease of 29% from October onwards. This dip can be traced to cooperating lawyers being reluctant to take up cases during court shutdowns and the lawyers travelling back to their hometowns during lockdown. Further, the priority was first given to the justice centre lawyers to meet their quarterly intake target before referring cases to cooperating lawyers. During this uncertain period, Taungoo Justice Centre and Naypyitaw Justice Centre have shown a stronger cadre of cooperating lawyers with 21 referrals in Taungoo and 26 referrals in Naypyitaw, respectively. IBJ also observed that during COVID-19 there was an emergence of a pool of private lawyers in Hpa-An who offered ad-hoc pro bono services which was similar to that offered by the justice centres. The overlapping areas of service have also resulted in a decrease in referrals from the Hpa-An Justice Centres to justice centre pro bono lawyers. A positive outcome of this development has been the justice centers being proactive in initiating a legal aid coordination system to improve service delivery and improve communication between service providers and lawyers.



Output 1.3: Pursue 200 appellate and strategic litigation matters

Key Achievements

- 61 interruptive/interlocutory revisions were filed in 2020.
- 111 Post-verdict appeals/revisions in various appellate courts including the Supreme Court.
- Continuing the practice of identifying cases in the trial courts and providing high-quality service for litigation on appeal or revision; 10 cases have been filed in 2020. These cases will impact individual justice and have a broader impact on the criminal justice system.
- 8 cases relating to judicial interpretation and court culture.
- 1 case relating to implementation of the Child Rights Law.
- 1 case relating to seeking justice with holistic legal aid.
- The director of strategy and advocacy (DSA) through his mentoring and coaching lawyers, has helped draft 19 arguments. These cases have involved the following issues: interpretation of the charge of abetment of criminal offences, systemic abuse of Section 114 of the Penal Code as an exception to abetment, standards of proof, legal definitions of ingredients or liability, evidentiary or procedural errors on the part of the judge, malfeasance (bad acts) by police, law officers or judges, burden of proof related to medico-legal evidence, putting an end to pretrial detention of juveniles, long sentencing of children that conflicts with the Child Rights Law.
- In 2020, IBJ began to monitor and support all appeals and revision cases since the start of the project in 2017.
- IBJ maintains and updates a list of all the appeals and revision cases the lawyers have handled through a well-established case management system for strategic litigation. Important litigation cases are summarized, translated, analysed and discussed. Strategic litigation cases include issues faced by traditionally marginalized groups such as rights violations of farmers,

vulnerable populations (drug-users, children, ethnic/religious minorities, LGBT, women) that are prosecuted because of their group status.

Strategic litigation is part of the larger strategy of the project to promote systemic change by addressing procedural rights violations and substantive concerns that undermine basic freedoms through strategically selected litigation. Fifty years of dictatorship and the government's purposeful degradation of the legal profession has left a formal justice system in disarray. IBJ's strategic litigation intervention is drawn from the following observed problems with law practice and the administration of criminal justice in Myanmar:

- (i) Cases are not decided on the law; instead, money, influence and the preference for quick pragmatic solutions have an outsized influence on the administration of justice.
- (ii) Judges, including the higher-level appellate courts, are not independent, and do not view it as their job to hold the executive branch (including the police) accountable.
- (iii) The law is incorrectly and inconsistently applied by the police, law officers and judges. For example, the rules regarding detention of juveniles and provisions of the Child Rights Law and laws related to abuse of abetment liability are often not properly enforced. Representation is often denied to people during remand hearings. Rules related to the use of medical evidence, disclosure, charging practices, and evidentiary standards are not correctly or consistently applied. Courts may convict for crimes that are not charged.
- (iv) The repressive nature of the regime often intimidates lawyers in their presentation of cases. The practice of lawyers is to use only one defense-line in their case, not always the strongest, but rather the line that is least confrontational to power. During the mentoring process, IBJ notes that lawyers shy away from telling judges how to apply the law and that judges do not want lawyers to correct them.
- (v) Strengthening and clarifying evidentiary decisions remains a key strategic area for legal challenge.

Appeals and revisions, interlocutory as well as post-verdict cases, are used to create progressive jurisprudence, ensure that laws are correctly interpreted, and enforce and seek legal remedies and relief that are available and relevant to the clients' cases. To achieve this, a strategic litigation triage is created by the lawyers to decide which cases will trigger positive transformation in the culture of administering justice. IBJ focuses on making the lower courts transparent, accountable and applying the law, as this is the first point of entry for justice seekers. Therefore, priority is given to cases that would bring about systemic changes in the lower courts' decisions, promote procedural fairness in courts, and create a record for appellate litigation that will set important legal precedents.

From October onwards, 11 more appeals and revision cases were filed with a total of 30 appeals and revision cases pursued in the Supreme Court, High Courts and district courts. One of the reasons for this increase was the delay of hearings in original trial cases due to COVID-19 restrictions and therefore more time and effort was spent on filing relevant post-verdict appeals and revisions in various appellate courts including the Supreme Court of the Union.

STRATEGIC LITIGATION HIGHLIGHTS

Contributing to the implementation of the Myanmar Child Rights Law

This case highlights the perseverance of a junior lawyer at Taunggyi Justice Centre. The lawyer advocated and set a precedent for the pursuit of child-friendly legal aid by applying multiple legal strategies and

negotiations to gain access to justice for her 12-year-old juvenile client and eventually secured the child's release. The juvenile client was detained in police lock-up and the lawyer challenged the detention and requested bail. Initially, the judge refused to accept the power of attorney on vague technicalities, which the lawyer successfully challenged under Section 375 of the Constitution and Section 25 of the Legal Aid Law. This provision states that everyone has the right to a lawyer immediately after the arrest. The lawyer also invoked the principle of 'best interest of the child' under Section 84 (c) of the Child Rights Law. She requested the court entrust the child to the parents' custody as provided under Section 83 (c) of the Child Rights Law. The law officer objected to the motion because according to the police investigation, the case is chargeable under Section 376 and Section 363, prohibiting rape and kidnapping of a minor, an offence which is non-bailable. The Judge, after the remand hearing, rejected the defence request for bail under Section 114 of the Child Rights. The junior lawyer then pursued the case by filing a revision petition in district court and eventually secured her juvenile client's release.

"I had asked for bail since I got the case. The court rejected as usual. I never gave up always thinking of the ways to get children the legal rights they deserve. Therefore, in the next court hearing, I asked for bail again as a final attempt for the purpose of filing criminal miscellaneous case to District Court. There was no surety (the mother lives with her sister and she does not have any property ownership) and I asked for bail with the identification card of the mother, the confirmation letter given by the ward administrator and the family registration form. But strangely enough, the judge asked for the client's aunt to submit the sale contract of the house. As soon as the judge inspected the contract, bail was given. The mother said she would bring the child to Justice Center so that I could educate him about the relevant laws. Yesterday, when I requested the District Court to grant the bail, I included discussion of the illegal restrictions imposed by Township Court on my advocacy. Coincidentally, I found some relief today."

Junior Lawyer, Taunggyi Justice Center reflecting release of juvenile in a case

The junior lawyer from the Mandalay Justice Centre **applied child-friendly, holistic legal aid to secure the release of two juveniles arrested** and charged under Section 30 of the Natural Disaster Management Law (violation of local directive in time of emergency). The juvenile clients were at a religious gathering in a house with adults. The junior lawyer sought the cooperation of the social welfare department to secure a term of 3-month probation under parental care and custody. If the junior lawyer hadn't intervened with the social welfare department, the juvenile client would have been sent to a training school facility for juveniles.

The junior lawyer at Taunggyi Justice Centre challenged the detention of her juvenile client along with adult detainees in the police station and in the court lock-up. She worked closely with the Taunggyi Social Welfare Department to implement the regulations related to juvenile detention under the Myanmar Child Rights Law. In addition to pursuing litigation strategies, she advocated for the Social Welfare Department to report these conditions and practices of juvenile detention in the criminal justice system in their quarterly reporting. As a result of this strategic litigation and advocacy, (i) the police and courts no longer detain juveniles with adult detainees and juveniles are transported to courts separately (ii) juveniles are no longer handcuffed and (iii) juveniles are entrusted to their parents or guardian's custody during trial and need not produce documents for their release.

Judicial interpretation

The **Monogamy Law in Myanmar** makes polygamy, extramarital affairs, and cohabitation with someone outside the marriage illegal and can be imprisoned for up to 10 years. The law also prohibits a married person from entering a second marriage or ‘cohabitating’ with another person while still married. The Mandalay Justice Centre was successful obtaining a **judicial interpretation of what is construed as “cohabitation” under the Monogamy Law**. A case was filed against a client for illegally cohabitating with a woman while married on the basis that a woman was in the same room as the defendant during the night. As the defendant refused to open the door when the plaintiff and the plaintiff’s witnesses knocked, there was assumption that the defendant was illegally cohabitating with another woman while married’. The High Court of the Mandalay Region affirmed the lower court ruling that this is considered as cohabitation because the defendant did not open the door and it was night-time. With the close guidance of the IBJ DSA, the senior lawyer of Mandalay **filed a revision petition in the Supreme Court requesting a judicial interpretation of “cohabitation”** under the law.

Challenging procedural rights violation

In Myanmar, **suspects often admit guilt under duress**. This is unfortunately an accepted part of the culture of criminal justice. The junior lawyer from the Hpa-An Justice Centre successfully **challenged this pervasive practice**, which is a violation of procedural rights under Myanmar law. Her client was charged with trespassing, lurking and causing grievous harm with a weapon. The township court clerk was putting pressure on the defendant to give a confession as the courts would not resume hearings due to COVID-19 measures. The junior lawyer intervened and told the court clerk that this was against the Criminal Procedure Law and requested that he followed the court’s system schedule even in the times of COVID-19. She further advised the clerk that forcing her client to give a confession was an abuse of her client’s rights under law. She filed a motion to recall the plaintiff, which was allowed by the court. The dates for hearing the defence and the defence witnesses were adjourned.

The **justice centres work in close coordination with each other in pursuing strategic litigation justice outcomes**. The Naypyitaw Justice Centre plays a central role among the justice centres in facilitating Supreme Court appeals and revisions. The Hpa-An Justice Center has been proactive in filing appellate litigation and works closely with the Naypyitaw Justice Center. The Naypyitaw Justice Center also works collaboratively with the Mandalay Justice Center in filing appeals and revisions. The Naypyitaw Justice Centre also assisted the International Legal Foundation (ILF) lawyer in submitting case documents to the Supreme Court in October when there were travel restrictions imposed due to the second wave of the pandemic.

Accountability and transparency

Strategic litigation is an important tool for seeking accountability and IBJ lawyers have used this multiple times. In Naypyitaw, IBJ Myanmar lawyers successfully filed a revision petition against a law department and secured a positive outcome. The client in this case was charged with Section 379 and was discharged in the trial court. The law officer filed a revision in the district court. In this case the district court ruled in favour of the defence and found that there was prosecutorial misconduct since there was no police report filed. This **reinforces the safeguards provided by an independent judiciary against governmental overreach**.

In another highly politicized case, a member of a non-state army had been charged in a complicated land fraud matter. Both the state government and the leaders of the non-state army used the justice centre's client as a scapegoat to deflect the anger of land purchasers whose titles have been rendered void. The prosecution refused to share relevant land titles and other documentary evidence, leading IBJ lawyers to file 27 criminal miscellaneous revision applications in the district court. Although the court has summarily dismissed the applications because the state government is a party to the litigation, the justice centre lawyers are determined to continue to pursue justice.

Similarly, in Taunggyi the junior lawyer successfully defended 17 farmers who were unfairly prosecuted for criminal trespass alleged by the military.

Evidentiary decisions

The **price of erroneous decisions in criminal cases can be significant**. It is of utmost importance for defence lawyers to present all exculpatory evidence for judges to properly assess evidence to base their decisions on. IBJ lawyers receive mentoring to spot and address errors or **arbitrary evidence assessment by judges in legal decision-making**. The junior lawyer in Hpa-An Justice Centre filed a general motion to the district court to review the action of the township court where the judge admitted uncertified documents produced by the prosecution. After the district court dismissed the motion, the junior lawyer filed an appeal to the High Court. Advocating that courts correctly follow evidentiary rules remains a key strategic area for IBJ Myanmar.

In Naypyitaw, the senior lawyer submitted a written argument assessing the facts of a case. She argued that the prosecution had failed to meet its burden of proof. The lawyer requested the court **to issue an order to allow a blood test to analyse the DNA** of a baby that was allegedly conceived as a result of a rape, before the accused was prosecuted for the rape. With this and other criminal cases, IBJ Myanmar is **increasing the use of scientific evidence in defending the criminally accused**.

Challenging wrong application of laws

In criminal justice practice, one of the primary tasks of a defense lawyer is to determine the grounds of arrest and the framing of the charge. In Myanmar, defendants who are arrested **are often charged with wrong crimes**. It is incumbent on the IBJ lawyers to **argue for a lesser charge and point to errors in the evidence or factual basis** which has led to the arrest. For instance, in the Patheingyi Township Court in Mandalay district, an accused charged with Section 380 (theft in dwelling) was sentenced to 1 year with rigorous imprisonment in the trial court. However, the intake lawyer filed an appeal in the District Court and the charge was changed to a lesser offense of violating Section 414 (assisting in concealment of stolen property). The accused was released since he had already served one year in detention.

In a drug case, the Taunggyi District Court convicted the accused and ordered him to serve 15 years of imprisonment under Section 16 (c), 19(a) and 21. IBJ lawyers filed an appeal in the Shan State High Court and got a favourable ruling which vacated the convictions under Sections 19(a) and 21 of the Drug Laws, punishable by a maximum period of 10 years imprisonment. The defendant's sentence was reduced to 5 years imprisonment.

Exploring legal strategies and innovation

Through a **combination of supervision, mentoring and coaching**, IBJ lawyers are encouraged to develop and utilise multiple innovative legal strategies and techniques to pursue a just and fair criminal justice system in Myanmar. After assessing the ethical considerations for joint representation in a particular case, the Mandalay Justice Centre represented co-defendants as their lines of defense were not in conflict. The appeal was ultimately dismissed. In providing such representation, IBJ lawyers also **opened a dialogue on ethical criteria for providing representation to multiple clients where there is no conflict of interest**.

