

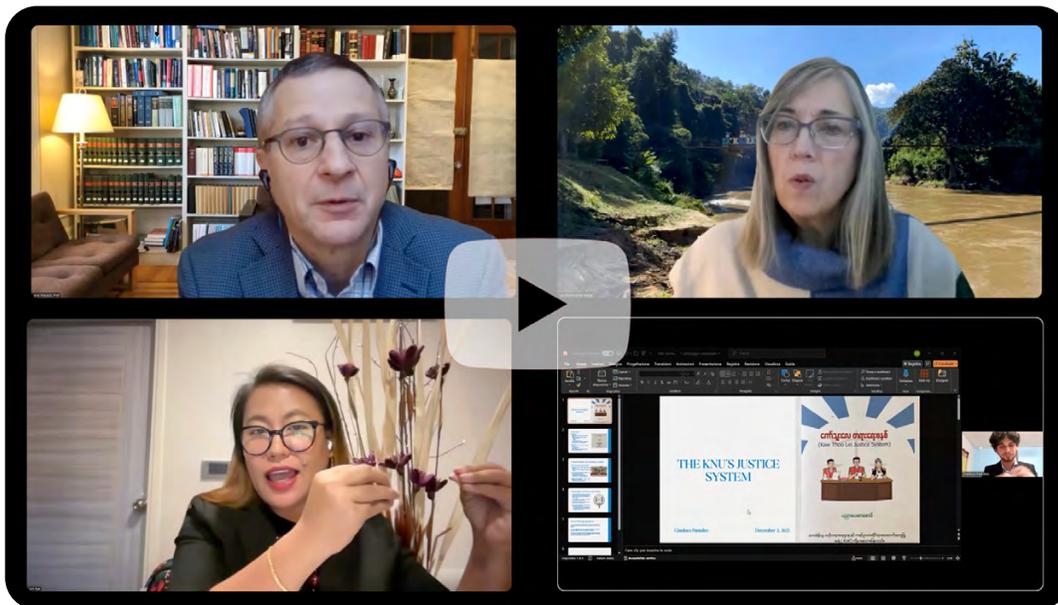
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Rebel Justice

Background

On December 3, 2025 Just Governance Group hosted a roundtable discussion on [Rebel Justice: the Administration of Justice by Non-State Actors](#).



JGG is frequently involved in human rights, local governance, and justice initiatives in countries affected by armed conflict, including Myanmar. Since the 2021 military coup in Myanmar, the country has been engulfed in a non-international armed conflict where more than half of the townships are now under the control of various resistance organizations. This territorial control has necessitated the development of governance structures, including justice systems, to provide legal security in areas where state authority has collapsed. To explore the practical implications of international humanitarian and human rights law, we invited McGill professor Rene Provost and two lawyers, Daw Zar Li Aye and Gianluca Pantaleo, working with non-state groups in ethnic states in Myanmar, to share their experience.

International Humanitarian Law and Administration of Justice by Non-State Actors

Professor René Provost, author of *Rebel Courts: The Administration of Justice by Armed Insurgents* (2021), framed the administration of justice by armed groups as an “essential human need” for legal security in areas where state authority has collapsed. He highlighted that while states often dismiss these systems as “power grabs” or “terrorist” activities, they are a widespread reality that directly affects the daily lives of millions of civilians living in contested territories.

Multiple legal systems in a territory: Provost challenged the claim that the state holds a monopoly over the rule of law. He argued that state-led justice is a relatively recent and historically incomplete phenomenon; non-state justice exists in every country and is often the primary source of law in many contexts.

Key international humanitarian law standards: In the context of non-international armed conflicts (NIACs), conflicts occurring between a state and non-state armed groups or between such groups themselves, international law places specific obligations on all parties involved. Common article 3 of the 1949 Geneva Conventions sets out minimum standards for humane treatment of persons not taking part in such armed conflicts. Under common article 3, it is a crime to execute a judgment from a court that is not “regularly constituted”.

