

STATE AND REGION GOVERNMENTS IN MYANMAR

New Edition
October 2018



The Asia Foundation

ACKNOWLEDGMENTS

The author and the research team would like to thank everyone who contributed to this study including respondents from government, political parties, civil society, community based groups, donors, NGOs, and national and international experts, who took time to meet and share their experiences.

The researchers would also like to acknowledge all of the additional contributors and those who reviewed the report for providing invaluable feedback and advice. Finally, a special thank you to Matthew Arnold and Kelsey Atwood of The Asia Foundation for their continued support and guidance throughout the research and writing.

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PREFACE

Myanmar's state and region governments matter, and their importance has only continued to grow since their creation. They increasingly shape the role and perceptions of the Myanmar state in their jurisdictions as they broaden their range of activities and manage a significant proportion of government expenditure. As the peace process continues, decentralization to the state and region governments can help subnational actors gain the experience and capacity to govern.

In September 2013, The Asia Foundation published its first report on Myanmar, *State and Region Governments in Myanmar*. The report provoked a great deal of interest in subnational governance from government, civil society, donors, and development partners. Since then, 38 reports from the Foundation have looked in greater detail at issues of subnational governance, peace, and conflict.

This new edition of the report, published five years after the original, provides a much needed update on the structures and functions of subnational governance in Myanmar, identifying the key political, administrative, and fiscal opportunities and challenges presented by decentralization. While the report does provide recommendations, it is not intended to be overly prescriptive. Primarily, the report supports a better informed, more technically grounded debate on the critical issues of subnational governance necessary to strengthen ongoing policy and reform processes here in Myanmar, including the all-important peace process.

The report builds on the considerable body of evidence in the reports published by The Asia Foundation, and supplements this evidence base with extensive analysis of the available literature and interviews with key informants working in subnational governance in three states and three regions. The report benefits from the experience of the *Myanmar Strategic Support Program*, implemented by The Asia Foundation in partnership with the Renaissance Institute, which provides ongoing technical support to state and region governments, particularly in relation to public financial management and municipal governance.

The report was generously funded by the United Kingdom's Department for International Development (DFID), the Australian Department of Foreign Affairs and Trade (DFAT), and the Swiss Agency for Development and Cooperation (SDC). The opinions expressed in this report are solely those of the authors and do not necessarily reflect those of DFID, DFAT, SDC, The Asia Foundation or the Renaissance Institute.

We hope that *State and Region Governments in Myanmar* provides a knowledge base on the ways that all stakeholders in Myanmar's subnational governance reforms can support decentralization.

Dr. Matthew B. Arnold
Country Representative

The Asia Foundation, Myanmar
Yangon, October 2018

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ACRONYMS

CDC	City Development Committee	Political Parties:	
CDF	Constituency Development Fund	ANDP	Akha National Development Party
CSO	Civil Society Organization	ANP	Arakan National Party
DAO	Development Affairs Organization	AMDP	All Mon Regions Democracy Party
DDA	Department of Development Affairs	DPM	Democratic Party (Myanmar)
DRD	Department of Rural Development	KDUP	Kokang Democracy and Unity Party
EAO	Ethnic armed organization	KPP	Kayin People's Party
EO	Executive Officer	KSDP	Kachin State Democracy Party
FY	Fiscal Year	LNDP (La Hu)	La Hu National Development Party
GAD	General Administrative Department	LNDP (Lisu)	Lisu National Development Party
GAO	General Administration Offices	MNP	Mon National Party
MMK	Myanmar kyat (national currency)	NLD	National League for Democracy
MOHA	Ministry of Home Affairs	NUP	National Unity Party
MOPF	Ministry of Planning and Finance	PNO	Pa-O National Organization
MP	Member of Parliament	SNDP	Shan Nationalities Democratic Party
LDF	Local Development Funds	SNLD	Shan Nationalities League for Democracy
MOEE	Ministry of Electricity and Energy	TNDP	Tai-Leng Nationalities Development Party
MCDC	Mandalay City Development Committee	TNP	Ta-Arng (Palaung) National Party
NCA	Nationwide Ceasefire Agreement	UDPKS	Unity and Democracy Party of Kachin State
NPC	National Planning Commission	USDP	Union Solidarity and Development Party
PFM	Public Financial Management	WDP	Wa Democratic Party
PRF	Poverty Reduction Fund	WNUP	Wa National Unity Party
RDF	Rural Development Fund	ZCD	Zomi Congress for Democracy
SAD	Self-administered division		
SAZ	Self-administered zone		
SAD/Z	Self-administered division/zone		
SPDC	State Peace and Development Council		
TA	Township Administrator		
TDAC	Township Development Affairs Committee		
(T)DSC	(Township) Development Support Committee		
TFMB	Township Farmland Management Body		
TMC	Township Management Committee		
TPFIC	Township Plan Formulation and Implementation Committee		
UFC	Union Finance Commission		
W/VTA	Ward/Village Tract Administrator		
YCDC	Yangon City Development Committee		