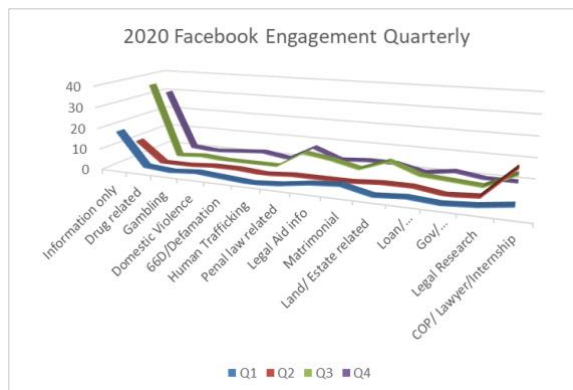
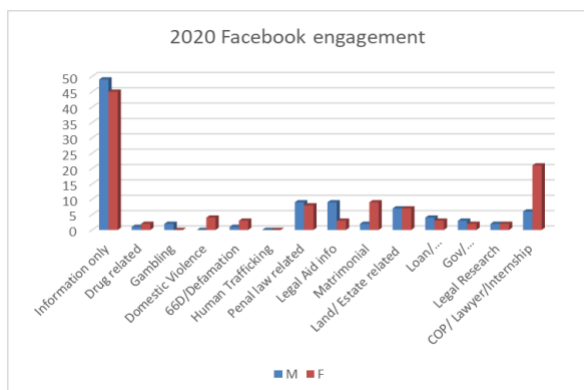
Output 1.4: Provide non-criminal justice related advice to 1,800 individuals and 500 external referrals

Key Achievements

- In 2020 IBJ staff **provided advice to 877 individuals** which is around **48% of our project goal of 1800 individuals**
- In Myanmar Facebook is very popular and widely followed. IBJ **set up the IBJ Myanmar Page and five individual justice centre pages** in May 2020. The justice centres manage and post content on their page to address local legal concerns.
- In 2020, **94 people (49 male and 45 female) made inquiries for advice** and information through IBJ Facebook page. IBJ has seen a **huge spike in the number of inquiries** by Facebook users due to the COVID-19 lockdown.
- **IBJ developed a Social Media and Communications Policy**. The staff were trained to apply this policy in their social media interactions.

The justice centres have earned a strong reputation not only for direct representation in criminal matters, but also for **being a clearinghouse for a host of legal issues facing poor and vulnerable individuals**. Due to the pandemic and the governmental restrictions on travel and in-person meetings, many individuals reached out to IBJ justice centres through social media such as the Facebook. The information and assistance provided was on issues related to the Monogamy Law, land disputes, divorce and custody, civil cases, and financial matters such as loans and debts.

The charts below show the kind of interaction, needs and information requested by users disaggregated by sex. The justice centre staff had to be proactive in informing **those who inquired on the ethical and legal duties of confidentiality and privacy before engaging with them** on social media or referring them to the appropriate lawyer or service provider. The justice centre Facebook administrators have also been dealing with **inquiries from Yangon and locations** where the justice centres are not located. For instance, a person from Yangon who suffered domestic violence was counselled and referred by IBJ to “A Ka Yar” (a CSO working on domestic violence) and followed up with them. Similarly, a saleswoman was arrested under Section 420 (cheating) and her friend, contacted the Taunggyi Justice Centre through its Facebook page. This demonstrates that the Facebook pages of IBJ Myanmar and those of the justice centres are widely viewed and advice and information are sought from the Facebook pages, especially during the COVID-19 pandemic.



As the justice centre staff are oriented towards client-centred lawyering, they **go beyond the call of traditional lawyering**, to provide advice and information in non-legal and non-criminal matters that come through social media channels. They use **their active listening skills** and are **empathetic** when providing support. As the senior lawyer from the Naypyitaw Justice Centre observes, “a number of civil law cases are referred to us. This is a **testament of the trust and confidence the local justice actors** and the community-based organisations have in us”.

As more individuals contact through social media, the justice centres are planning to **set up a legal aid helpline in 2021** and are keen to volunteer their time to provide client-centred counselling and advice. This is much needed given the uncertainty posed by the pandemic.

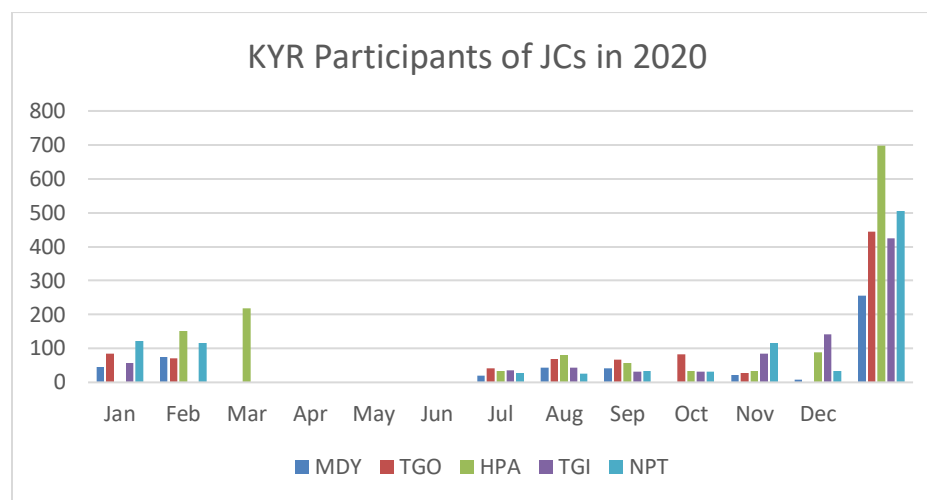
Output 1.5: Conduct 100 Know Your Rights (KYR) events reaching 5,000 individuals

Key Achievements

- **2,328** individuals were reached with KYR events of **whom 1,519 are female**.
- The justice centres transitioned to **virtual ‘Know Your Rights’** events, reaching **1,385 people with 40 events**.
- At the start of the project the target audience for KYR were CSOs, CBOs, law students and others, whereas towards the end of the year, **the participants were from diverse backgrounds**.
- **5,000 pamphlets were developed**, translated, and printed; these pamphlets focused on basic fair trial rights and access to justice. **3,407 pamphlets were distributed**.
- Facebook, one of the largest social media platforms in Myanmar, is an important tool for informing and assisting rights-holders in accessing justice through the justice centres’ services. Since the launching of the Facebook pages, **IBJ has had an average of 1,500 followers, and a 5,000 organic page reach** in each justice center page.
- IBJ developed a **digital media guideline** to be applied by staff members in making outreach programs on the digital platform and for guidance in managing Facebook pages and the data collection system; this will be merged into the project’s existing monitoring and evaluation system and reporting.
- As part of this initiative, IBJ does referrals to legal aid providers who are in the **IBJ legal aid service providers directory**.
- IBJ has developed **12 narratives** from select cases with success stories that can be readily used and shared at public events, websites, and social media platforms.

- IBJ has **re-purposed the legal knowledge sharing** and **weekly legal quiz posts** that were developed to engage Facebook users.

In the first quarter, prior to the outbreak COVID-19, KYR events were conducted in person in remote villages and schools. Since April 2020, **virtual KYR events have been the standard practice** throughout the reporting period, except in Naypyitaw, where COVID-19 measures were relaxed due to the 2020 Myanmar national elections. Taking advantage of this opportunity, the Naypyitaw Justice Centre held in-person KYR events that raised legal awareness regarding the Infectious Disease Prevention Law and Natural Disasters Law criminal processes that were triggered by the pandemic and also regarding the rights of juveniles in the criminal justice system in local villages. The KYR events also promoted the services of the justice centre. The chart below shows the participants in the **KYR events organised in the five locations** of the justice centres.



In October 2020, the materials for the **KYR events were updated and revised to reflect the local justice concerns and realities of the communities**. The topics selected are based on the various requests for legal advice on Facebook and the needs of the communities as identified by lawyers in their field investigations. For example, responding to the rise in domestic violence during COVID-19, the justice centres conducted KYR events on domestic violence crimes for paralegals. In addition, KYR events that discussed penalties and rights related to Infectious Disease Prevention Law, protection and promotion of child rights, offences under the Monogamy Law, and rights of the accused charged under human trafficking law and drugs related offences were also developed.

Focus Group Discussions (FGD) format for Know Your Rights (KYR) events

The idea of applying the FGD format for KYR events stems from a pilot action in July and August 2020. The Mandalay Justice Center **conducted a clients' family session**. In this session, clients' family members were the target group. They were invited (by location) to the Justice Center. The lawyers counselled the family members on the criminal justice process and rights of the defendants.

The justice center organized a workshop to discuss juvenile cases. The workshop was attended by 20 participants who are family members of clients. The session was organized in two parts. In the first part of the session, the lawyer met individually with each client's family to discuss their case. The second session was a group meeting. The lawyers then explained about the basic procedure of arrest, trial

procedures and the fundamental rights of the accused, the Child Rights Law, the age documentation process, and other relevant matters. The Mandalay senior lawyer remarked that she was surprised to learn that her clients, despite receiving counselling at the time of intake, were not fully aware of their rights. Therefore, the targeted workshops are **more effective because the people who are already engaged in a criminal justice system will be more interested in having in-depth discussions on the process.** The FGD format provides an opportunity for lawyers to have in-depth conversations with **rights-holders as part of KYR events. The topics for the KYR are determined by community surveys during field investigations and needs assessment conducted with clients detained in lock-up.**

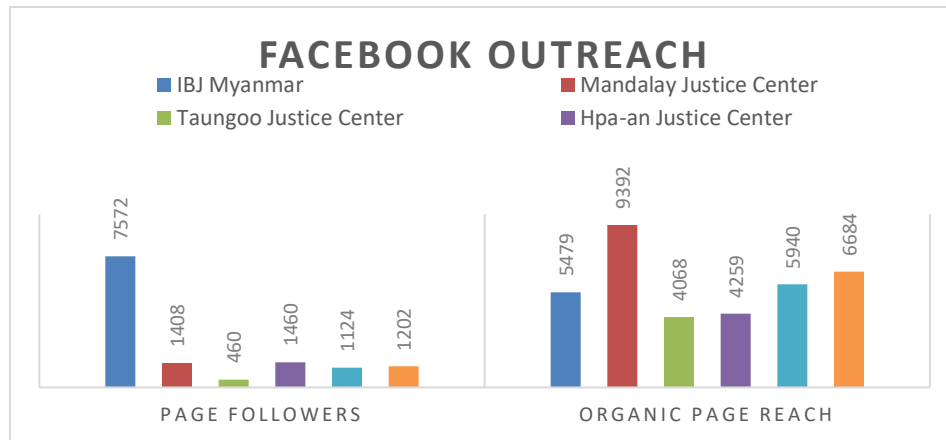
During the Focus Group Discussion (FGD) with key members of the community, IBJ introduced the justice centres' work in strengthening the criminal justice system in Myanmar. This leads to having in-depth discussions on the local legal issues affecting the communities. Another modality for conducting KYR has been to combine field investigations with FGD-based KYR events. This initiative has helped build the trust and confidence in the communities surrounding the justice centres. The table below shows the number of field investigations combined with KYR-FGDs conducted. Ordinary investigations are meetings with witnesses, follow-up on cases.

Investigations			
	Ordinary	Field	Total
MDY	178	1	179
TGO	179	2	181
HPN	220	7	227
TGI	249	0	249
NPT	29	6	35
Total	855	16	871

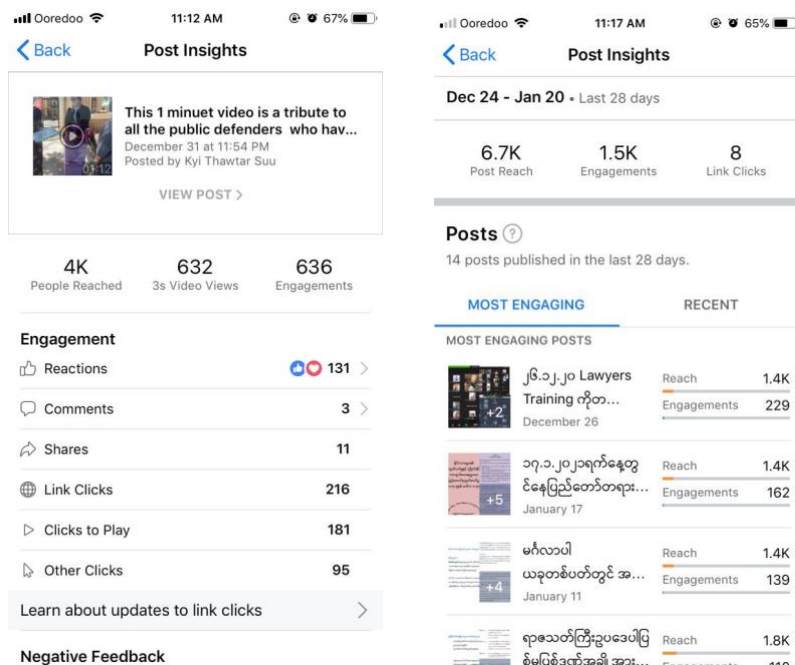
IBJ Myanmar Facebook Outreach Initiative

To support effective implementation of program activities and legal services for the community, especially during COVID-19 pandemic, IBJ Myanmar established individual justice center Facebook pages in May 2020. **The Pages' names, profile pictures and cover photos follow uniform and approved branding.** This initiative is relevant to both our legal advice function (Output 1.4), our community legal education function (Output 1.5) and our engagement and capacity building of legal professionals (Outcome 2, generally).

IBJ Myanmar has been highly successful in promoting legal awareness and general engagement through Facebook, utilising a **unitary national Facebook page** administered by international and Myanmar headquarters staff. We chose the Facebook platform because **Facebook is the leading digital communication platform in Myanmar** and is used more than other social media platform. **IBJ has a media policy and SOPs to guide the interactions** of the program officers and senior lawyers with users either through chat boxes or direct posts. Two staff members are assigned to manage the Facebook page in each justice centre. They ensure that **no individual advice is given on a public forum or through texts.** There is also an **automatic message sent to users with telephone number** of the Justice centres and their opening hours. The **graph below** shows the **organic outreach** and the **number of followers of IBJ Myanmar** and the Facebook page of individual justice centres.



