

# **CONTROLS ON ESTABLISHING PRIVATE SCHOOLS IN MYANMAR**

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## **Abstract**

Myanmar endeavors to enable quality education, whether in the public and private sectors. SDG4 recognizes the need to provide quality education for all. The establishment of private schools can contribute to the achievement of this Goal by providing quality education to students. Great attention was paid to the emergence of private schools at all educational levels in the education sector. Accordingly, this paper mainly focuses on the examination of the legal provisions how to regulate the establishment of private schools considering the compelling legal, social, economic, educational and political issues. The legal context of such issues plays a crucial role in the establishment and management of private schools in a democratic society. It is also essential to operate the quality assurance system. The sectoral laws should be enacted to control the private universities and colleges including TVET schools based on the relevant sectors although private schools can be established under the private education law.

**Keywords:** private schools; quality education; legal provisions

## **Material and Methods**

This project is conducted in terms of these areas: educational laws and related legal provisions in the scope of private schools. These are reviewed by using the research descriptive and analytical methods. The relevant provisions, policies and practices are criticized thematically to ensure the main focused areas. The analysis of the specific legal provisions is aimed to examine what extent of the existing provisions to control the private schools and to identify the legal requirements for the establishment of the schools.

## **Findings**

The research work indicates that the registration is a key point for the establishment of private schools to follow a set of procedures prescribed by the Ministry of Education (MOE). In addition, the private schools have to meet certain quality standards regarding teaching facilities used in the teaching environment, qualifications of teaching staff, curriculum and quality assurance.

## **Introduction**

Education is not only a powerful tool of the countries in building their future but also an essential pillar to elevate their status. They realized that their generations are the most valuable resources on earth. Accordingly, access to quality education is important because it is a key to unlock a better life by seeking knowledge, building confidence, and breaking down barriers to opportunity. So it forms a part of development plans to face the future. Non-public type education has been developed by commercialization and privatization in education. Many private schools have spread all categories and specializations in education. As a supporter of education, private schools are classified by Myanmar National Education Law. Private participation in education is also a promoted sector under the law.

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The research topic is chosen to conduct the project due to the lack of previous studies on the field. Mainly, private education sector is even now important to regulate the conducts through the legislation because it has amplified in the various fields. For this reason, the study is aimed to begin with legal analysis through in-depth review. In order to achieve the project's aim, there are three main sections in this study. In the respective sections, it tries to study the legal provisions covering education sector and clarify the meaning of the terms such as private education and private schools. It elaborates the rules and regulations governing the establishment of private schools. It highlights the quality assurance system that is crucial for quality control.

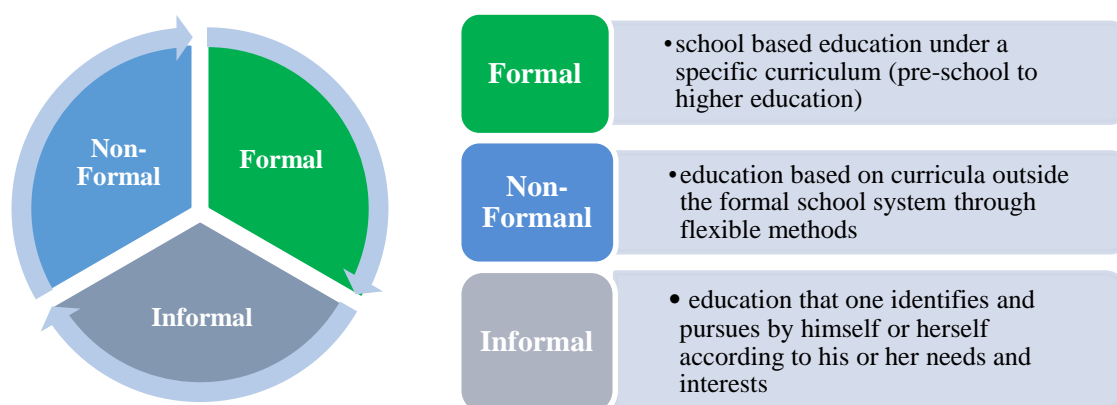
Three main sections are:

- (i) Legal Framework of the Education System in Myanmar;
- (ii) Legal Requirements for the Establishment of Private Schools; and
- (iii) Ensuring Quality Education.