GLOSSARY

Accountability: The process by which public officials and institutions are held responsible for their decisions and actions, including the management of public funds and meeting all aspects of performance objectives.

Administration: The management of governmental/public affairs.

Autonomy: Self-government; the right or ability to make one's own decisions.

Chief minister: Head of state/region government.

Commander in chief: Commanding officer of Myanmar's armed forces, the Tatmadaw.

Decentralization: The transfer of authority and responsibility for public functions from the central government to subordinate or quasi-independent government organizations.

- **Political decentralization:** The transfer of decision-making power and accountability to local levels.
- **Administrative decentralization:** The distribution of managerial responsibilities among different levels of government or administration.
- **Fiscal decentralization:** The distribution of expenditure responsibilities and the corresponding provision of resources.

Deconcentration: A form of decentralization involving distribution of functions to lower tiers of central administrative units on a sectoral or territorial basis while retaining accountability upward to the central institution.

Delegation: The shifting of functions to semi- or wholly independent organizations outside the core government sector — for example, to independent authorities or, in privatization, to private firms.

Devolution: A form of decentralization involving transfer of powers and responsibilities to units of local government, often elected, with corporate status and some degree of autonomy.

Ethnic armed organization: Nonstate armed groups that challenge the authority of the government of Myanmar.

Federalism: A system of government in which power is divided between a central authority (federal government) and sub-unit governments.

Governance: The structures and processes for decision-making and management of a nation, state, region, etc. Democratic governance aims to ensure accountability, transparency, responsiveness, rule of law, inclusiveness and public participation.

- **Sub-national governance:** All levels of governance below the national government.

Government: The civil and military state administrations of the Union of Myanmar. Sometimes used when referring specifically to the executive branch of government.

Hluttaw: Council or assembly. Historically a council of ministers, the term now denotes legislative bodies at the national and state/region levels.

- **Pyidaungsu Hluttaw:** Union Legislative Assembly, a joint session of the upper and lower houses of the Union parliament.
- **Pyithu Hluttaw:** People's Assembly, the lower house of the Union parliament.
- **Amyotha Hluttaw:** Nationalities Assembly, the upper house of the Union parliament.
- **State/Region Hluttaw:** A state/region parliament.

Legislation: A law or set of laws, or the process of making or enacting laws.

Myanmar: The abridged name for the Republic of the Union of Myanmar, previously called the Union of Burma.

NLD government: The government led by the National League for Democracy, under State Counsellor Aung San Suu Kyi, elected in 2015.

Oversight: The act of overseeing something, which includes review, monitoring and supervision of government bodies and activities.

Public expenditure: The amount of money spent by the government for expenses such as salaries, pension funds, maintenance, purchase of goods and services, investment in infrastructure and more.

- **Current expenditure:** General government expenditure for expenses such as salaries, pension funds, maintenance, purchase of goods and services, and more.
- **Capital expenditure:** government investments in assets that will last for more than a year, such as vehicles, acquisition of land, machinery, buildings, and roads.