Courts established by rebel organizations: Professor Provost noted that because International Humanitarian Law (IHL) does not explicitly forbid armed groups from creating courts, they possess a functional right to do so, provided the courts meet minimum standards of independence and impartiality. This legal standard connects to an international human rights standard which speaks to the right to be tried by a “tribunal established by law.”

Rebel courts exercise territorial, subject matter (criminal and civil), and personal jurisdiction. Interestingly, some groups claim extraterritorial reach or apply diverse legal standards ranging from their own codified laws to state law, international law, or religious standards like Sharia.

The legitimacy of rebel justice is tested at four levels: international (e.g., ICC complementarity), transnational (recognition by other states), national (recognition by the state they oppose), and transversal (recognition between different rebel groups, such as between the Karen National Union and the Mon National Liberation Army).

Two Justice Systems in Resistance-Controlled Areas of Myanmar

In the wake of the 2021 military coup, Myanmar has seen a significant shift in territorial control, with Ethnic Armed Organizations (EAOs) and People Defense Forces (PDFs) now exercising authority over more than half of the country’s townships. In these liberated or contested areas, non-state actors have moved beyond military resistance to active political administration, establishing governance structures to meet the needs of local populations. The shift is particularly evident in Karenni and Karen States, where long-standing and newly formed administrative bodies govern everything from healthcare to the rule of law.

Karenni State

Daw Zar Li Aye (Senior Legal Advisor, International Commission of Jurists) provided a localized analysis of the “people’s defensive war” in Karenni State, where the resistance has achieved

substantial territorial gains. She described a sophisticated governance structure in Karenni State managed by the Karenni State Consultative Council (KSCC) and the Interim Executive Council (IEC). Karenni State utilizes a multi-track justice system: a formal “Interim Judiciary” (KSIJ) alongside deeply rooted customary practices and Alternative Dispute Resolution (ADR). The KSIJ operates a High Court, two district courts, and eight township courts.

Despite the formal interim courts, approximately 60% of the population prefer customary mechanisms because they are accessible, affordable, conducted in local dialects, and deliver timely outcomes compared to the formal system, which is often viewed with distrust due to decades of military abuse. However, customary systems often prioritize “social harmony” over individual accountability. Daw Zar Li Aye emphasized that these systems frequently reinforce patriarchal norms that exclude women and children, highlighting the need for technical support to integrate human rights without erasing cultural identity.

Karen State

Gianluca Pantaleo (legal advisor to ethnic state organizations) detailed the justice system of the KNU, which functions as a de facto state with four tiers of courts: Village, Township, District, and the Supreme Court. This administrative capacity is supported by the Karen National Police Force (KNPF) and a robust body of codified laws, including specific codes for criminal and civil procedure, evidence, and specialized regulations for sectors such as forestry and mining.

To promote gender equality, KNU Justice Committees (the courts) include gender quotas, typically requiring at least two women members in a committee of five. Furthermore, the system emphasizes collective accountability; decisions are made by majority vote rather than a single judge.

Given there is a chronic shortage of professional lawyers due to the armed conflict, the KNU uses “legal volunteers” who act as law clerks and provide the public with legal advice and training. While they bridge the gap to the community, their lack of formal legal education and salaries leads to high dropout rates.

Organizations like the Karen Women’s Organization (KWO) play a vital role. In many villages, women have a right to be represented by a KWO member who advocates on their behalf, a practice that has reportedly decreased incidents of domestic violence because perpetrators know the victim will receive “very good assistance”.

Key Discussion Points

Legitimacy vs. Legality: Participants reached a consensus that for those living in conflict zones, legitimacy is not granted by international recognition but by local trust. If a system is accessible and perceived as fair, it is legitimate in the eyes of the community.

