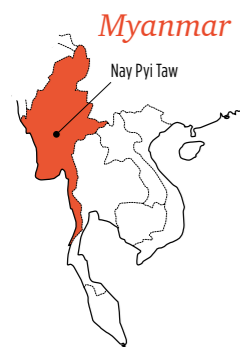




A group discussion held in the training center in the Supreme Court during the training for new assistant judges in July 2014.

## Laws Supporting a New Era



**P**utting an end to military rule, Myanmar started transitioning to a market economy in which goods and services are freely transacted. The lingering problem is the legal system that remains unchanged and the delay in the human resources development within the legal field. Japan is assisting Myanmar, which has just entered a new era, in promoting the rule of law.

### ESCAPE FROM IMMUTABLE LAWS

After a prolonged period of military rule, Myanmar inaugurated a new government in 2011. The country has started to follow the path toward a market economy, and is attracting the attention of the world including Japan as the last frontier in Asia.

However, a problem remains: improving legal and judicial systems.

Most laws in Myanmar were enacted during the British colonial period before 1947. As the 100-year-old laws are still in force today with almost no changes, resulting in thus inconveniences are caused.

“For example, the existing company laws in Myanmar state that a company should obtain the approval of the court or the President when it changes the company memorandum. Such law would be an obstacle for changing business content flexibly according to the economic environment,” pointed out Kenta Komatsu, an expert for JICA’s project of capacity development of legal, judicial and relevant sectors in Myanmar. Komatsu, a lawyer in Japan, used to be in charge of corporate legal work and started to work with JICA in 2011, moving to Nay Pyi Taw, the capital of Myanmar.

The project for the Supreme Court of the Union and the Union Attorney General’s Office has two major objectives; one is to improve the capacity to draft and examine bills, second is to enhance the capability of human resources in the legal field. The Supreme Court regulates 52 laws including the civil procedure code and the criminal procedure code and has the authority to draft amendments to these laws. The Attorney General’s Office reviews the bills drafted by government agencies.

This initiative features Working Groups of Japanese experts and local staff according to the themes, including drafting bills and human resource development. “In the Working Group discussing bills, I encourage debates of the staff from the Attorney General’s Office on points such as if any unclear parts are in the provisions or if it is consistent with other laws,” said Komatsu. He explains that Working Groups are advantageous in enabling cooperation fitting their needs by helping the donors to understand the local staff’s awareness about the issues through daily discussions.

Japan’s experience in the rule of law promotion is also an advantage in this field. After the Meiji Restoration, Japan incorporated the Western legal systems through comparison and examination. Therefore, Japanese experts can propose various legal systems from a comparative perspective and explain the necessity of customizing them so that they are suitable for their country.

### LAWS FOR THE PEOPLE

Under military rule, the laws in Myanmar had been influenced by the intentions of the persons in power. In addition, the Department of Law at Yangon University had been closed due to many students’ involvement in the 1988 democracy uprising, and the government was cautious about legal education. Komatsu said, “Since laws are recognized as a tool to control people, bills were drafted secretly and the opinions of the persons concerned were offered only after the bills were submitted to the Parliament. Such adjustments may take time.”

The mission of the project team is to lay the groundwork in Myanmar to broadly discuss bills democratically and to develop human resources. “When I first started working here, the Attorney General’s Office resisted showing us the bills. We consider their cultural background and telling them patiently the new method. As a result of our earnest efforts staff members are now starting to recognize the necessity to broadly seek opinions from the persons concerned while drafting.” In the project to improve the litigation system on intellectual property, there is a plan to open the draft of the measures of the Working Group through the internet with invitations for public comment.

The project also handles training in Japan. In 2015, the project provided an opportunity inviting staff members from three organizations; the Directorate of Investment and Company Administration of the Ministry of National Planning and Economic Development, which regulates the Company Law, the Attorney General’s Office, which examines the law, and the Supreme Court, which will conduct judicial



**Above:** Komatsu (second from the left) checked the Case Records in the High Court in Yangon.  
**Below:** JICA experts stationed in Nay Pyi Taw (June 2015).

proceedings concerned with the Company Law in the future. A staff member of the Attorney General’s Office who took part in the training said, “As specific disputes were assumed in the training, it was good opportunity to examine whether the current draft provisions are appropriate or not.”

The judges and government officials’ attitude in Myanmar has been changing gradually through the project. “The current target is to connect these changes to a momentum. Since last July, we have started a new reform on the mechanism for civil conflict resolution. This initiative is related to the important function of judicial decisions to protect the rights of the people.” Komatsu said, with new enthusiasm.



In February 2015, a meeting was held to review the work and make an annual plan at the Supreme Court in Nay Pyi Taw.