

# MYANMAR'S NEW REGISTRATION LAW

## Background

On 28 October 2022, the State Administration Council (“SAC”) enacted the Organization Registration Law (“ORL”) via Notification No. 46/2022 as per Section 419 of the Constitution of the Republic of the Union of Myanmar. The ORL repeals and replaces the former Association Registration Law 2014 (“ARL”) enacted via Pyidaungsu Hluttaw Law No. 31/2014, and subsequently implemented by Rules Relating to the Registration of Associations on 5 June 2015. The ARL was governed by the Ministry of Home Affairs (“MOHA”), which issued Registration Certificates to civil society organizations (“CSOs”).

The new ORL threatens significant constrictions of already highly restricted civic space and freedom of association in Myanmar since the February 2021 military coup. The ORL removes the voluntary provision of Myanmar’s 2014 ARL, which was in line with best practice, and mandates registration for all associations, under penalty of criminal sanctions. It also enacts a highly controlling, invasive, and punitive reporting framework.

Under the ORL 2022, unregistered non-governmental organizations (“NGOs”) and international non-governmental organizations (“INGOs”) formed before its enactment are required to apply for registration within 60 days of the law's enactment. Existing NGOs and INGOs formed and registered under the ARL 2014 are allowed to continue operations until the expiration of their registration certificate, provided that they are in compliance with all provisions of the new law. If they wish to continue thereafter, they are required to reapply for a registration certificate under the ORL. Notably, the ORL does not provide a grace period for existing NGOs and INGOs whose certificate of registration under the ARL has expired. Although the SAC has also attempted to amend NGO registration bylaws, this process has stalled for unknown reasons.

Based on the likely implications of such a restrictive law, the International Center for Not-for-Profit Law (ICNL) commissioned an assessment from local partners to document some of the impacts of the new ORL. The assessment was conducted from January to March 2023, and documented major changes in the policy landscape of associations’ registration in Myanmar. The main results of the assessment are summarized here.

## Scope of the assessment

Similar to prior studies, this assessment looks primarily at the challenges and threats experienced by CSOs, both registered and non-registered, and examines how the ORL has affected their day-to-day operations and project implementation. The working group for this assessment revised the areas of study and questionnaires to align with the current context and experience, with a particular focus on the potential obstacles and concerns of CSOs arising from the amended registration regime. A similar methodology as previous assessments was employed to ensure the security and safety of interviewees and interviewers. Some of the information has been conveyed from information sessions held by the General Administration Department (GAD) for registered CSOs in Mon state, among other sources.

The assessment primarily focuses on the immediate effects of the five key areas impacting civic space: regulatory frameworks, access to funding, administration and bureaucracy, potential obstacles related to the registration process under the amended ORL, and freedom of assembly and association.

### **Findings from key informant interviews on the immediate impact after the release of the new ORL are as follows:**

- **Number of CSOs:** Between 2014 and 2020, the number of NGO/INGOs registered at the national level was 1,385. In 2021, a total of 484 organizations saw their existing registrations expire. Out of these, only 154 organizations participated in the registration renewal process, while 330 organizations did not. Additionally, two organizations expressed their intention to shut down. Currently, there are 899 organizations with active registration status.
- **State and Regional Level CSOs:** At the state and regional level, a total of 1,054 CSOs are registered. Out of the 242 organizations whose registrations expired, only 35 submitted registration renewals, while 227 did not. Two organizations shut down their operations.
- **District Level CSOs:** There were 686 organizations registered at the district level, with their registrations



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set to expire in 2021. Out of these, 81 organizations applied to renew their registration, while 599 organizations did not apply for an extension.

CSOs in areas with limited presence from People's Defence Forces appear more likely to extend their registration. However, many CSOs are hesitant to submit their registration renewals due to the mandatory registration requirement in the amended law. Without a valid registration or an extension submission, CSOs are unable to access and operate organizational bank accounts, hindering their ability to receive international fund transfers and continue their activities. Local organizations without active registration face more oppression compared to those with active registration.

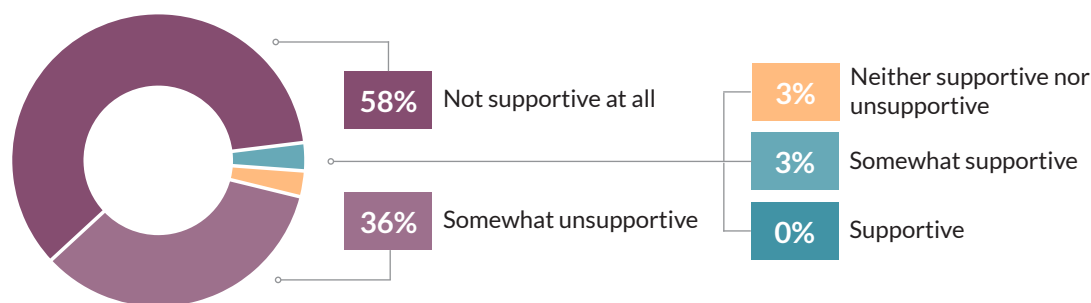
## 1. Regulatory Framework

The assessment data indicates that the current policy and regulations regarding association registration in Myanmar are not supportive of CSOs. Obstacles include registration status, fund flow restrictions, and increased limitations on program activities. The data also reveals that CSOs in different states and regions face varying levels of threats.