### Legal Framework of the Education System in Myanmar

Education is recognized globally as the most empowering force. Education reform is an attempt of Myanmar for upgrading its education. One of the steps for education reform includes an enactment of the National Education Law (NEL) in 2014 which is amended in 2015 and in 2022. It emerged as an umbrella law for education. According to Section 11 of the Law, formal education, non-formal education and informal education are comprised of in the implementation of the national education system.

### Education System



To implement the formal education, the State designates the education as follows:

- (a) Basic Education;
- (b) Technical and Vocational Education; and
- (c) Higher Education.<sup>1</sup>

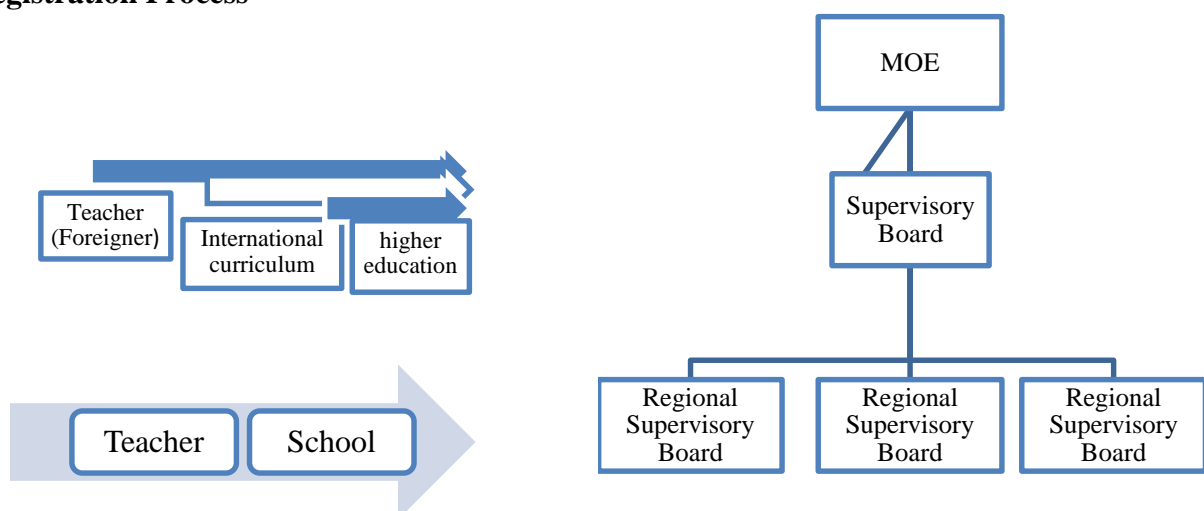
<sup>1</sup> Section 14 of the National Education Law of Myanmar, 2014.

There are nine types of schools classified by Section 34 of the Law including public and private schools. Under the Law schools covers the places where teaching and learning for pre-school, basic education, technical and vocational education, and higher education take place. The State accommodates the children who wish to pursue knowledge in private schools depending on their facilities. Thus, private or independent schools are recognized as one of the categories to provide education. This Law drives to develop the relevant law for private education sector according to sections 4(e), 56(a), 57(a), 58(d) and 60.

### Legal Requirements for the Establishment of Private Schools

The basic framework of private education sector has developed in Myanmar through the promulgation of the Private Education Law (PEL) in 2023. The Private School Registration Law, 2011 has been replaced by this Law. Under section 2(f) of the Law, private education means education provided by private or independent schools in accordance with the educational policies of the Ministry. This type of education can be presumed to implement national education system under formal education despite not mentioning in the National Education Law. Thus, the educational services can be provided by the private schools concerning basic education, technical and vocational education and higher education. Those are categorized as private schools to be registered under section 5(a) of the Law. Section 2(e) defines the term “private or independent school” as school established and registered in accordance with this Law. In this expression, branches of private or independent school registered under this Law are included. Accordingly, registration is a legal requirement for the establishment of private schools. In addition, section 6 says that the private schools should be established by registration if they are in accord with the Myanmar Investment Law and the relevant laws. It indicates that the sectoral law is necessary to regulate their activities in the respective fields of education. Therefore, a founder must apply to register for the establishment of the private school through the relevant Regional Supervisory Board in accordance with the stipulations.