Since October 2020, IBJ recorded a **spike in the number of followers** and online engagements on Facebook. The Mandalay Justice Centre has reached **1,408 followers** with nearly **4,000 accessing live broadcasting sessions**. The weekly and monthly legal awareness and online interactive activities such as question and answer sessions, **live streaming legal messages by external legal experts**, and posts reached nearly 1,000 followers. The Facebook page below provides a look at the structure and content of IBJ's Facebook page, the number of followers, engagements, and reach.



IBJ understands that **social media is a contested space** in Myanmar. Facebook has been used to disseminate fake news, hateful messages, and those raising legitimate social and political concerns have been prosecuted by powerful figures. The Facebook Pages make IBJ Myanmar visible and thus more public. This is evident in the marked rise in the number of cases and a greater demand for legal advice and information that has come from Facebook users. While Facebook is an integral part of IBJ communication, the constantly **evolving nature of this platform raises ethical questions related to the lawyer-client role** and lawyers' interpretation of their duties to report the commission of a crime, or any attempt to commit

crime under Section 44 of the Criminal Procedure Law. **IBJ lawyers are regularly coached on the social media policy** and discuss their difficulties in provide targeted legal help to clients.

To complement this demand from the community, **IBJ is developing plans to set up five legal aid helplines** which will be launched in 2021. This will be done organically through consultation and mapping existing service helplines and hotlines to **complement and synergise efforts.**

Outcome 2: More lawyers have the commitment and skills to provide legal representation to indigent and vulnerable accused individuals and to improve Myanmar's criminal justice system

Output 2.1: Build staff legal skills, knowledge, and values:

Key Achievements

- IBJ conducted a **4-day (12 hour) semi-virtual training-of-trainers** for IBJ staff members focusing on 'facilitation skills'.
- IBJ provided a **series of paralegal trainings for law students** in universities legal information centers in collaboration with the Danish Institute for Human Rights. **IBJ senior lawyers and junior lawyers led these trainings** by using the facilitation learned during 2019 Training-of-Trainers session, with the coaching of the country director.
- IBJ has compiled the training materials developed since 2017.

Revising, organizing, and compiling the curriculum and training materials is an **on-going activity**. New training modules on medico-legal evidence, unsound mind, and juvenile justice have been developed and implemented. Since 2018, the DSA and the justice centres have been using the IBJ's Criminal Defence Manual for a majority of trainings. Using this as a basis, we **developed various legal strategies for strategic litigation** which are then shared in mentoring discussions and trainings. As part of this process, the DSA and the IBJ legal coordinator have simultaneously **developed concise summaries on various legal topics** from the Penal Code and special laws, such as the Arms Act, the Narcotics Law and the Anti-Trafficking in Persons Law (2005). This resource is of vital importance for the justice centre lawyers in better analyzing and shaping cases by producing strong, well-organized legal arguments. **There are around twenty documents which are essentially the building blocks of every criminal case: the elements of a crime**, the structural framework of selected criminal offences, the criminal liabilities, the fault elements, and the exceptions. These documents will be peer reviewed by pro bono criminal law experts and made available to lawyers as a training resource.

In 2021, IBJ intends to make these training resources available through a **user-friendly, E-library** in which IBJ lawyers can have access to training resources in order to conduct internal and external trainings.

2.1.1 Provide Staff training workshop - conduct three 3-day national legal advocacy skills training workshops for up to 35 participants, including staff and cooperating lawyers

Key Achievements

- By mid-2020, IBJ's **virtual trainings were the norm**, with justice centres' staff **adept** at digital applications such as **Zoom and Microsoft Teams**. The staff have embraced the interactive opportunities. They share feedback and insights digitally, which reinforces learning and increases their engagement and motivation to learn.
- In May and June, conducted one **All-Lawyer Legal Workshop** on "**Section 114: Misuse of Abetment in Criminal Procedure,**" a group discussion session at each of the 5 justice centres on the "Use of Medical Evidence."
- A virtual **training on homicide law** was conducted for staff lawyers on 13 July via Zoom
- **Two internal staff online trainings** were organised on the '**defence of unsoundness of mind**' with 20 participants.

- A **COVID-19 health and safety staff awareness workshop** was successfully conducted for 35 IBJ staff participants.
- **334 legal arguments and legal strategies** have been framed by IBJ lawyers using resources from the training, and **2,157** structured cross-examinations were prepared.

TRAINING HIGHLIGHTS

The DSA and IBJ lawyers identified ‘**Unsoundness of Mind**’ as a defense that was a training need while applying the “exceptions” rule. A subsequent all-lawyers discussion formed the basis for a new plan for training lawyers on this topic. The lawyers **expressed difficulties in producing proof of mental health conditions and disorders as a legal defence**. They shared that they had little understanding of the wide span of mental health conditions and examining mental health experts and doctors. **IBJ invited Dr. Arkar Htun, an Assistant Surgeon from Mental Health Hospital in Mandalay to share his expertise** on criminal law and mental health. Dr. Htun led the session in which he explained the difference between mental incapacity of knowing the nature of the act or the action which is wrong and contrary to law. He further described the fundamental procedures and rules relating testimony of mental health practitioners. **The interactive design of the training allowed for lawyers to share litigation experience and perspectives with a mental health practitioner**. As a result of the training, the lawyers have not only improved their knowledge but are also sensitised to mental health issues. They have a better understanding of the vulnerabilities of the defendants with mental illness and disorders and the adverse impact of detention. The **new Mental Health Law** will also provide a basis for lawyers to request for better assessments, assistance and care for defendants with mental illness. The training was a success and the IBJ lawyers **decided to conduct a similar training for pro bono lawyers** in first quarter of 2021.

“After the training on mental health and law, it was helpful to know the process and procedures of medical witnesses to appear and testify before the court. And vice versa, we could also educate the doctors on the important role of their testimonies in seeking justice. After this training, I successfully made a request to the court for the appearance of the medical expert to testify.”

U Win Min Aung, Junior Lawyer (Mandalay Justice Center)

Training on COVID-19 health and safety staff awareness

The urgent need for this training workshop stemmed from an incident where the Taungoo Justice Centre lawyers were present on a court premises where there were suspected cases of COVID-19. Using IBJ’s materials and guidance for staff on working safely during COVID-19, the country program manager **organised a 3-hour virtual training** by inviting an external resource person. **Dr. Myat Yadanar Kyaw, a General Surgeon who was volunteering in COVID-19 Team** in the Mandalay General Hospital provided comprehensive information on the signs and symptoms of COVID-19, how it spreads, protection and preventive measures, testing and self-isolating. The workshop was timely as it provided a platform for justice centre staff to **get the right information, dispel myths, and have a scientific and medical explanation** for the pandemic. At the end of the training, the participants **expressed a collective solidarity** to jointly ensure the safety and wellbeing of their colleagues during the COVID-19 crisis.



In addition to internal training, IBJ has also opened opportunities for lawyers to attend **11 external trainings** which are easily accessible on virtual platforms during COVID-19.

2.1.2 Provide 160 days of on-site staff mentoring: providing ongoing coaching by national and international experts.

Key Achievements

- In 2020, the DSA was scheduled to be “in-country” for 6 of 12 months. He was able to complete his first two-month mission in January and February, **visiting all 5 justice centres** for a total of **39 effective coaching days**.
- In a **20-day period**, the DSA coached and mentored **36 group and individual sessions** with lawyers: 9 in Mandalay, 8 in Taunggyi, 7 in Naypyitaw, 5 in Taungoo and 7 in Hpa-An.
- With the outbreak of the pandemic and subsequent travel restrictions, the DSA conducted online coaching and mentoring, spending a **total of over 130 working days with** individual lawyers and facilitating group discussions. Working **remotely provided the flexibility** to conduct the same session with different justice centers in one day and switching between justice centers.
- The **methodology of the mentoring** and coaching sessions is the presentation and discussions of the theory followed by 1-hour on applying the theory to cases. The discussions are documented. **IBJ has 10 structured documents on providing coaching on topics** such as partial defense of provocation and sudden fight, on the crimes of cheating, theft and property crimes, [grievous] hurt, homicide crimes and sexual crimes, the liability for abetting and joint liabilities, the exception for self-defense and the fault elements.”
- In December, the **DSA dedicated 33 pro bono hours** by participating and facilitating in the two-day training in Taungoo, and a one-day training in Naypyitaw. He also **met lawyers one-on-one** and presented in the National Round Table on Juvenile Justice.
- The **country director** worked with lawyers to prepare trainings and on case matters for **26 days**.

In addition to the effective coaching, the DSA and country director **reviewed cases** that could be pursued as strategic litigation and provided technical legal assistance to appeals and revisions. The legal interpreter/coordinator **provides case summaries, translates them, and conducts case law research**. She then shares these with the DSA and the lawyers. The cases that were prioritised towards the end of the last quarter of 2020 were appeals and revisions selected for strategic litigation cases.

Output 2.2: Engage a dedicated group of at least 50 cooperating lawyers through the convening of 100 monthly meetings and the formation of communities of practice

Key Achievements

- **153 unique participants**
- **817 returning participants**
- **749 from core districts**
- **68 from outlying areas (who are joining because of online delivery) where there were 46 female lawyers**
- **40 workshops led by IBJ staff**
- **In the COP meetings, lawyers mainly discussed on the following legal issues:**
 - **Bail and remand**
 - **Juvenile Justice**
 - **Drug related cases**
 - **Wrongful charges in special laws**
 - **Procedural malfeasances**
 - **Expert testimony**
 - **Examination of witnesses**
 - **Legal aid practice**
 - **Anti-corruption**
- **In September, donor partner justice centers ILF, YJC and MJC were invited to the COP meeting in Hpa-an Justice Center to discuss bail.**

The **purpose of IBJ's Communities of Practice (COP)** is for the justice centres to draw on practitioners' experiences and provide a platform to respond to questions and challenges faced by criminal defence attorneys. **The COPs are formed based on fostering a conducive and empowering two-way learning environment that engenders solidarity.** Continuing with virtual COPs, **in 2020 IBJ organised 50 COPs with 817 participating lawyers.** The interest of the lawyers in participating in a particular COP event is largely determined by the topic of discussion. **Over 153 new COP members joined** in 2020 of whom **more than 100 are women lawyers.** This demonstrates that COPs are important opportunities that open **equal access to participation for women lawyers** who want to develop their professional skills and knowledge. The virtual COPs are convenient as they are in locations that are easily accessible for women lawyers to login from home.

As a result of the discussions in the COPs, the lawyers **have the confidence and improved knowledge and skills to challenge procedural violations in courts and malfeasance by Police.** The COP discussions help them produce written arguments, citing and referencing legal resources and pertinent provisions in the law. They are quick to raise objections now when their clients are wrongly charged and advocate with the police to either change the charge or file for withdrawal of charges. **The COP lawyers share that the most common criminal offence the defendants are wrongly charged with and arrested for are the road traffic**

offences under the Import and Export Law. IBJ gets these insights when lawyers share their experiences in pro bono lawyers' trainings and COP meetings.

The Taungoo Senior Lawyer **affirmed the value of the COPs, which have not only harnessed and generated knowledge but have fostered solidarity** among the Taungoo community of lawyers as well. She listed some of the **direct changes she observed in courts and in criminal legal practice** from lawyers who had participated in the IBJ COP events:

- **Improved legal analytical skills**
- **Confidence in challenging rights and procedural violations**
- **Demanding change or withdrawal of charges when clients are wrongly charged**
- **Challenging evidence by informers who are presented as witnesses**
- **Requesting evidence from expert witnesses such as doctors.**

IBJ received feedback from participating lawyers in the COP who unanimously agreed that they enjoyed the peer solidarity in an environment where they can share and learn.

Daw Htwe Moe Moe (Advocate-Taungoo)

"Different lawyers have different experience and expertise. In IBJ COP meetings, lawyers have an opportunity to share openly their experience, ideas, and expertise. There are lessons we learn from other's success and challenges when they handle complex cases. As a collective professional group, I feel more confident to try new legal strategies. The COP meetings are useful not only for senior but also for junior lawyers as we share different experience and skills. This may be a shortcut but effective for lawyers to learn new laws and legal matters. I would like to encourage other lawyers to join the COP too."

Daw Hla Hla Myint (Higher-Grade Pleader-Hpa-an)

"I find the Community of Practice meetings very encouraging because its more relaxed and freer than other trainings or workshops for lawyers. It is collegial and I find myself gaining more confidence to analyse, discuss and share technical-legal matters. All this just after attending 4 to 5 COP meetings"

Daw Nang Moe Ei Ei Phyu (Advocate-Taunggyi)

"Because the meeting is held online, I find myself learning new skills such as using ZOOM application along with improving my legal capacity."

Daw Myint Myint Nwe (Advocate-Naypyitaw)

"It has been years that I haven't practiced as a lawyer and when I decided to get back into legal practice, I was lost. I did not know how to start, how to network. Things changed when I joined COP meetings and the pro bono network in Naypyitaw Justice Center. This is where I rejuvenated my career as a lawyer. I improved my knowledge on new laws that were enacted, strategic defense lines and I have chance to network into this professional again. Thank you!"

U Naing Aung Chit (Higher-Grade Pleader-Mandalay)

"COP meetings are useful for me because as a junior lawyer, I still need to learn many things from the experienced lawyers and experts. This opens an opportunity for young lawyers to connect to the lawyering world more."

The topics discussed were far-ranging, driven by ongoing priority areas for the justice centres and requests from cooperating lawyers. A positive development is that all senior lawyers are deferring to more junior staff to facilitate COP meetings to encourage their own development as professional leaders.

Output 2.3: Deliver a revised client-centred defender training curriculum to external lawyers

2.3.1 Revise training curriculum

Key Achievements

- IBJ reviewed training materials that have been developed since 2017 including the Criminal Defence Practice Manual.
- The senior and junior lawyers piloted trainings for external lawyers using the revised curriculum.