The majority of CSOs claim that their activities are prohibited without registration. This disproportionately impacts larger CSOs compared to smaller ones that operate within local communities with limited scopes of work. Many CSOs are aware of the amended ORL and express concerns about the potential penalties resulting from broad and unclear provisions, interpreted loosely by the de facto authorities. While some CSOs state that the registration process is acknowledged in respective departments, others claim that authorities are stalling the process, and requirements are becoming more complicated, such as recommendations from respective ministries or departments. Implementation of registration is also noted to differ widely depending on the township or state/region. Additionally, the majority of respondents assert that human rights organizations are being particularly targeted by the regime.

Figure 1

### How would you describe the regulatory framework?

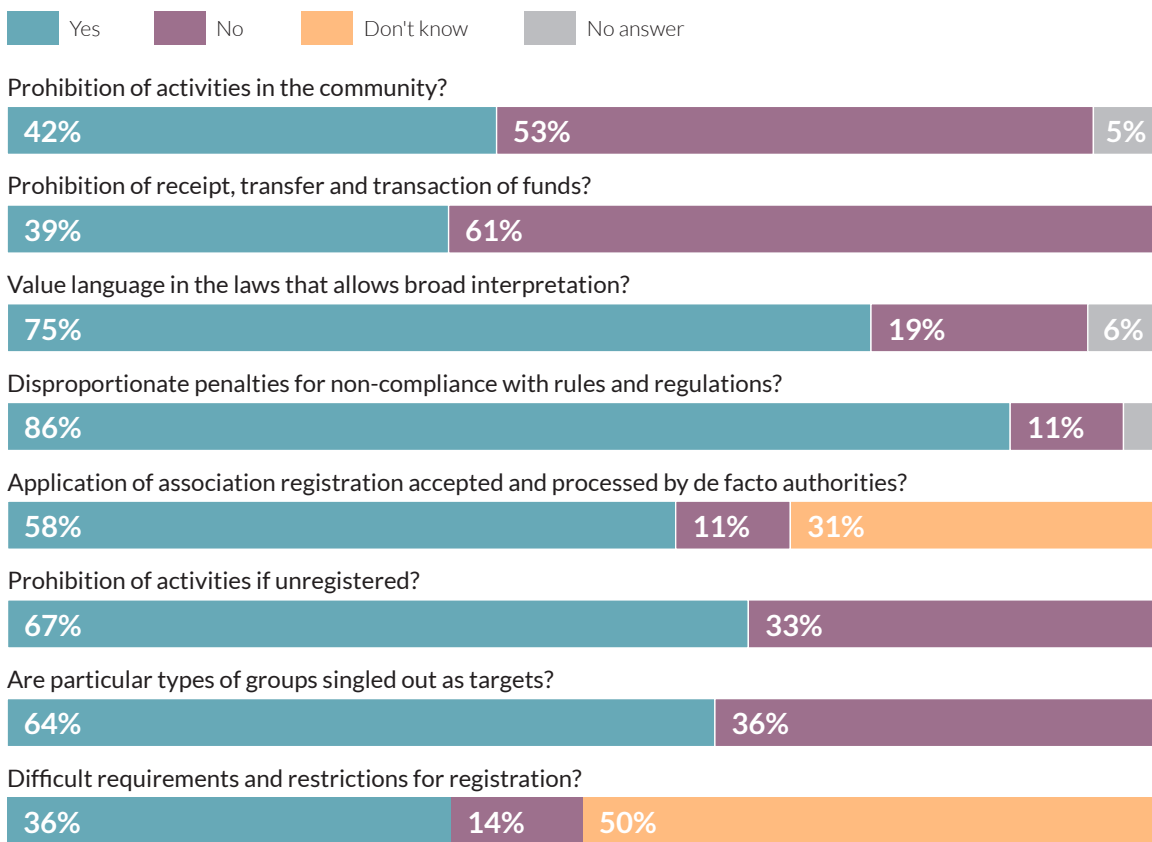


## REGULATORY OBSTACLES

It is crucial for every registered organization to be aware of the consequences of non-compliance with the new ORL. The penalty for default can be a fine of up to MMK 5 million, imprisonment of up to five years, or both. Additionally, non-compliance could lead to nullification of the organization’s registered certificate, and confiscation of its money and assets. According to this assessment, 86% of respondents stated that they would face obstacles due to disproportionate penalties for non-compliance with ORL’s rules and regulations. However, only 36% of the total respondents were aware of the requirements and restrictions for registration. Furthermore, 75% of respondents mentioned that the vague language in the law allowed for varied interpretations.