### Registration Process



The following are the statutory requirements to be submitted to apply for the registration according to section 27 of the Law:

- (a) permission for the establishment of a private or independent school granted in accordance with the Myanmar Investment Law and relevant laws;
- (b) documents regarding ownership or lease of the land and building, or building to be used for a private or independent school;
- (c) lesson plans in accordance with the prescribed curriculum and syllabus;
- (d) documents stating that students' hostels are in line with the stipulations of the Supervisory Board, if the private or independent school has any;
- (e) arrangements for the campus, environment and classrooms to be suitable premises and to be adequate sanitary facilities;
- (f) emergency health care programmes;
- (g) security and fire safety programmes;

Moreover, it is important that the application should be in accord with the basic requirements prescribed by the Ministry or relevant Ministry, and the stipulations of the Supervisory Board under section 26. Some sections of the Law say that private schools need to follow the relevant rules and regulations based on their types concerning basic education, technical and vocational education (TVET) and tertiary education. They need to fulfil certain conditions imposed by the relevant laws in their respective fields.

### **Private Basic Education Schools**

Basic education is a foundation of the education to pursue further studies for TVET or higher education according to the definition provided in National Educational Law. According to ISCED standard, basic education comprises primary education and lower secondary education covering a wide variety of non-formal and informal public and private activities intended to meet the basic learning needs of people at all ages.<sup>1</sup> Due to its importance as the heart of education, the management and superintendence of the basic education schools are undertaken by the Ministry of Education and the relevant Ministries under section 57(a) of the Law. The 1973 Law of Basic Education was replaced by the Basic Education Law (BEL) in 2019. Section 4(e) of the new Law affirm non-discrimination policy that is vital to education for all. It has become a boost for basic education to create the international-standard learning environment and to ensure the quality education.

With respect to the private education sector, sections 4(o), 36 and 52 of the Law provides that private education should be implemented in accordance with the relevant law. Therefore, the promulgation of private education law has played a crucial role in the control of private schools because the 2011 Law just regulated the establishment of private basic education schools following the national curriculum. Accordingly, this law did not cover international schools, private TVET and higher education schools.

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<sup>1</sup> <https://uis.unesco.org/en/glossary-term/basic-education#slideoutmenu>

The Private Education Law applies to all types of private schools in the respective fields. It regulates the conduct of the schools based on the different levels of education. In order to uplift the union spirit and to maintain national culture, section 32 provides that the private education schools other than the schools following international curriculum have to teach the subjects including Myanmar, history and geography of Myanmar. The students of the private basic education schools following international curriculum need to study these subjects if they are Myanmar. In addition, the above type of schools shall ensure to teach Myanmar subject to the students who are foreigners and wish to study this subject suitable to the respective grade. The curricula for these subjects are prescribed by the National Curriculum Committee. Similarly, in Malaysia, a private educational institution providing primary education or secondary education or both shall comply with the requirements of the National Curriculum.<sup>1</sup> The curriculum has to be used by the schools. Core subjects of the National Curriculum are set out in the Schedule including national language. Thailand Private School Act also states that apart from teaching foreign language subject, Thai language shall be used, unless otherwise it is an international school or a school which is granted a permission to educate in foreign language, such school may teach in a language specified in a license. However, it must teach students to be capable of reading, writing and speaking Thai language.<sup>2</sup> Obviously, countries are seeking to maintain their culture by regulating in private education sector.

Further requirements have to be met under the conditions imposed by the Law and specific directives. For private basic education school following national curriculum and the schools following international curriculum two Directives are issued by the Supervisory Board under the Law. It includes the specification for their infrastructure, facilities, class size ratio, registration fees, and etc.

### **Private Higher Education Schools**

Higher education is defined in section 2(s) of NEL as the education that provides the learners who have successfully completed the highest level of basic education or its equivalent at a school recognized by the Ministry or the Relevant Ministry. Sections 4(j) and 26 recognizes that universities, colleges and institutes are leading to autonomous system. According to sub-sections 4(k), 28 (b), 28(c) and 57(d), every university has to draw up a charter comprising of its organizational structure and internal regulations. The charter is also necessary for private universities under sub-sections 34(a), (b) and (c). The university charter should inform all of its activities, laying out its goals and explaining the methods.

Directive on the registration of private higher education school has been issued under PEL. In the directive, private higher education schools are categorized as university, foreign university branch, college and center based on the academic programs. It includes the conditions of using the name of the school. In Singapore, there is also restriction on use of school, no person or organization shall, except with the written consent of the Director-General use the words “academy”, “college”, “school”, “university” or any other terms specified in the Gazette by section 4A(1)(a) of the Education Act, 1957. Under sub-sections 10(1)(h)(i) and (ii) of the Singapore’s Private Education Act, 2009, grounds for refusal to grant or renew registration

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<sup>1</sup> Section 74 of the Malaysian Education Act, 1996.

