

2.2 Problem Analysis

This action aims to address several factors impeding citizens to claim or defend their rights and/or access fair, equal and inclusive justice and dispute resolution mechanisms to address their needs. It will also address some specific barriers that vulnerable groups, including women, persons with disabilities, older people, children and the poor are facing. These barriers can be analysed and divided into the following problem statements.

Low understanding of rights and where to seek assistance

A significant portion of the population in Myanmar lacks a comprehensive understanding of their legal rights and the options and avenues (both formal and informal) available to seek assistance when these rights are violated. This lack of legal awareness contributes to barriers in accessing justice, as individuals may not recognize when their rights have been infringed upon or know where and to whom turn to for help. Additionally, when people face disputes in their communities, disputants decide to take no action in nearly half of the cases. The main reasons given are that it would be a waste of time, too expensive, that the disputant does not want to upset the other party or that the disputant does not know whom to approach to solve the issue¹³.

The contributing factors of this issues are many, but include in particular the **complexity of the Myanmar legal system(s) and language barriers for ethnic minorities**. Myanmar's legal system is complex and multi-layered, with several formal, customary, and religious legal frameworks coexisting and judicial actors overlapping. Navigating systems is challenging for individuals without legal support. Myanmar's linguistic diversity also poses additional obstacles. This can also be an obstacle for persons with disabilities, some who would need information in accessible format or to be supported by a third person to access information.

If not addressed, lack of legal awareness contributes to the underreporting of rights violations, allowing perpetrators to act with impunity and perpetuating cycles of injustice. Additionally, it reinforces inequalities in access to justice, since individuals from marginalized communities, including women, children, youth, ethnic minorities, and persons with disabilities, are disproportionately affected, further widening existing inequalities.

Low quality, availability and accessibility of legal aid services

Legal aid services in Myanmar suffer from various shortcomings, including inadequate quality, limited availability, and poor accessibility. These deficiencies hinder individuals, particularly those from disadvantaged backgrounds, from accessing timely and effective legal assistance.

The contributing factors of this issue include the **resource constraints** legal aid organisations are facing in Myanmar, including insufficient funding, staffing shortages, and limited infrastructures. These limitations hinder their capacity to provide high-quality or sufficient legal assistance. **Geographical barriers** are also to be taken into account. Legal aid services are primarily concentrated in urban areas, leaving individuals in rural and remote regions with limited access to legal assistance. Additionally, certain marginalized groups, such as women, children, and persons with disabilities, require **specialized legal aid services tailored to their specific needs** and situations. However, the availability of such services is often lacking, leaving these groups underserved. Women are facing additional challenges when it comes to accessing legal support, including limited time away from family responsibilities and social customs implying that certain type of grievances, including sexual and gender-based violence, should be traditionally settled within the family circle or through the mediation of (often untrained) third parties trusted by the family rather than through legal mechanisms, trivialising the degree of criminalisation of such cases. The risk is aggravated for women with disabilities, particularly those who are deaf or have intellectual disabilities, who may be more dependent on their families, even for survival and also often are stigmatised in their communities.

If not addressed, the low quality, availability and accessibility of legal aid services leads to denial of justice, particularly for marginalized groups. This is particularly preoccupying in the cases of politically motivated arrests, where arrestees are more likely to lack access to competent legal advice and representation, due to the fear of reprisal of lawyers after representing such cases. Similarly to the issue of legal awareness, the unequal distribution of legal aid services perpetuates existing inequalities, disproportionately affecting those with limited financial resources or living in remote areas, further exacerbated by prevailing discriminatory social and gender norms.

¹³ Data extracted from surveys carried out under the EU-funded programme “Deepening Access to Justice in Myanmar (MyJustice II)”