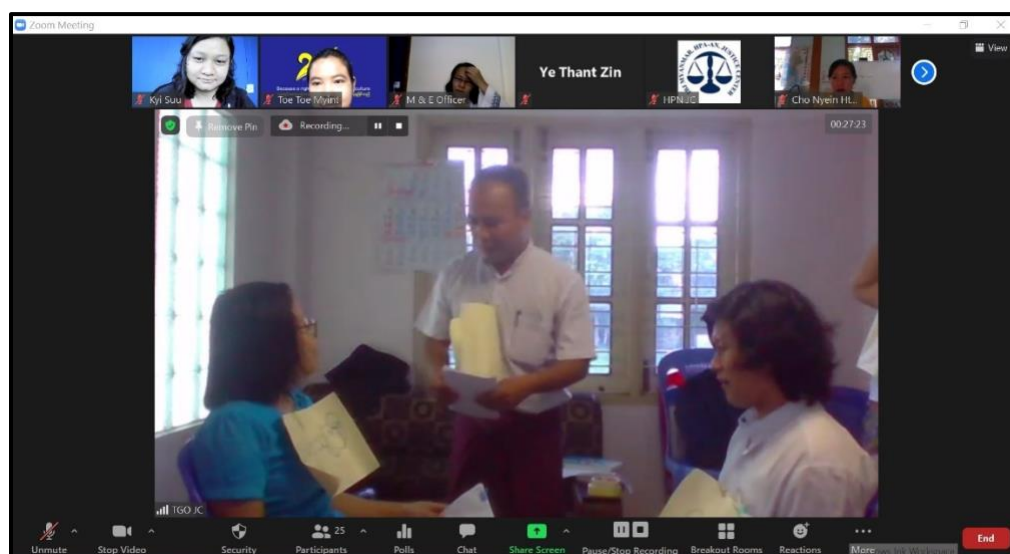
2.3.2 Revise Criminal Defense Practice Manual

The Defense Manual was not scheduled to be revised until later in the project period. The trainings, curriculum and the revised Defense Manual will be made available on the E-library for which the planning and procurement enquiries are made.

2.3.3 Deliver a 3-day TOT for 20 participants

Key Achievements

- IBJ lawyers **have increased confidence** to develop and conduct training using skills and knowledge acquired from a comprehensive Training of Trainers workshop organised in October 2020 on facilitation skills.
- **11 of trainings using the facilitation skills** acquired from the TOT workshop.



The photo was taken on Day 4 of the training. The Taungoo Justice Centre demonstrated the method learned during the training, **the role play method**. The team believes this is an **effective experiential method** which they would like to develop in their trainings. The lawyers are enacting a scene where the

defense lawyer was advocating for early access as a fundamental right. The role play includes the judge, defendant, defense lawyer, police, and prosecutor.

The **purpose of this workshop is to focus on the skills and techniques staff would need to harness and gather the collective intelligence of a group to achieve common goals** in an inclusive and empowering way. The 4-day workshop was conducted by an **external facilitator, Daw Toe Toe Myint** who is a lawyer and trainer from Equality Myanmar. The IBJ team in Myanmar developed the training-of-trainers to deftly alternate between online sessions and in-person group work in the Justice Centres. Below is the table with the training plan and sessions.

2.3.4 Conduct 25 1-day legal advocacy skills training workshops for at least 125 unique cooperating lawyers

Key Achievements

- **7 legal advocacy trainings for 214 lawyers** were conducted.
- **169** of participants were women.
- In September 2020, IBJ conducted the **Criminal Defense Manual and User Guide distribution training** for **31 Monywa lawyers** of whom **21 were female lawyers** and **10 were male lawyers**.
- Mandalay Justice Center collaborated with the **Legal Knowledge Sharing Group (LKSG)** to conduct a **3-day Land Law and Farmland Land Dispute Resolution** workshop for 20 participants.
- IBJ conducted a **4-hour medico-legal training** by inviting a forensic doctor to deliver an extensive training series on medical evidence covering 5 major topics. 57 participants attended this training of whom **30 were women** participants.
- IBJ Myanmar, in collaboration with the Danish Institute for Human Rights (DIHR), Mandalay conducted the University Legal Information Center Training Series for 3rd Year and 4th Year law **students and teachers from Mandalay University, Eastern Yangon University, and Dagon University**.
- The justice centres **piloted the second internship program** for lawyers.
- IBJ opened opportunities for **30 law students** to act as community-based paralegals, of which 20 were female students, and 11 young lawyers of which 9 were female lawyers.
- One of the greatest achievements towards the end of 2020 is the **transformation of the lawyers who demonstrated leadership in organising trainings** for paralegal, law students and lawyers. Thus, IBJ has a trusted **cadre of in-house law trainers**.
- **IBJ lawyers led 8 trainings for pro bono lawyers** on fair trial rights, legal aid ethics, medical evidence and studying the linkage of drug-related cases with public health by incorporating IBJ training methodology.

These achievements are the outcome of the regular coaching and mentoring lawyers receive from the country director, DSA and complementary efforts by the program manager who sourced Myanmar university resources. The **lawyers have adopted IBJ's approach for conducting trainings** and facilitating **peer learning by harnessing the collective intelligence**. The training-of-trainers was timely, as the lawyers have progressively evolved to become **confident trainers**. As a first step to becoming effective facilitators, the justice centre lawyers organised trainings for law students from the Mandalay University who would go on to become community-based paralegals. These trainings were **beneficial in two ways**: (i) the lawyers could focus solely on practicing facilitation skills by using digital tools on basic law topics which was not demanding and (ii) they would be training a cadre of paralegals who would be oriented to the justice centres' client-centred approach to providing legal awareness and information. Having this

opportunity to practice facilitation skills on paralegals made the lawyers confident in their capabilities as trainers, thus developing a **cadre of in-house law trainers**. This is evident in the series of training the justice centres organised for lawyers.

Reflecting on the trainings she organised independently with her colleagues, the senior lawyer from Taungoo Justice Center shared that at first, she was nervous about conceptualising and organising the trainings. This was because it was a deviation from the rote method, she was accustomed to and was conducted on virtual platforms. She gradually gained confidence by practicing the facilitation skills and techniques on law students instead of lawyers. With practice, she is now **adept at developing training plans and designing the methodology for learning for not only lawyers in Taungoo jurisdiction but also in Oattwin and Zayawaddy Townships**.

“I sought advice and guidance from my colleagues, the Senior Lawyers in Taungoo and Mandalay to develop my trainings using the techniques and tools gained in the facilitation workshop. It worked well and I am now confident to conduct trainings using various techniques from the TOT workshop.”

Daw Wint Wint Aye, Senior Lawyer (Naypyitaw Justice Center) shared her experience of organizing virtual lawyer training in NPT.

IBJ strives to **ensure collegiality in the workplace**, and this is evident as the justice centres take the initiative to organise and conduct external trainings. One of the **biggest challenges** which disrupts trainings **is the low bandwidth and poor internet connectivity**. Participants often use their phones to connect to the trainings, using mobile data rather than wifi.

Below are a few testimonials from lawyers who participated in justice centres’ lawyers led trainings:

Advocate Daw Tharaphi Myint Swe from Naypyitaw spoke of her experience, “the training is useful for capacity building for the lawyers as it includes a number of interactive breakout activities and brainstorming.”

Advocate Daw Rani Thida from Zayawaddy Township shared, “I have never attended a lawyer training with such an interactive methodology with questions and assignments. I also learned about medical expert testimonies and producing physical evidence in medico-legal cases. I have also gained additional knowledge on the relevant laws, citations and judicial precedents. Through these trainings, I can now expand my professional network with lawyers from Taungoo.”

Higher-Grade Pleader Daw Poe Zarchi, member of Htandapin Legal Aid Board said, “as a junior lawyer, I learned about the different types of drugs and narcotic substances, the legal skills and strategies that I can apply in defense of drug related cases. It would normally take years to gain this kind of knowledge and skills. This training also gave me an opportunity to think analytically in breakout room and share stories. It is like solving real cases in court rooms. The online training made is easy for me to join this training organised by Taungoo lawyers from my location”.

As of the end of 2020, IBJ had a **valuable resource, a pool of competent and confident in-house trainers** who were keen to provide trainings that are tailored to the local justice needs. This is demonstrated and evident in the table below of justice centre-led trainings conducted in December. In early 2021, the country director and the M&E officer will work with lawyers on developing their own training survey tools to monitor and identify training needs.

Fostering initiative: Volunteer Lawyers and Law Students initiative

IBJ endeavours to **create a work environment where ‘taking initiative’** in the justice centres’ work is highly encouraged. It adheres to the core of our work ethic, which is to **provide empowering spaces that are agile and responsive for staff to be proactive, engaged and committed drivers of change**. To that effect, IBJ justice centres have shown leadership in engaging with the larger legal community, including volunteer lawyers and law students, to undertake a variety of efforts to improve the criminal justice system. The Taungoo and Hpa-An Justice Centres were pivotal in **creating a welcoming and inclusive environment for volunteer lawyers**. The volunteer lawyers were able to assist with the cases and shadow the Senior Lawyers in court and help with witness preparation. They were also included in COP and KYR events. At the start of the internship, the lawyers received an orientation in client-centred, holistic lawyering and are bound by all the policies that are implemented in IBJ. They have specific responsibilities, and their work is closely supervised with regular feedback.

IBJ has created a video capturing intern lawyers’ experiences which is accessible on IBJ Myanmar Facebook Page. [fb.watch/5r4Xzmx_P8/](https://www.facebook.com/IBJMyanmar/videos/5r4Xzmx_P8/)

“The internship program at the justice center was a great opportunity for me. I could practically learn about community legal aid, about justice actors and how the criminal justice system works. We cannot get these experiences in law school. I really enjoyed working with the Mandalay Justice Center and working for the community.”

Ni Ni Win Maung, Final Year LLB, (Mandalay University)



Photo of the Mandalay interns with IBJ Senior National Legal Adviser, U Hla Ko



Mock trial presented by Hpa-an Justice Center Interns Batch 2

In 2019, IBJ Myanmar expanded engagement with law students by accepting law student interns in 4 of the then 6 justice centres (everywhere but Kalaw and Nay Pyi Taw). Building on the previous experience of the value of the contribution of law students, IBJ has **forged ahead to reinstate the internship program**. The program will be open to law students and fresh graduates. This is not part of the project and is unfunded, an initiative by the justice centre lawyers. The IBJ lawyers were keen to provide this **opportunity for learning to the law students whose legal education has been adversely impacted** by the lockdowns due to COVID-19. The activities offered to the students were court externships, case study, lecture, and client survey. Some of the activities were modified; lectures were arranged to be online, and a relaxed schedule established, to keep to social distancing rules (to avoid crowding the office).

Output 2.4: Support Legal Aid Board development through network strengthening and attendance at Quarterly Implementing Partners Coordinating Committee meetings

Key Achievements

- **Formal referrals** between Taungoo JC and Oattwin legal aid boards provide opportunities for justice centres to provide services to far-flung townships.

- In Nay Pyi Taw, the Senior Lawyer, **has established communication** on organising a formal referral mechanism between legal aid boards in remote townships.
- In 2019, IBJ Myanmar provided a training workshop for Mandalay Legal Aid Board members. In 2020, along with the bilateral meetings between the DSA and Mandalay legal aid boards members, the Mandalay Justice Center team built up a good relationship with the Mandalay Regional, District and Township Legal Aid Boards. The Mandalay Justice Center delivered case management mini workshop for the legal aid board members. The DSA had bilateral meetings to support the Mandalay Regional Legal Aid Boards relating to legal aid in COVID-19 pandemic, and also juvenile justice sector.
- Referrals from Ho-pong legal aid board to Taunggyi Justice which paves the way for systematising a strong collaboration.

Prior to the enactment of the Legal Aid Law in 2016, IBJ had consistently worked with justice actors advocating for law and policy development that would improve access to justice in Myanmar. With the passing of the Legal Aid Law, the Union Legal Aid Boards and Regional Boards have been constituted under the law. IBJ has forged relationships at the Union and the regional and state legal aid boards. **In February 2019, a Memorandum of Understanding (MOU) was signed between IBJ and the Union Legal Aid Board (ULAB) to support the legal boards' work at various levels.** This is evident in the ongoing collaboration of case referrals between the boards and the justice centres, improving case management systems and organising roundtables. **The Mandalay Justice Centre has supported the legal aid board in Mandalay** with monitoring and evaluation tools and roundtables on case management systems. In **Shan State**, the **Taunggyi Justice Centre and Ho-pong District Legal Aid** have a collaborative to refer cases. In **Taungoo**, the justice centres have **strong partnerships with township legal aid boards in the Bago region.**

While the justice centres develop collaborations at the local level, the IBJ Senior Management based in Geneva, IBJ Myanmar with the country program manager and DSA have regular dialogues on improving access to justice in Myanmar through strengthened legal aid with the ULAB. On October 10th, a constructive meeting was held between the IBJ Management in Geneva, IBJ Myanmar and the **ULAB Secretary U Khin Zaw on the implementation of the legal aid law** and the supportive role each institution can play in facilitating this process. At the onset, the Secretary discussed some of the initial struggles related to setting up the infrastructure, procuring budget for the legal aid providers' salaries and setting up the legal aid delivery system. The legal aid board has 115 established offices and in some places the board cannot afford office spaces. The chairpersons then work from their homes or private offices. The ULAB has partnerships with justice funders such as USAID to develop the capacity of the boards, install case management systems, support lawyers, and provide support for infrastructure and equipment. The Secretary discussed with IBJ the LAB's priorities and needs for 2021 and the eventual support required from IBJ-justice centres.

IBJ has been successful in building relationships with the ULAB and regional LABs. Unfortunately, with the COVID-19 travel restrictions, it has been unable to have one-on-one meetings with LAB members, who are reluctant to have online meetings. Despite this, there is wholehearted support for IBJ's work in Myanmar and an example of this is the **ULAB support for the IBJ National Round Table on Juvenile Justice**, the details of which are reported in Output 3.1.