<sup>2</sup> Section 43 of the Thailand Private School Act, 2007.

include the use of the name that is likely to mislead the public or that is identical to or so nearly resembles the name of some other's. In Thailand, there are three types of private institution of higher education as follows: university; institution; and college. The characteristic of the university, institution, and college shall be in accordance with the Ministerial Regulation.<sup>1</sup> There are also certain prohibitions under section 76(1) of the Malaysian Private Higher Educational Institutions Act, 1996 which states that no one shall establish a private higher educational institution by the use of the word "University", "University College" or "branch campus" except in accordance with the provisions of this Act. These provisions illustrate private higher education institutions that cannot use the words such as "university" regardless of their status. Establishment of private higher education schools are prohibited unless they are created in accordance with the Law.

With regard to higher education sector the University Education Law 1973 is an existing law in Myanmar despite its silent feature. Particularly, many provisions contained in this law do not accord the current operational system of university education. Moreover, section 14 of the Law is in conflict with the provision of PEL. According to the section, only universities established by the said Law can confer certificate of completion of course, diploma or degree. The 1973 law should be considered as an issue in the control of higher education institutions including private universities because it can be ambiguous in interpretation and implementation of the laws due to the contradictory statements. It is strongly recommended to launch unified provisions as a contemporary law covering higher education system in Myanmar.

### **Private TVET Schools**

Technical and Vocational Education is defined in section 2(r) of the NEL as the education that systematically produces technocrats, technology technicians and experts, and vocational education scholars, technicians, and experts. Technical and vocational education and training (TVET) is understood as comprising education, training and skills development relating to a wide range of occupational fields, production, services and livelihoods.<sup>2</sup> As an integral components of TVET, it can be taken place at secondary, post-secondary and tertiary levels and includes work-based learning and continuing training and professional development which may lead to qualifications.<sup>3</sup> As part of lifelong learning, TVET contributes to skills development opportunities in national and local contexts.

In TVET sector, the 2018 Science, Technology and Innovation law is a related legislation. In section 2(f) of the Law, training means know-how training conducted by organizations, businesses, departments, universities, degree colleges, colleges and institutes which are based on science, technology and innovation. However, this law focuses on research, innovation and technology transfer by regulating the functions.

According to the NEL, formal education contains technical and vocational education as one of the main stream to implement the national education system. To promote the involvement of the private sector in skills development is one of the key aspects of the draft TVET law.<sup>4</sup>

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<sup>1</sup> Section 9 of Thailand 's Private Institution of Higher Education Act, 2003.

<sup>2</sup> <https://unevoc.unesco.org/home/UNEVOC+Publications/akt=detail/lang=en/qs=5968>

<sup>3</sup> Ibid

<sup>4</sup> <https://unesdoc.unesco.org/ark:/48223/pf0000373105>

Current reforms emphasize better involvement of the private sector in the development of the TVET system. According to National Education Strategic Plan 2016-21, access to TVET in Myanmar is provided by relevant ministries and the private sector through 372 technical and vocational education and training centres.

Private TVET schools need to register for their establishment under the Private Education Law. They need to meet the requirements imposed by the Law. Section 33 of the Law provides that private or independent technical and vocational education and training schools have to -

- (a) comply with the relevant law;
- (b) comply with the stipulations of the relevant ministry;
- (c) systematically design and adopt transfer learning programmes for learners who want to pursue their education while they are attending the prescribed courses, or after the completion of the prescribed courses;
- (d) confer the certificate of completion of the course, certificate, diploma, degree or honorary degree in accordance with the stipulations of the National Accreditation and Quality Assurance Committee;
- (e) classify the level of technical and vocational education in accordance with the National Education Law.

These provisions reveal the importance of the relevant law such as the TVET Law how to control the activities of all private or independent technical and vocational education schools in implementation of the TVET education.

### **Ensuring Quality Education**

Goal 4 of the Sustainable Development Goals sets out to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all. It is recognized that the provisions of section 54 aim to develop a scheme of quality assurance by specifying the standards and methods of evaluation in order to ensure quality. According to section 58 (b) of the law, the National Accreditation and Quality Assurance Committee (NAQAC) need to be formed by the MOE to assure the quality education in the implementation of educational policies and projects for all kinds of education at all levels. Moe is responsible to specify means and methods for assessment and evaluation under the Law. Two components are thus outlined in Strategy 6 of the National Education Strategic Plan (2021-2030) for the strengthening and institutionalizing of quality assurance systems in relation to quality education.