Figure 2

### Regulatory obstacles



## 2. Access to Funding

Access to funding for Myanmar CSOs continues to face excessive obstacles under the current regime. Many CSOs state that funding access in Myanmar is limited, and only a few local CSOs who rely on membership fees or local donations face minimal or no barriers to funding.

Figure 3

## How open is the funding environment?

Open

0%

Somewhat open

28%

Neither open nor closed

3%

Somewhat closed

31%

Completely closed

39%

While the majority of CSOs struggle to access foreign and local funds, some organizations affiliated with regime ministries (e.g., the Ministry of Social Welfare) experience fewer difficulties in funding transactions. Among the respondents, 39% said that access to funding is completely closed off. It is worth noting that some respondents receive funding from international donors, while the majority rely on local donors. Therefore, the 39% figure likely represents CSOs receiving funding from international sources.

Under the new ORL 2022, the powers of the Registration Body have been extended to instruct organizations regarding compliance with anti-money laundering and terrorism financing regulations. Organizations that are registered are prohibited from engaging in illegal financial activities, concealment of such acts, or communicating with or supporting organizations and individuals declared as terrorists and opposed to the State, either directly or indirectly.

Figure 4

## Access to funding

Are there funding mechanisms/practices that specifically favor or discriminate against certain organizations or focus areas?

61% - yes

39% - no

Are there major barriers for civil society to access and utilize domestic and/or foreign funding?

64% - yes

36% - no



The 39% of respondents who said that access to funding is 'completely closed' off likely represent CSOs receiving funding from international sources.

### 3. Administration and Bureaucracy

The regime’s administrative practices around nonprofits vary based on location. Most CSOs reported some degree of interference in their operations by the regime.

Figure 5

#### Administrative and bureaucratic obstacles



CSOs face numerous restrictions imposed by the regime, including investigations into their activities, obtaining prior approvals from local authorities, prohibition of aid distribution in certain regions, and the requirement to frequently report their activities to the authorities. Some registered CSOs relate that operations are becoming more difficult due to these restrictions. The majority of CSOs reported being closely monitored by the regime, necessitating a low-profile approach to implementing their activities. Some CSOs have even suspended their human rights activities to avoid threats from the regime.

Figure 6

#### Operational obstacles

Yes No Don't know No answer



## 4. Engaging in the Registration Process

With registration becoming mandatory, CSOs' fear of oppression by the regime has increased. The majority of CSOs are concerned about excessive control and monitoring by the regime if they apply for registration. On the other hand, they fear persecution if they do not apply. Additionally, if they do register, they may be viewed as traitors by their colleagues and the community, damaging their image.

Figure 7

### Concerns regarding registration under ORL

Yes No Don't know

Are you concerned about being forced to register under the newly amended registration law?



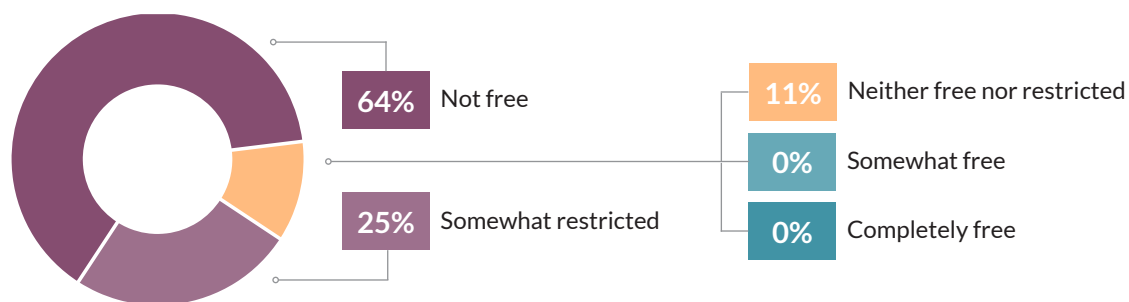
## 5. Freedom of Assembly and Association

Freedom of assembly and association in Myanmar has deteriorated under the regime following the coup. Most CSOs operate with a low profile, and the current regime does not grant freedom of assembly, except for those affiliated with and supportive of the regime.

Some CSOs are closely monitored due to their connections with networks and organizations involved in anti-coup campaigns. The right to peaceful assembly has been completely denied, except to pro-military campaigns and organizations.

Figure 8

### How is the environment for assembly and association rights?



## Conclusion

Although the stated objective of the ORL 2022 is to establish organizations in accordance with the law and allow them to enjoy their rights, this research indicates that the new ORL has effectively established a monitoring system to repress civil society, which is having a chilling effect on CSOs' operations and freedom to carry out activities. Nonetheless, many organizations – particularly local or district level groups – have registered in order to continue operating, and despite the risks of being seen to collaborate with the regime. Funding access continues to be a challenge, even for those CSOs who are able to register.

It is clear, from this initial assessment, that the new registration law has merely accelerated Myanmar's closing civic space, making the operation of civil society organizations even riskier, while doing nothing to combat the actual risk of financial crimes, which is concentrated almost entirely in other sectors.

ICNL and its partners will continue to monitor and provide updates on these developments.



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