Output 3: Increased communication and collaboration between rights-bearing communities, criminal defenders, and justice stakeholders to ensure the justice system is better equipped to provide fair and effective remedies in response to community needs

Output 3.1: Conduct 20 local Roundtables with up to 25 justice sector stakeholders per meeting

Key Achievement

- IBJ hosted a national level roundtable with justice sector actors on 18 December 2020 through a virtual zoom conference on **“Overcoming Challenges in Criminal Juvenile Justice System in Myanmar”**. Over 95 justice stakeholders engaged in Myanmar juvenile justice such as defense lawyers, law officers, police, prison officials, legal aid boards and personnel from the social welfare department, actively participated in the event.

By the end of the first quarter of the project, it had become increasingly apparent that the health and safety issues raised by COVID-19 pandemic, together with the continued enforcement of social distancing, would continue. **Therefore, IBJ decided not to hold any roundtable conferences physically until there was clarity and clear permission from the government for in-person conferences to be held.** The restrictions continued, and the IBJ staff embraced digitalisation and became adept at organizing and attending online trainings.

A silver lining to an otherwise challenging year occurred on 18 December when **IBJ organised a virtual National Roundtable on “overcoming challenges in criminal juvenile justice system in Myanmar”**. The roundtable was successful at all stages, from planning to execution to the reflection and follow-up on the event. Notably, the roundtable is **exemplary of national leadership and affirmation of partnerships** with a range of justice actors, especially the ULAB, regional legal aid boards, the Directorate of Social Welfare, and national and international legal aid partners in the country.

The virtual **roundtable mobilised over 95 participants** who were defense lawyers, law officers, police, prison officials, members from the LABs from the union and regional level, officers from social welfare departments, UNICEF and ICRC. The **objective of the roundtable** was to identify issues and propose solutions to overcome some of the challenges legal aid service providers face in providing services to children who come in contact with the law. The roundtable was **designed to facilitate circular dialogue through breakout sessions**. The first breakout session provided a platform for legal aid actors to identify issues in each of the phases of criminal justice practice, from arrest to post-conviction. After identifying the issues, the participants convened again in breakout sessions to list the causes and propose **practical solutions and approaches that would bring about a transformative change** in their respective jurisdictions.

Some of the key messages from the roundtable are shared below shows the commitment to child-friendly legal aid in Myanmar:

U Khin Zaw, Secretary of the Union Legal Aid Board urged judges to have that courage to fully implement the Child Rights Law in accordance with the best interest of the child. Detention of a child should be the last resort in the criminal justice system. He assured that the Union Legal Aid Board will discuss the findings and recommendation of the IBJ National Roundtable in their monthly meetings with Regional and State Legal Aid Boards. Concretely, the LABs will strive to work closely with government actors especially the Social Welfare departments, police, courts and legal aid service providers.

Daw Khin May Nu, the Deputy Director of the Ministry of Social Welfare highlighted the need to cooperate with other government and non-government organizations and listed the key programs of the Directorate: Drafting Child Rights Rules, Comprehensive Child Rights Policy to implement the Child Rights Law, a National Case Management Supervision Unit (NCMSU), establishing coordination mechanisms with ULAB and regional legal aid boards and setting up child helplines.

Miriam Chinnappa, the interim Country Director of IBJ presented the work of the Justice Centres in providing child-friendly legal aid. She emphasised to provide legal aid that leads to transformative justice outcomes for children who come in contact with the law.

A report with the recommendations of the roundtable discussion was disseminated to the participants and key rule of law actors in Myanmar. Leveraging on the success of this roundtable there is a demand for a second roundtable focusing on the role of legal aid practitioners in the implementation of the Child Rights Law; the event will be held in 2021.

Output 3.2: Pursue One-on-one advocacy with local, regional/state and Union level governmental justice actors

Key Achievements

- As one of the most visible criminal defense legal aid organizations in Myanmar, IBJ Myanmar has shown solidarity in joining with efforts to issue **4 public statements** as part of larger advocacy efforts to strengthen rule of law and access to justice in Myanmar.
- IBJ endorsed **5 requests** directed to state/regional and Union-level governmental actors:
 - Myanmar COVID-19 Advocacy Statement to President of the Union_8th April 2020
 - Mandalay O' Bo Prison Advocacy Request Letter_18th May 2020
 - Advocacy Statement to Union Supreme Court requesting to direct its judicial agencies to apply Section 83 (d) of the Child Rights Law and release juveniles from youth detention centers during COVID-19, 5th June 2020
 - Defamation Reform Proposal on 23rd October 2020
 - Advocacy Statement to the Union Supreme Court for reducing prison overcrowd_26th November 2020
- IBJ staff, both international and national, continued to engage with justice actors at both the national and regional level. IBJ Myanmar participated in **58 meetings with various stakeholders** such as legal aid boards, police, prosecutors, legal aid service providers, including donor partners.
- IBJ Myanmar had **3 meetings with DSW** in Mandalay and Hpa-An to discuss provision of holistic, child-friendly legal aid.
- IBJ Myanmar held **13 meetings with the Legal Aid Board**.
- IBJ Myanmar has developed relationships with **justice actors in Hopong, in the Pa'oh Autonomous Zone near Taunggyi** by advocating with the police, judiciary and legal aid boards to work and collaborate with the Taunggyi Justice Centre. The Taunggyi Justice Centre offered to share case management systems and organised KYR in vernacular Pa-oh language. IBJ provided copies of the criminal defense manual.

ADVOCACY HIGHLIGHTS

Child protection advocacy by Senior Lawyer in Hpa-An Justice Centre with the Chief Police Officer

In Hpa-An, a juvenile who was in his teens was prosecuted as an adult in the Court. The Hpa-An Senior Lawyer met with the Chief Police Officer on behalf of his juvenile client. He produced a list of items he gathered from the boy's home **to prove his age and shared law and policy reports and commentaries relating to juvenile justice**. He discussed with the Police Officer the role of criminal justice actors in the implementation of the Child Rights Law in Myanmar. **As a result of repeated meetings and advocacy** over a period of time, the Police Officer requested that the court send the boy to Mawlamyein Youth Training School. The Court granted this request with the condition that the boy be kept under police supervision.

Advocacy for access and legal representation by the Intake Lawyer in Taungoo Justice Centre

The Taungoo court clerk referred a murder case at remand stage to the Taungoo Justice Centre. The accused was kept in Oattwin Township Prison which is a 2-hour drive away from Taungoo. The senior lawyer requested the intake lawyer to meet the prospective client and get the power of attorney signed in Oattwin. The Chief Police Officer denied access to the client to the intake lawyer, citing the COVID-19 restrictive measures. The intake lawyer discussed with the police officer that he had taken all precautionary and preventive measures such as wearing a PPE and disinfecting his hands. He explained the importance of the right to legal representation and legal aid in criminal cases. As the police officer was unrelenting, the senior lawyer called a senior police officer to advocate for access. The intake lawyer was then granted permission to counsel the client.

Public Advocacy and joint statements advocating freedom of expression and preventing overcrowding in Youth Training Schools to protect children from getting infected with COVID-19.

IBJ supported the **campaign by Freedom of Expression Myanmar** to reform Myanmar's legal framework on defamation. The report identified the gaps in law and practice in Myanmar's defamation laws and made an analysis of defamation reforms undertaken in Sri Lanka, United Kingdom, India, and Maldives. The report proposed the following recommendations to reform Myanmar's legal framework on defamation which IBJ reviewed and endorsed it in November.

1. Adopt a Civil Defamation Law
2. Include stronger defences to the Penal Code
3. Remove all prison sentences
4. Limit to deliberate and serious defamation

IBJ also contributed to and promoted a joint letter initiated by ILF. The letter advocated for the Supreme Court of the Union to exercise its powers under Section 73 of the Union Judiciary Law by issuing a direction to all Courts to ensure the legal rights of the juveniles prosecuted for criminal offences are protected during COVID-19. The letter further requested that overcrowding in pre-trial Youth Training Schools should be avoided to protect the rights of the child.

Making pathways to strengthen legal aid in remote Autonomous zone

IBJ **continues to develop relationships with justice actors in Hopong, in the Pa'oh Autonomous Zone near Taunggyi**. In early May when a post-verdict prisoner from Taung Lay Lone prison was further charged under the Drug Law and the case was filed at the Ho-pong District Court. The prison officials contacted

the justice centre to represent him. The intake lawyer, who is of Pa-oh ethnicity, provided legal representation in Ho-pong. There are only 4 local lawyers in Ho-pong and most lawyers are from Taunggyi. In 2021 IBJ will focus more building cooperation with justice actors, including the judiciary, in Ho-pong.

Output 4: Local Myanmar leadership able to assume management and ownership of Justice Centres by the end of year 1

Output 4.1: 20 multi-day on-site coaching sessions by IBJ head office staff (such as country director, the senior finance manager, and the M&E officer)

Key Achievements

- **5 coaching onsite visits to the Justice Centers**, which is 25% of the project target of 20 visits. Due to COVID-19 restrictions, in-person coaching successfully moved to an online platform.
- In February and March, the country director, program coordinator, finance manager, office manager and M&E officer conducted 5 on-site coaching sessions with the justice centers. In which the following topics were discussed and coached:
 - Program activities: purpose, goals and vision
 - Financial management: for both senior lawyer and finance officers
 - Office management: logistic, inventory and office administration
 - M&E: Programmatic data and goals
- **48 meetings with the senior finance director** and the finance officers to work collectively on the monthly and quarterly finance reports, audit reports, and payment methods.
- Country director had **15 consultations** with the national legal advisor, justice centre staff and senior lawyers.
- A total of **7 meetings between Geneva Global Staff and IBJ Myanmar** to plan and implement COVID-19 plan including sharing best practices in providing services during COVID-19.

Fostering leadership through capacity building and coaching is fundamental in this project. Amidst all the uncertainty due to COVID-19 pandemic, IBJ has been **able to create space** and provide direction and clarity through online meetings both planned and unstructured to support the teams. Whether one-to-one or within a group context, the team members have been able to come together with IBJ senior management to problem-solve, plan and shape the justice centre activities. In December 2020, **the interim country director conducted an intensive coaching on contingency planning with each justice centre** to help them reorient and organise activities in response to COVID-19. Similarly, the **senior lawyers, together with the program manager developed a template for monthly reporting** of justice centre activities. This is hugely useful for identifying the immediate needs and addressing them in time through planning and coordination.

The **senior finance officer has a weekly meeting** with the finance officers to discuss finance-related issues such as budget planning and give feedback on accounting and cash flow requests. Similarly, the **monitoring and evaluation officer has regular meetings with the program officers**, mentoring and guiding them on collecting data and maintaining M&E systems.

Output 4.2: Peer support and development through monthly group chats

Key Achievements

- One of the key achievements directly attributed to this output is **the emergence of a new cadre of leaders who are also not typically Yangon based**. They have been able to **step forward** to address critical justice needs, share information, and liaise and advocate for legal aid. They have been exemplary in showcasing resilience and leadership during this difficult time.

The **peer support provided in this project is a continual process** where the senior management (country director, IBJ program manager, IBJ director of finance), IBJ Myanmar program team in Taunggyi and the teams in the justice centres meet, collaborate and learn from each other. They build new skills, share ideas, teach each other and even do trainings together. IBJ staff members openly discuss the challenges they face and are provided opportunities to reflect. For instance, when the Taungoo team took the initiative to conduct a technical-legal skill training on medical evidence, the IBJ Myanmar program management team provided the necessary support and guidance.

“We are thankful for the ad hoc response of the IBJ management team, especially the Office Manager in getting COVID-19 rapid test kits when one of the judges in Taungoo Township Court was tested positive. Our Junior Lawyer was at risk after coming in contact with an infected person. We were able to get a brief training on how to respond to this situation and got ourselves tested immediately.”

Daw Khin Ma Ma Win, Admin/ Finance Officer (Taungoo Justice Center)

“I learned a lot working with IBJ and the management team in Taunggyi, especially working with the Finance team. After the visit of Myanmar head office team to Naypyitaw in February 2020. I learned on logistical management such as procurement processes, purchasing and office administration.”

Daw Cho Nyein Htwe, Admin/ Finance Officer (Naypyitaw Justice Center)

“After the on-site coaching by the Myanmar Head Office team in February and March, I dedicated time to learn financial management especially, financial verifications the approval processes, working to support the admin/finance officer, and support the program officer with M&E work. I realize programmatic goals in matching with what we are doing in practicality.”

Daw Wint Wint Aye, Senior Lawyer (Naypyitaw Justice Center)

One of the highlights of 2020 was the **IBJ Myanmar All-Staff Annual Workshop and Virtual Retreat** held on 30 December. The annual retreat **was cathartic for the justice centre staff** after a rather difficult year with the COVID-19 pandemic. The staff retreat was organised virtually although members of each Justice

Centre gathered, logging in as a team. The retreat provided **ample opportunities for self-reflection**, both individual as well as collective, on the experiences in 2020 that were fulfilling, and the challenges they had faced and their hopes for the justice centres for 2021. Specifically, they identified areas of work in the justice centres that they hoped to expand and develop to better serve their communities. The format of the retreat was informal and fun, ending with cultural activities and all justice centre staff members sharing a meal together.



Mandalay Justice Center team dancing during the virtual Staff Retreat held on 30th December 2020

Self-reflections shared during the virtual annual staff retreat

"I had fun at this virtual retreat. The year 2020 has been a tough year. However, throughout the year, I think I have learned new skills especially using digital tools."

U Aung Myo Aye, Junior Lawyer (Napyitaw Justice Center)

"Due to travel restrictions, I could not visit my mother, which was tough. We have to support each other in this tough time."

U Khun Nway Oo, Intake Lawyer (Taunggyi Justice Center)

"In 2020, we had to change our lifestyle including workplace habits to comply with COVID-19 guidelines. As an Intake Lawyer, I could not go to lockups especially due to restrictions. And we could not go to the community for KYR events. However, we were lucky to have such a supportive team and digital tools to mitigate limitations."