Fundamental principles of national education include fostering inclusive education and creating opportunities for lifelong learning. In every sector of education, it is essential to implement the national education principles when providing education for their respective fields. In section 4(d) of the Private Education Law, the basic principle of private education is to ensure the emergence of private or independent schools that are internationally recognized for quality assurance. Private schools are required under section 42 of the law to take steps to improve the quality of education in line with the National Accreditation and Quality Assurance Committee's criteria, which are based on the National Education Framework.

In order to provide quality education, both internal and external quality assessment system is essential to operate in the respective education. Under the chapter of quality assessment and quality assurance contained in the Law, the functions of the NAQAC has played a crucial role in evaluating and accrediting the level of quality of a school and its academic programs in accordance with the educational standards.

One of the Agency's functions is to establish or support accreditation or certification schemes and other measures to enhance the standards of the private education industry or the education industry in Singapore generally under section 4(1)(d) of the Private Education Act 2009. This Act aims to provide for the regulation and accreditation of private education institutions so as to ensure the provision of quality education. Agency has been established by section 3 of the Skills Future Singapore Agency Act 2016. Accreditation is recognized as a quality control system because private higher education institutions need to be accredited concerning degrees and academic programs.

It is also handled by the regulations in Thailand. This says that an application for accreditation and accreditation of academic standing of the private institution of higher education shall be in accordance with the criteria, procedure, and condition as prescribed in the Ministerial Regulation.<sup>1</sup> Moreover, one of the duties of the Private Education Commission is to promote and support in academics, quality assurance, research and development, in order to assure the quality of private education under section 14(3) of Thailand's Private School Act, 2007.

This can also be noticed that quality assurance is a mean to ensure quality education by recognizing that the authority to determine adequacy of educational facilities and quality assurance of the course of the study, provided in section 39 of the Malaysian Private Higher Educational Institutions Act 1996.

Notably, these legal provisions indicate that a responsible body for quality assurance is important to accredit the educational programs provided by the various types of schools based on the different levels of education. In order to evaluate the educational standards of the institutions and their programs, the accreditation of schools is one of the requirement for the establishment of the private schools, especially in higher education. Therefore, the vital role of the NAQAC should be considered to upgrade the quality assurance system.

## **Conclusion**

The global goal aims to provide quality education and life-long learning opportunities for all because education is a device to create better world in the future. Significantly, in order to achieve the SDG4 the main key is to uplift the educational quality.

In Myanmar National Education Law 2014 is the main legislation for all education sectors. Under the Law, the main stream includes basic education, technical and vocational education and higher education in the implementation of the national education system. Specific

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<sup>1</sup> Section 54 of Thailand's Private Institution of Higher Education Act, 2003.



legislation is necessary to regulate the activities in their respective sectors because management system can be different from one to another. For this reason, the Basic Education Law is enacted in 2019. The promulgation of Private Education Law is constituted as a framework for the establishment of private schools. However, some provisions of the Law signal the needs for sectoral laws as the establishment and operation of the private schools should be in line with the relevant laws.

The comparative study on the selected countries shows that the registration with the submission of relevant documents for the school's facilities is a basic requirement for the establishment of private schools. It is interesting to note that the countries maintain their culture by identifying the compulsory subject for their citizens. Besides this the accreditation by the appropriate body is cardinal in the quality assurance system. Accordingly, NAQAC need to perform the statutory duties under the educational laws. In order to achieve SDG4, it is important to ensure that all students have access to quality education without discrimination in private schools. They have to comply with non-discrimination policy. This should be a regulation for private schools despite providing to follow the policy in BEL. Many provisions of the University Education Law do not accord with the current university education governance structure. For this reason, a new sectoral law is necessary to replace the law in line with tertiary education system. The right to confer degree, diploma and certificate by the higher education institutions including private universities and colleges should be in accord with the system. It is also essential to enact TVET law as private providers in TVET sector are increasing in Myanmar. Significantly, the establishment of quality assurance system under the law is a central point in ensuring quality education.

### **Acknowledgement**

I would like to give my heartfelt thanks to my parents and all of my teachers throughout my life. Especially, I express my gratitude to Prof. Dr. Daw Than Nwe, Dr. Khin Chit Chit and Dr. Khin Phone Myint Kyu who has encouraged me to conducting this research. I am also deeply grateful to my colleagues for their kind help. Last but not least, I want to thank the persons for creating to develop the project ideas.

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