Principled Compliance: Gianluca noted that some groups, like the Karenni, have specific clauses requiring judges to interpret state law in a way that is coherent with international human rights law. This allows them to “disapply” or revoke parts of Myanmar’s national law that conflict with human rights standards, suggesting a principled commitment to reform rather than a purely strategic attempt to gain international favour.

The Dilemma of Capital Punishment: A significant challenge discussed was the use of the death penalty for serious crimes (e.g., rape of a minor). While some argue this is due to a lack of prisons, others noted it is often a reflection of existing codified laws that the groups feel they must follow to maintain order.

The “Double Standard” of International Support: Professor Provost highlighted a “bigger problem for governments”: Western states are often willing to provide military aid or special forces to non-state groups but are reluctant to provide technical support for their justice institutions. This leaves a vacuum that NGOs like Geneva Call attempt to fill through neutral, technical engagement.

Capacity building with non-state justice actors: Under international law, non-state armed groups that exercise de facto territorial control are increasingly recognized as having responsibilities to respect and protect human rights within their jurisdictions. Zar Li Aye emphasized that for capacity building to be effective, human rights training must be adapted into local languages and contexts. Using overly technical Western terminology can make local actors reluctant to engage. Success in these initiatives requires interpreting rights through the lens of local ethnicity, religion, and customary practice.

Handling Serious Internal Crimes: The discussion touched on the integrity of these systems when handling high-stakes cases, such as the KNU’s willingness to prosecute the son of a high-ranking leader, which eventually led to that individual defecting and forming a rival faction rather than facing the rebel court.

Conclusion

The roundtable illustrated that rebel justice is far from a monolithic vacuum. Instead, it is a complex landscape of evolving institutions that often reflect rule-of-law principles. While significant risks remain, including gender discrimination in customary law and the lack of professional legal counsel, these systems offer a critical opportunity for international actors to support ground-up justice reform that prioritizes the dignity and security of civilians.



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JGG consultants meeting with ethnic women leaders near the Thai border.

MYANMAR INCLUSIVE GOVERNANCE PROGRAMMING

JGG consultants recently completed a five-year contract providing monitoring and advisory services on inclusive governance to Global Affairs Canada in its Myanmar program. Tin Maung Htwe and Kimberly Inksater supported project monitoring and capacity building with an international organization implementing a project on gender responsive decentralized and inclusive governance among pro-democracy actors resisting the military coup in Myanmar and along its border. JGG was also responsible for facilitating information exchange among project implementers supported by the Myanmar inclusive governance program and providing advice on democracy support in fragile and conflict affected settings.

LAND GOVERNANCE FOR CLIMATE RESILIENT LIVELIHOODS

A JGG consultant in Indonesia, Ibnu Mundir, is providing monitoring services to Global Affairs Canada in relation to Land4Lives, a project that seeks to enhance climate change adaptation/mitigation, strengthen land governance, and promote environmental sustainability. [Land4Life](#) also aims to increase economic- and climate-resilience livelihoods and food security for poor and vulnerable groups, particularly women and girls, in three provinces.



JGG consultant facilitating a group discussion with women farmers.

EVALUATION OF A DEMOCRACY EDUCATION INITIATIVE

A JGG team is reviewing an initiative implemented by the Organization of American States with ministries of education in the Americas. The purpose of the project is to enhance education for democratic participation by strengthening curriculum, teaching techniques and student engagement. It is one of the OAS initiatives to strengthen the implementation of the Inter-American Democratic Charter.

EXPANDING LEGAL AID IN JAMAICA

A JGG team has been collaborating with Jamaican stakeholders to assess the current criminal legal aid system in Jamaica and the feasibility of expanding legal aid to civil justice matters. Our team includes JGG consultants with experience in access to justice assessments and legal aid specialists, including a Jamaican attorney, a senior research fellow from the Canadian Forum on Civil Justice, and a Professor Emeritus from the University of Fraser Valley. Our team is working closely with the Legal Aid Council of the Ministry of Justice and the UNDP through the [Social Justice Project](#) (SO-JUST).