Daw Su Lwin Myint, Intake Lawyer (Mandalay Justice Center)

Output 4.3: Identifying Pathway to Functional and Legal Independence

Key achievements

- The justice centre managers and the IBJ senior management have started a process of setting goals for achieving the anticipated structure of nationalisation.

- The senior lawyers are increasingly providing supervision to the finance and administrative officers and program officers.

After extensive discussions with the donor and the justice centre leadership, IBJ will support the **senior lawyers in taking on managerial roles, paving the way for local leadership**. In accordance with the proposal IBJ proposed a national leadership, including a Myanmar country director. Although the vacancy was published twice, it has been challenging to find a candidate with the skills set required to lead the large-scale criminal justice program. Acting on the advice of the donor, IBJ reverted to deploying an international recruit to steer the project forward especially during COVID-19.

Towards the end of the year, the interim country director undertook an **extensive participatory consultation with the staff team of each of the justice centres**. The purpose of the consultation was to develop a contingency plan, and reprogramme and identify capacity building needs for the eventual nationalisation of the justice centres. The consultations are intended to be a process and not a one-off-event. A questionnaire was drafted and translated for the justice centres to discuss as a team. The country director and country program manager consulted with the teams in each justice centre. This provided an opportunity for all staff members from different backgrounds **to give their insights into reprogramming due to COVID-19 and to identify needs** for the nationalisation of the justice centres. The consultations ensured **that voices and ideas that normally may not be heard** were included. Based on this, the interim country director put together a plan for supporting the operational independence and managerial leadership of the justice centres in going forward into 2021. This will also be reflected in the request for budget changes that will be introduced in early 2021.

“The idea of nationalisation is good as it would give us in Hpa-An more opportunity to be creative in expanding access to justice. On the other hand, standing together as a national organization is also good for us in terms of unity and strength.”

U San Kyi, Senior Lawyer (Hpa-an Justice Center) during the participatory consultations with the interim country director

Monitoring and Evaluation system

IBJ has established mechanisms to **continuously monitor project activities** and analyse information and data to enhance quality and improve service delivery. Although **Guideline 16 of the UN Principles and Guidelines on Access to Legal Aid in the Criminal Justice Systems** recommends monitoring and evaluation to provide quality services, it does not propose any specific model of evaluation. While IBJ Myanmar’s MEL model is synced with the donor’s MEL requirements and guidelines, it also **attempts to learn from end-users of justice experiences, perspectives, justice pathways** and needs.

In the first quarter of 2020, IBJ Myanmar has strengthened and reinforced existing MEL systems as part of the planned nationalization of the project management and also to respond to the challenges imposed by the COVID-19 pandemic. IBJ Myanmar **has implemented a multi-layered reporting and feedback system** as listed below:

- Justice centre management, supervision and data collection
- Senior lawyer coaching legal staff and observing in court
- DSA coaching legal staff and observing in court
- Bi-weekly justice centre team meetings (sometimes with DSA participation)

- Case management forms
- KYR evaluations
- Client satisfaction forms
- Bi-weekly justice centre team meetings and reports
- Monthly data aggregation and sharing with headquarters

MEL Methodology and Activities

One of the first activities at the start of the project was to **upgrade and update the M&E system and adapt it to comply with the donor’s reporting requirements**. Monitoring is very much integrated in most project activities with data collection systems well established. The IBJ M&E officer works closely with the program manager and the program officers of the justice centres to ensure that data is regularly collected, collated and analysed. Data that is collected is **regularly shared and discussed internally** in the justice centres and with the senior management, which then informs program implementation modalities. IBJ regularly shared data generated with the donor as part of reporting standards compliance.

Towards the end of 2020, IBJ Myanmar developed a reporting process for the Senior Lawyers to monitor and analyse the activities of the Justice Centres. There is a monthly reporting requirement from the senior lawyers, which will contribute to the justice centres functioning independently with the justice center managers (senior lawyers) adhering to donor reporting requirements. The monthly reports are also the basis for the interim country director to have one-on-one, monthly meetings with senior lawyers and justice centre teams to evaluate the work of the justice centres and their overall impact on the justice system. She will be setting performance goals for the justice managers to guide their work in 2021.

Mid-term Review of senior lawyers with country director

In June, the country director developed a **comprehensive questionnaire**, which was forwarded to the 5 senior lawyers. The senior lawyers were required to complete the questionnaire which would be the basis on for an online consultation with the country director. The objective of this exercise was to assess the workload and pressures of the **senior lawyers and help them develop a workplan to manage multiple demands**, such as legal representation, capacity building, mentoring and justice centre management. The process provided an **opportunity for the senior lawyers to reflect thoughtfully** on their strengths (often around lawyering and supervision) and their weaknesses (most of them identified report-writing). They also identified that filing appeals and revision petitions required them to commit to working late into the evenings and on weekends too. All the senior lawyers were committed to working towards a national structure for the justice centre that would be sustained long after the project would end.

“In order to roadmap nationalisation, we would need more skills, especially as senior lawyers to be leaders of the justice centres. We need skills in program and financial management and also vision to go beyond this project. This is more than conducting casework, provide legal representation.”

Daw Win Nandar Htut Khaung, Senior Lawyer (Mandalay Justice Center) shared her opinion during the mid-term review meeting with the Country Director.

Road to nationalisation: Bi-Annual Performance assessment

To achieve sustainable goals, **IBJ focused on organizational development activities**. In August, IBJ country director **did a bi-annual performance assessment meeting session with individual staff** for the period from January to June 2020. The difference of the individual JC staff performance assessment process between 2019 performance review and 2020 review is that in 2019, only the senior lawyer performed performance review meetings with individual JC staffs, while in 2020, groups of relevant supervisors performed the process. We have **3 major professional roles**: lawyers (junior and intake for this assessment), program officers and admin/finance officers. As justice center leaders, the senior lawyers led each meeting supervised by the IBJ management team.

Client Satisfaction Survey

Following a series of discussion between IBJ Myanmar and the donor, it has been agreed that a **client satisfaction and client perception of services survey should be deployed** to assess the effectiveness and impact of justice centres legal aid services. A client survey was developed, which was reviewed by the donor and was ready for deployment. Unfortunately, with COVID-19, it has been challenging to get access to prisons and police to gather data. The movement restrictions and social distancing requirements have also made it difficult to collect the data from clients.

Financial oversight

The senior finance manager and the office manager have supported the justice centres' admin and finance officers in financial transactions, accounting, systems of reporting and administrative matters. The finance team has a weekly reporting system and has weekly online meetings. The IBJ finance director and the country director support the senior finance officer with financial oversight, planning and reporting.

Impact Analysis

The Justice Centre grants aim to achieve change in Myanmar's justice system at multiple levels: improving the quality of services provided, improving access and inclusion for people in need of justice services, and creating systemic change.

3.1 Impact on quality of services provided

The Justice Centres have **established organisational standards including service delivery standards, and ethical and compliance standards**. The staff members have been trained to implement these standards through criminal defense checklists and client forms in their day-to-day work in the justice centres. This is a **crucial foundation for providing quality legal aid**. Since 2017 and subsequently at the start of Phase 1 and 2, IBJ lawyers are oriented towards **client-centred, holistic legal care**. They are provided with trainings, guidelines and tools which have helped them **redefine the traditional client-lawyer relationship in Myanmar** giving primacy to understanding the client's perspective, emotions and values. The legal aid **tools and checklists** such as intake forms, case tracking and monitoring systems, help **track the quality of the actions**, legal and non-legal responses, referrals and advice provided by lawyers. IBJ lawyers recognise the importance of advocacy and non-legal assistance, which is integral to client-centred legal aid delivery.

Client-centred lawyering practice in Naypyitaw Justice Centre

A young student was assisting a local monastery to collect donations. On the morning of October 8th, he went to the complainant's house to collect the meals. Sometime in the afternoon the complainant accused him of stealing her smart phone and started aggressively searching his personal belongings. When she did not find her phone, she threatened to call the police and file a criminal complaint. The student, fearing police arrest and torture, ran away from the village. The next day he reached out to the Naypyitaw Justice Centre. The senior lawyer counselled him, giving him information on his rights, and discouraged him from running away from the police. She assured him that he will be provided legal representation from the justice centre if he were to be arrested. She called the police station and received confirmation that a case was not registered against her client. She then accompanied the client to the monastery and explained the false accusation to the Chief Monk. This early intervention from the lawyer gave the client confidence in the justice centre's advice and avoided a potentially arduous criminal justice proceeding.

The lawyers' **technical competence to provide legal representation** is regularly discussed and supported by IBJ's country director, Myanmar program manager, DSA and the senior lawyers. **Targeted trainings, mentoring and coaching plans** are developed to reflect the needs. For instance, there was a request for **medico-legal training** from the justice centre lawyers to improve their conceptual knowledge and develop legal skills to present medical evidence in criminal courts. The IBJ lawyers appreciated the value of this training. They then extended it to participants in the COP meetings to improve the technical legal knowledge of the pro bono lawyers. This in turn has had an impact on the quality of legal research, strategies and arguments related to medical evidence presented in the courts. Similarly, extensive **trainings in juvenile justice** have enabled the lawyers to structure their services to **provide child-friendly legal aid** and demand implementation of the protection measures guaranteed under the Myanmar Child Law. The lawyers routinely place paramount importance on the welfare of children who come in conflict with the law by submitting requests and applications to the court to entrust children to either parental custody or in juvenile training centres. After a staff lawyer training workshop **on judicial interpretation of abetment in drug related offences**, several revisions and appeals were filed by the lawyers.

The lawyers **receive regular supervision at different levels**: senior lawyers supervise and mentor junior lawyers and intake lawyers at the justice centres. They also monitor the work of the pro bono lawyers in select cases. The senior lawyers provide guidance and mentoring to pro bono lawyers in COP meetings. The DSA and country director also supervise and review a selection of cases worked on by relevant justice centre lawyers. This is demonstrated by the continuous efforts of the justice centres in using various litigation strategies to challenge the judicial interpretation of ‘abetment’ in drugs related offences.

Mentoring to advocate for police bail and bail before the Magistrate

- In Nay Pyi Taw, lawyers were faced with a juvenile charged with a theft of a mango case. Initially it was opened under the Penal Code. Then it was opened under Public Property Protection Act Section 6 (1). Therefore, the junior lawyer and intake lawyer advocated that the case should not be filed under that law and should be under Municipal Law and therefore tried to apply police bail. The police officer in chief told them that the judge had allowed the accused to be held in the police station, and therefore, they would have to apply to the court for bail. The bail request was successful, and the charge was changed to Municipal Law section 26. Therefore, the 4 other co-accused, who are adults and in pretrial detention, were also released. The defendant was given a fine and the case was resolved on the same day.
- Similarly, Taungoo lawyers successfully argued that a bike theft case be re-classified from Section 379 (non-bailable) to Section 403 (bailable).
- In Taungoo case, the justice centre lawyer successfully made a request for police bail in the police station in a new case charged with Section 294/323 (obscene words/hurt). The accused himself sought help at the centre, as he was told by his friend that he was charged under section 294/323, which is bailable. But the officer at the police station informed him to make police bail application and make a bond. He did not know how to do it, but with the guidance of the senior lawyer, the intake lawyer went to the No. 2 Police Station to help the accused in the process. He is now out of custody and the JC will then make another bail request to the court when the case is filed and registered.
- In June, a juvenile drug defendant was represented by the Taunggyi junior lawyer, where the child was given bail with a bond made by his mother; the bail set was due to a bail motion made by the lawyer; he was facing the trial under the guardianship of his mother.

The IBJ Myanmar leadership continues to **prioritize both early representation and persistently seeking release of clients. Bail applications** have become a major stand in for zealously in representation where the justice centre lawyers are encouraged during the mentoring process **to use the law creatively and fully** to seek liberty for clients. They are encouraged to challenge prosecution during inquiry and trial, challenge prosecution witnesses and present defense witnesses, and **focus on full acquittal rather than simply minimising the sentence**. IBJ lawyers report that when the relevant law does not seem to allow for bail for the proposed charge, they challenge whether the charge itself is appropriate.

The justice centres have a **well-functioning case management and tracking system** in place which enables file retrieval and identification of conflict of interests. This maximises efficiency and enables the lawyers to monitor and review the quality of legal aid cases at every stage of the process, from the investigation to post-conviction.

Despite the **COVID-19 crisis and remote working measures**, the justice centers have successfully continued provision of legal aid throughout the pandemic. Client-counselling continued in the justice centres **behind makeshift plexiglass shields**. In 2020, the lawyers have adapted operation systems and continue to represent clients **through online court hearings**. Legal awareness activities were **digitalised** or took the form of focus group discussions which provided opportunities for the justice centres to have in-depth discussion with justice seekers. This enabled the **justice centres to build trust and confidence** with key actors in the communities. **Regular visits to the police stations and court lockups** continued even during COVID-19, with the lawyers in Mandalay being successful in getting access to visit prisons.



Pro bono partnerships have been vital for the project and the justice centres have been able to strengthen and expand pro bono networks. In Taungoo, the justice centre has expanded its network to Oattwin and Yadeshae Township. In Naypyitaw, the Justice Centre **has, over time, built trust with lawyers** who are members of ILAM through COP sessions. The **vital role of the IBJ administrative and finance officers** has been valuable in efficiently managing the operational process of reimbursements of incidental and case-related costs. The **program officers monitor the cases** and provide feedback to the senior lawyers.

The justice centres have **fostered strategic linkages** between legal aid service providers, criminal justice institutions and the community. This is evident in the **regular referrals** from community-based organisations, CSOs, the police and the court clerks and judges. In Myanmar, people's lack of confidence in the justice system is widely researched and reported, including by the donor. Aware of the significant challenges the poor and vulnerable face in accessing legal aid, the lawyers in the justice centres have proactively **made legal aid accessible, affordable and available**. Activities such as **legal empowerment, community outreach** and legal counselling activities bring the justice centres closer to the communities. Intensive trainings, the Criminal Defense Practice Manual, mentoring and field investigations have also resulted in the justice centre lawyers **gaining and understanding of the intersection between poverty and crime**. It has allowed them to **go beyond lawyering to negotiate and seek meaningful justice outcomes** for their clients at various stages of the criminal proceedings.

Interventions beyond traditional lawyering

- In Taunggyi, aware that his client will be adversely affected without an important witness testimony, the junior lawyer helped his client's wife bring the defense witness to Taunggyi to testify by **personally paying for the witness's travel expenses**. His client is poor and was unfairly charged with possession of drug while driving together with a passenger.
- Similarly, another junior lawyer in Taunggyi has systematically helped children and young adults **in police detention by delivering food and other essentials** given by parents. The justice centre lawyers have combined formal legal representation with facilitating holistic client care. This has helped build confidence and trust between the justice centres and the community.

IBJ lawyers are **obliged to adhere to ethical rules** established by IBJ's policies such as **anti-corruption, client representation, criteria to refuse to take a case due to conflict of interest**, corruption from occurring in court proceedings, **perceived bribery** and other **influential factors in securing dismissal of charges or an acquittal in cases**. In Mandalay, a constant challenge is the court clerks' practice of asking for extra money for copying the case files in certain courts. Lawyers face discrimination when they explain to the court clerks that they cannot do so. In addition, IBJ's potential clients still have expectations that cases can and should be resolved through corrupt means. IBJ the lawyers categorically refuse to resort to corrupt practices and inform the client of the ethical principles they are required to adhere to; if necessary, they refuse representation.

IBJ's anti-bribery and anti-corruption policy influence on lawyering practice

In Naypyitaw, there was a (Section 380-Theft in Dwelling) case where the accused and his family reached out to the JC during remand. The lawyers immediately advised the client of his legal rights, including his right to remain silent, and his right not to be tortured. They advised him to avoid making any admission to the police. The JC also explained about the anti-corruption policy to the accused and his family. However, the parents wanted to pay a bribe to the officers before the case could be brought to the court. After failing to convince them not to do so, the justice center decided not to take the case. The POA was not signed.

Drugs related offences are the leading type of criminal offence dealt with by the Justice Centres (see table on page 5 of the report). The trainings and mentoring in Narcotic Laws which include analysing case laws and realities of repeat offenders have contributed to the lawyers making the **important link between public health and welfare and the punitive measures** provided under the Myanmar Narcotic Drugs and Psychotropic Substance Law. The lawyers have begun **to challenge and negotiate with the police** when their clients (especially repeat drug users) **are over-penalised** for petty drug related offences. In a recent

training, the lawyers in the justice centres are keen to develop legal strategies to present in court which link penalties and the public health welfare provisions under the law and generally to encourage a public health approach to the disposition of drug cases.

Hpa-An lawyers' advocacy and negotiation with Police in November

- The junior lawyer advocated for police bail representing the client (a ward election commission chair) who was accused of Section 59/60 of the Election Law, and police bail was rendered in Hpa-An.
- The intake lawyer applied for police bail for a female client Moe Moe after being accused of defamation and bail was granted.

An area of practice where the **attitudes of lawyers have consistently and positively changed** is securing **access to justice for children** in conflict with the law. The **lawyers understand** that very often children come in conflict with law because of **poverty and socio-economic processes** such as low levels of parental supervision, harsh discipline, bullying in school, peer pressure, weak parental attachment, and lack of access to schooling and education. In conducting focus group discussion under the ambit of Know Your Rights, **lawyers counsel parents on the rights of their children** and seek remedies that adhere to the **best interest of the child** principle under Article 3 of the Child Rights Convention.

The **COP has contributed to emboldening and instilling confidence in lawyers** to challenge wrongful practices in court and demand due process and a fair trial. IBJ deployed a survey to which 126 lawyers responded. The objective was to assess the impact of IBJ COP meetings on improving the technical competence and practice of lawyers in courts. The findings show that the lawyers' draw confidence and are keen to apply their knowledge and skills gained in the COP meetings in their legal practice. They also **enjoy the solidarity of being part of legal aid communities**.

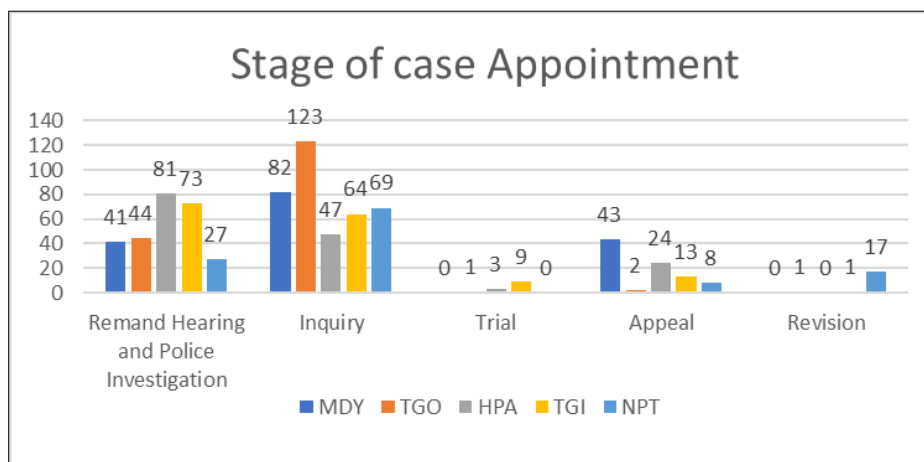
The project proposes a **multi-pronged approach** which includes legal representation, legal empowerment, capacity building, advocacy and local leadership to collectively **produce a pool of hands-on justice centre lawyers who go beyond their call of duty to respond to client's needs**. To represent an indigent, marginalised client, the lawyers adopt a **multi-disciplinary approach** by including various service providers, both institutional and from the community. For instance, the justice centre lawyers advocate on **behalf of their juvenile clients with the local officers in the social welfare departments**. This is evident in Taunggyi where, after a series of advocacy meetings by the junior lawyer, the intake lawyer and the country program manager, the juvenile clients are brought to the courts directly without being held in court lockups with adults. However, the justice centres continue to zealously advocate for children not to be locked up with adults in police stations. In Mandalay, the IBJ lawyers work closely with groups working with drug-users **to address the criminalisation of public health issues**.

In 2020, IBJ **made a strategic decision to shift resources to Ho-Pong** which is a Pa-oh ethnic autonomous district. **By deploying a Pa-oh ethnic lawyer who spoke the local language**, IBJ **opened entry points** to allow marginalised ethnic communities to access services of the Taunggyi Justice Centre. The lawyers have conducted **mobile rights awareness** and held one-to-one advocacy with justice actors in the community. This has **led to cooperation with the Ho-Pong Legal Aid Board**. The justice centre lawyers have provided legal representation to three drugs-related cases, **wherein the clients did not speak Burmese**. However,

due to COVID-19 the justice centres had to suspend activities and IBJ hopes to continue to **make progress in improving ethnic minorities’ access to justice center services.**

Drawing guidance from the recommendations of 4, 5 and 6 of the UN Guidelines on Legal aid in Criminal Justice Systems, IBJ lawyers **are ready to provide representation at all stages of the criminal proceedings for clients that private lawyers are reluctant to represent.** This is often seen in high-profile cases where the defendants are indigent and are not able to pay the legal fees. In a case which is widely known as the “porcelain bulb” case (the murder weapon was a porcelain light bulb), the 2 defendants were initially represented by private lawyers and charged under section 302(2), which is punishable with 20 years’ imprisonment. The plaintiffs filed a revision petition in the Bago High Court to alter the charge from section 302(2) to 302 (1) (c). The revision petition was dismissed. The plaintiffs then filed a revision petition in the Supreme Court, where the court order to alter the charge to the death penalty and fine and reverted the case to the district court to frame the charges again. At this crucial juncture of the case, the private lawyers withdrew the power-of attorney, leaving the defendants with no legal representation. On the day of the hearing, the court clerk contacted the Taungoo Justice Centre to provide representation. The senior lawyer, after consultation with IBJ senior management, filed the power-of attorney for one defendant and organised a senior pro bono lawyer in Taungoo to represent the second defendant. The defendants, who are poor and were abandoned during a crucial part of the criminal proceedings, were able to secure experienced legal representation **to challenge the charge of death penalty** due to the work of the justice center lawyers.

The graph below indicates the importance of IBJ’s early access work despite COVID-19



3.2 Impact on access, inclusion and empowerment

One of the core focus areas of the project is to **improve the capacities of the justice centre lawyers** and the **pro bono lawyers to enable them to provide quality legal aid** and aim to directly **empower communities**, especially communities of marginalised people, to seek and demand justice, through know your rights programs, advice on criminal and non-criminal legal issues, and outreach. Although the mandate of the justice centres is to provide criminal justice legal aid, having a component to **provide non-criminal legal advice is strategic**, and will allow the justice centers to provide service to a broader community of justice seekers that are often from traditionally excluded groups.

In Myanmar, like in many jurisdictions the **criminal justice system is harshest on the poor and marginalised people. A large contingency of justice centre clients are jailed and penalised for not being able to make bail requests and afford the monetary payment.**

While in theory, IBJ would submit bail applications in 100% of cases, there are number of reasons why this doesn't happen. In **non-bailable cases, lawyers are encouraged to make bail application** if the client does not fall within the exception under Section 497(1) of the Cr.P.C. Judges complain mightily about being asked to listen to and write decisions in cases where they do not see any reasonable legal basis for release. The lawyers risk losing the limited good-will and attention they have built up with the judiciary. Lawyers are very sensitive to their professional reputations. A senior lawyer in IBJ's annual review remarked: "our lawyers were humiliated by the judges, law officers, clerks and other private lawyers because we tried to get PoA submission during remand period and making bail." Moreover, according to Naypyitaw senior lawyer, some of the clients did not want to make bail request because they wanted to set custody days off with whatever sentence they receive. **IBJ Myanmar lawyers continue to repeatedly and persistently seek release for their clients in and are guided by the principle of "bail is a general right, and the presumption of innocence demands that detention be the exception, not the rule".** They continue to **strive to challenge court culture and practice** by routinely filing bail applications. Three pro bono lawyers followed IBJ's example in making bail arguments on non-bailable cases during the police investigation stage. While they were not successful, we believe this is a good indication of our best practices being picked up by other lawyers. Total bail requests made **during the reporting period was 217 and 61 % of the bail applications were made in non-bailable cases.**

IBJ lawyers play a crucial role in **assisting client's navigation through the complex criminal justice system by providing early access.** A review of the cases handled by the justice centre lawyers have shown that providing early access ensures the police, prosecutors and judges deal with their clients by applying the relevant law. It also ensures that clients are well-informed about their rights and understand the circumstances that led to the arrest and can contact their next of kin who are able to provide sureties. **Early access also ensures that due process is followed when interrogating, investigating, and handling evidence.**

"I was scared and ran away from the monastery. I have done nothing wrong, but I was terrified of the police, especially of getting beaten up. Luckily, due to the help of the Naypyitaw Justice Center, I found out that I was not going to be arrested."

An IBJ client who was wrongly accused of theft in a monastery by a woman where she threatened him to be reported in the police station. He ran away from the monastery and came to the justice centre for help.

Access to detainees continues to be especially difficult in the pandemic period. This is a stark contrast when comparing the number of successful visits to lockups prior to the outbreak of COVID-19. The frequency of police, court and prison visits dropped in half due to COVID-19 and restrictions in access to lockups and prisons. Both the police stations and the court lockups became restrictive from late August, and more restrictive in September. Even so, the **lawyers were undeterred**, and found ways to access to their clients and potential eligible clients. IBJ has **pursued alternative approaches to gain early access rights** for the accused by distribution of pamphlets, justice centre information in the community that is nearby the police, courts and prisons, such as in restaurants and buildings near prisons. In Taungoo, the

team has **leveraged the good relationship** with police and prison authorities to permit the lawyers to provide early access to clients. The intake lawyer regularly meets with police and court clerks to inquire about new cases. To solve the problem of access to clients in custody during remand, the justice centres establish **good communication with the family members** in order to meet or deliver messages to the accused. The lawyers advocate to the **addressing trial delays after the framing of charge and in final argument and verdict hearings**.



Photo of IBJ lawyers consulting outside the prison van

Reducing barriers, increasing access for the traditionally excluded, vulnerable people

- In Taunggyi, the junior lawyer provided holistic representation to a transgender person who was charged with Section 420 of the Penal Code (cheating). The client was a migrant worker in Taunggyi, and a native of Lashio. The lawyer contacted the client's family and organised bail. They negotiated with the complainant and the negotiations resulted in the case being compounded.
- In Mandalay, the justice center fostered collaboration with local service providers and women's rights activists such as the Wonder Women Legal Aid Group. In 2020, the justice centers represented 4 women clients who were charged with Suppression of the Prostitution Law. The justice centers also referred 13 cases to pro bono lawyers. One woman was acquitted, because she was wrongly arrested and charged under this section. During this process the JC lawyers also assisted the woman by providing food and medicines for her and infant son in while she was in lockup.
- In February 2020, the Mandalay Justice Center collaborated with the Myanmar Anti-Narcotic Association (MANA) to raise legal awareness for families of drug users.
- IBJ Myanmar is cognizant that farmers and others living far from urban settings are often vulnerable to powerful actors misusing the criminal justice system against them. In Taunggyi, a junior Lawyer from the justice center and a group of pro bono lawyers successfully represented 16 co-defendants farmers.

Certain vulnerable and traditionally marginalised groups in the communities where the justice centres are located have been consistently **facing barriers to access justice caused by poverty and structural discrimination**. In providing legal aid services to clients, IBJ lawyers observe the important **connection between criminality and endemic poverty which excludes traditionally marginalised groups and people from accessing justice**. IBJ, through its advocacy, its networking with CSOs and CBOs, its community outreach activities, and its provision of free and low-cost legal representation, **opens entry points for greater inclusion of marginalised groups**.

Most clients who contact the justice centres are indigent and vulnerable and cannot afford to pay for legal services. When clients come to a justice centre, they frequently come with **a multitude of other socio-legal and cultural problems**, in addition to their conflict with the law. **IBJ lawyers tailor their services and collaborate with other disciplines** such as the social welfare department, CSOs, women's rights organisations, and juvenile training schools, to **provide comprehensive, holistic services**. The 5 justice centres have **forged necessary partnerships** to assist vulnerable clients. In 2020 IBJ **staff provided advice to 877 individuals which is around 48% of our project goal of 1,800 individuals** despite the COVID-19 restrictions. IBJ **launched Facebook pages for every justice centre**, on which general information was provided on the justice centres. Through the **chat box, Facebook users interacted** with staff of justice centres and for specific legal issues. The prospective clients are advised to contact the justice centres, complying with IBJ's **ethical and confidential communication and social media guidelines**.

IBJ lawyers note that because the justice centres are well-established and visible in the community, clients who cannot afford legal aid or do not trust justice institutions will reach out to the justice centres rather than traditional law firms. The private law firms do not provide free legal counselling and operate within a rigid hierarchical and traditional power structure, positioning themselves as "gatekeepers of justice". In contrast, the justice centres are approachable and adeptly shift the power and decision-making autonomy back to the clients by providing legal information and counselling.

Social Welfare Department in Naypyitaw transferring the case from private lawyer to justice centre

The senior lawyer in Naypyitaw through one-to-one advocacy, has cultivated a good relationship with the Social Welfare Department and has explained to the Department the justice centres client-centred approach. In one of the cases handled by a private lawyer and monitored by the Department, the juvenile court had incorrectly imposed imprisonment on a young juvenile in a rape case. The social welfare officer requested that the senior lawyer take over the case and file an appeal, and the Senior Lawyer did so.

In Hpa-An, because of the persistent efforts of the intake lawyer, the **defendants in the court lockup regularly receive legal information** on their rights and are encouraged to report any instances of torture to the court in the first appearance.

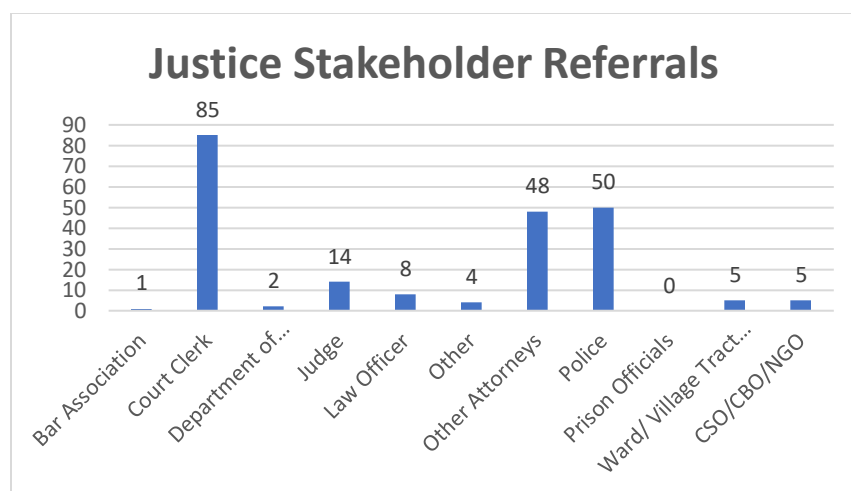
3.3 Impact on the justice system

Systemic change requires collaboration from all stakeholders in the system—judges, prosecutors, defenders, policy and law makers, and law enforcement leaders, among others. The justice **centres are publicly visible and accessible centres for legal aid in the local criminal justice contexts**. The defence lawyers are **uniquely positioned to positively influence the criminal justice system**, their communities,

and citizenry. In the places where the justice centres are established, the criminal justice system is under-resourced and carries huge caseloads. The system has under-trained personnel and poor logistics and administrative support available to ensure fair and equal justice. IBJ lawyers have **shown leadership and fostered positive transformation in the administration of justice in their communities**.

Fair trials and quality representation: cornerstone of criminal justice

When a person's freedom is threatened, the very cornerstone of criminal justice is fair access to lawyers, courts and due process. This is a basic human right which should be available to all individuals. As described in-depth in the report, IBJ lawyers are well-trained in criminal justice practice, adhering to international and regional best practices, which are responsive to indigent representation. When a client is arrested and contacts a justice centre, the lawyers have a **series of checklists and processes to comply with that guide** the IBJ lawyers in **nurturing the relationship with the client** and acting in the best interest of the client. The **IBJ lawyers routinely engage with the police and the court** to provide information, educate them about the background of the case, and discuss possible charges and the options available for processing the case. This is particularly important in locations where the police and the court system may not have the resources or professional skill necessary to properly process the case under the law. In doing so, **they also educate the police and court** on the importance of legal representation for criminal defendants. This is demonstrated by the table below showing that **85 referrals were made to justice centers by court clerks** and **50 referrals were made by the police**.



Holding the State accountable through defense-led investigations

IBJ lawyers **routinely conduct investigations**. These are generally conducted in the location where the crime is committed, or the witnesses are located. In 2020, IBJ **conducted 16 defense-led investigations**.

Defense-led investigations

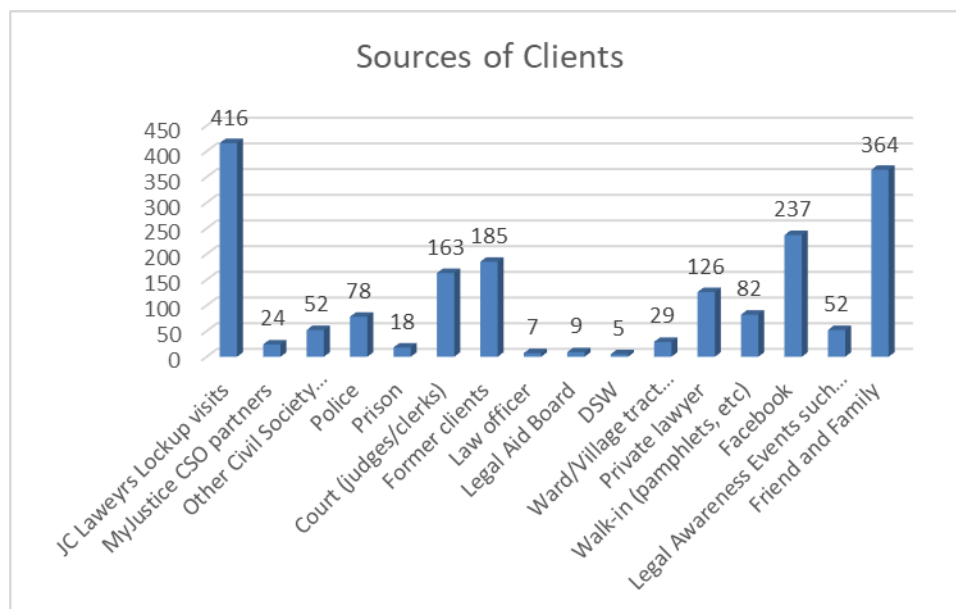
"There are certain cases (Penal Code – 420-cheating, 468 – forgery of purpose of cheating, 408 – misappropriation, criminal breach of trust) documentary evidence is crucial. In criminal trespassing, house trespassing, murder, crime scene observation is crucial. However, sometimes, it is dangerous for the lawyer to take crime scene photo, therefore, it should be wiser to ask the client or the family to take the photo of the crime scene. Or the lawyer separately makes field investigation and interview."

Senior lawyer from Hpa-An Justice Centre

The **purpose of these investigations** is to examine and interpret the evidence gathered by the police and look for additional evidence that may tend to prove their client's innocence. In doing this, lawyers **routinely challenge the prosecution's case**, and present their **own theory of the case**, gathering evidence to support that theory. They **go the extra mile** in collecting witness statements and evidence that the police may have missed or willfully ignored. This is an important component of IBJ's work. It **ensures safeguards in criminal justice proceedings**, especially on the presumption of innocence. The lawyers are encouraged to investigate and present their own evidence to rebut the prosecution's case and challenge **questionable assertions of fact and procedural errors that may then lead to charges being dismissed**. Initially, the lawyers faced problems and security threats while conducting field investigations. With lessons learned, case assessment and good planning, the justice centres now routinely conduct these investigations.

Modelling assignment of intake lawyers for early access

IBJ's model of **assigning an intake lawyer to a remand court or at police lockups** has provided opportunities to provide early representation. This **model is tried and tested in IBJ country programs** such as India. In piloting and testing in Myanmar, **IBJ will lay the ground for the new ULAB to eventually include it in their system**. The current system followed by LABs is slow to provide effective early representation to the accused, because attorneys wait for the families to visit detainees instead of proactively seeking eligible clients in lockups. IBJ, by actively seeking out the accused, is using the **"intake lawyer" model**. This model is necessary **to achieve the related goals of** (a) getting the accused out of jail (b) discouraging police torture and malfeasance (c) demanding judges and law officers take more responsibility for ensuring the integrity of the criminal justice system and (d) reducing prison overcrowding. The chart below shows regular and proactive visits by Justice Centre lawyers to police lock-up secures early access.



Combating corruption through IBJ professional ethics policies

Corruption in the criminal justice system is rampant in Myanmar and has implications for the IBJ lawyer's practice.

Impact of early access and pretrial detention

A client from the Naypyitaw Justice Centre hit a motorbike while driving her car. The motor-bike rider told her that he will file a case against her. She was then brought to the police station. During the first 24-hours, she contacted the justice center. The senior and junior lawyers went to the police station and advocated to the complainant not to press charges especially during the pandemic. The justice centre lawyers mediated and negotiated that criminal charges should be dropped against the client.

In another case, a client was accused of theft (section 380 imprisonment up to 7 years) while he was trying to sell a gold ring in a gold jewelry shop. The owner of the shop made a report, and the defendant was taken into custody and beaten by the police. However, no criminal report was registered. The senior lawyer advocated for his immediate release and called attention to the bruises suffered by the client, asserting these were caused by a police-beating. The case was referred to a pro bono lawyer in the area, due to its distance from the justice centres. Because of the intervention of the defense lawyer, the accused was charged with Section 36 of the Police Act and was released after the charge was framed. He was given credit for his detention in the police station.

IBJ has anti-corruption policies in place. Lawyers, including pro bono lawyers, **are trained to comply** to these standards when representing clients. There are many instances where **IBJ lawyers have refused representation** when the **clients suggest using bribes** to get the desired justice outcomes. In Mandalay, IBJ lawyers have consistently had conversations with court clerks and administrators about the practice of lawyers having to pay them extra money to get standard court copies and police reports. Access to justice is critical to the rule of law and **IBJ lawyers are the voices for the rule of law**. By signing the anti-corruption policy and putting it to practice, IBJ lawyers act professionally and with integrity. This **enhances the confidence the community has in the legal profession and the administration of justice**, and therefore increases the effectiveness of the entire justice system.

Opportunities to enhance the social role of the lawyer through pro bono services

Lawyers are one of the important stakeholders of the justice system. Societies are given order by the rule of law and an opportunity to work towards becoming a just and fair society through those laws. As mentioned earlier in this report, lawyers are voices for the rule of law, and have the **basic duty and responsibility to assist and promote the administration of justice and to serve the community to that end**. IBJ lawyers are in the **privileged position to open avenues of assistance** for people in vulnerable positions who come in conflict with the law. While in most justice centre locations there are a number of service providers working on child protection and gender-based violence, there is a dearth of committed criminal defense lawyers who believe that every accused person, regardless of the gravity of the crime, deserves fair trial and representation. The justice centres have been **successful in mobilizing, through its COP program, a cadre of pro bono lawyers to fill the gaps** and needs in criminal justice legal aid service

delivery. They have been guided by IBJ lawyers **to respond to their clients by applying ethical principles** in their interactions with courts, clients, colleagues and the community. This in turn **creates a climate of public confidence in the justice system** by placing paramount importance on giving quality legal advice and service to the client. This is even more relevant for poor, non-paying, traditionally marginalised clients who make up the majority of justice centre clients.

Instigating a criminal justice practice narrative change through strategic litigation

The **main objective of IBJ's strategic litigation is to identify systemic problems** in lower courts by focusing on individual cases that will bring about boarder changes. The section on strategic litigation extensively discusses the various approaches IBJ lawyers use in litigation **to effectuate systemic change** through changing the culture of courtroom practice, interpretation of the law and administration of criminal justice. For instance, IBJ lawyers have **systematically challenged procedural rights violations through litigation**, thereby tackling systemic injustices. Similarly, IBJ lawyers have used strategic litigation **to draw attention to courts' weaknesses and gaps in the interpretation of law**. The strategic litigation of IBJ instigates a narrative change where the voiceless, marginalised, indigent defendant-clients **get a platform to challenge rights violations, and demand clarity and accountability from the judiciary**.

Modelling child-friendly justice

IBJ's juvenile justice work is **guided by the principles of best interests of the child**, care and respect for children, and participation and access to **safeguards at all stages of the legal proceedings**. In providing legal aid, **IBJ's approach is multi-disciplinary**, working with both government actors and CSOs. While the Myanmar Child Law has been widely lauded as progressive, **its implementation has been problematic**. This has presented both challenges and opportunities for the justice centres. IBJ lawyers, while representing juvenile clients, **have litigated for the implementation of key provisions of the law** such as the requirement that children not be locked up with adults, the prohibition against unnecessary detention of children, the requirement to entrust children to their parents or guardians or training centres for the duration of their trial, the requirement of proof of age documents for children, and the requirement that bail be set under Section 83 (c) of the Child Rights Law instead of the Cr.P.C. The followings are IBJ Myanmar's efforts in juvenile justice.

"My son is merely a thirteen-year-old boy and was unfairly accused of rape. My heart was broken to see my son being arrested by the police in handcuffs. I did not know where to ask for help. I also faced derogatory words from the police. I reached out to the Taunggyi Justice Center and they explained my child's rights which was a huge help for me emotionally. I felt protected together with my son's lawyer in the court and in the police station. The lawyer helped me to look after my son, she went to the police station regularly to see him on behalf of me. She was the sole communication channel between me and my son. Because of her efforts, my son is now back in my custody on bail. He will go through trial under my custody."

Juvenile client's mother shares her experience

One of the highlights of the project, towards the end of 2020 was IBJ's roundtable conference, where more than 95 key stakeholders working on access to justice for juveniles convened to discuss the challenges and opportunities in legal aid service delivery to support the implementation of the Child Rights Law.