Self-administered area: An administrative sub-division under the Union government that can form its own indirectly elected and appointed "leading bodies." There are five self-administered zones and one self-administered division.

State/region: An administrative sub-division under the Union government. There are seven states and seven regions. States are named after their predominant ethnic minority population. Regions are majority ethnic Bamar.

Tatmadaw: The armed forces of Myanmar, also known as the Defense Services.

Transparency: Public accessibility of information on government activities, procedures, decisions, and performance.

Union government: The central government of Myanmar.

CHAPTER GUIDE

1. INTRODUCTION

THEMES

Defining decentralization

Research objectives and questions

Research methodology

HIGHLIGHTS

- › Subnational governance and decentralization are critical to the future of Myanmar and are undergoing rapid and significant change.
- › Decentralization is the transfer of authority and responsibility for public functions from the central government to subordinate government organizations. It has political, administrative, and fiscal dimensions.
- › This report provides description and analysis of the structures and functions of subnational governance in Myanmar, identifying the key political, administrative, and fiscal opportunities and challenges presented by decentralization.

2. MYANMAR'S SUBNATIONAL GOVERNANCE FRAMEWORK

THEMES

The legal framework for decentralization

The structure of subnational governance

Interpreting and implementing the constitution

HIGHLIGHTS

- › The 2008 Constitution is the basic, fundamental law in the framework for decentralization and marks an important development, with the creation of 14 state/region governments.
- › State/region governments consist of executive, legislative, and judicial branches. The executive branch is led by a chief minister and cabinet. The legislative branch consists of a unicameral, partially elected parliament, the state/region hluttaw.
- › Schedules 1 and 2 of the Constitution divide legislative and administrative responsibilities between the Union and state/region governments. Schedule 5 outlines the revenues collected by state/region governments.
- › A convention is emerging whereby state/region governments defer to the Union government to interpret the Constitution and delineate respective responsibilities.

3. THE POLITICAL DIMENSION

THEMES

The functions of the state/region governments

The functions of the state/region hluttaws

Participation and accountability at the local level

HIGHLIGHTS

- › The role and responsibilities of the state/region governments are increasing. In their respective areas, state/region governments are assuming a leading role in regional development and are increasingly working in a broader range of areas.
- › State/region hluttaws and their representatives are increasingly active. There is increasing evidence of oversight of the state/region governments and proactive representation of constituents.
- › At the local level, in the absence of a third tier of government, Union and state/region governments have prioritized efforts to make local governance more participatory and responsive, with mixed results.

4. THE ADMINISTRATIVE DIMENSION

THEMES

State/region government administration

State/region governments, departments, and accountability

Local administration and governance

HIGHLIGHTS

- › With the exception of the Departments of Development Affairs, which is solely accountable to the state/region governments, there is a system of dual accountability between state/region ministers, Union ministers, and the departments they oversee.
- › On the whole, the accountability of departments to the state/region governments is increasing.
- › Below the state/region level, there is a system of “local governance without local governments.” Both the USDP and NLD governments have sought to strengthen the local governance system.

5. THE FISCAL DIMENSION

THEMES

Subnational planning and budgeting

State/region government expenditure

State/region government revenue

HIGHLIGHTS

- › A wide range of Union-level and subnational actors play critical roles in the subnational planning and budgeting processes.
- › Both USDP and NLD governments have attempted to make the planning and budgeting processes more participatory and accountable.
- › Since the creation of the state/region governments, there have been significant increases in state/region government expenditure, with budgets almost tripling. State/region governments largely prioritize spending on roads, but expenditure is becoming more diverse.
- › Significant increases in expenditure have been matched by increases in revenue. Increases have largely been funded by increases in fiscal transfers from the Union government, with limited growth in own-source revenue.

6. CONCLUSION

THEMES

Assessing decentralization in Myanmar

Decentralization and the peace process

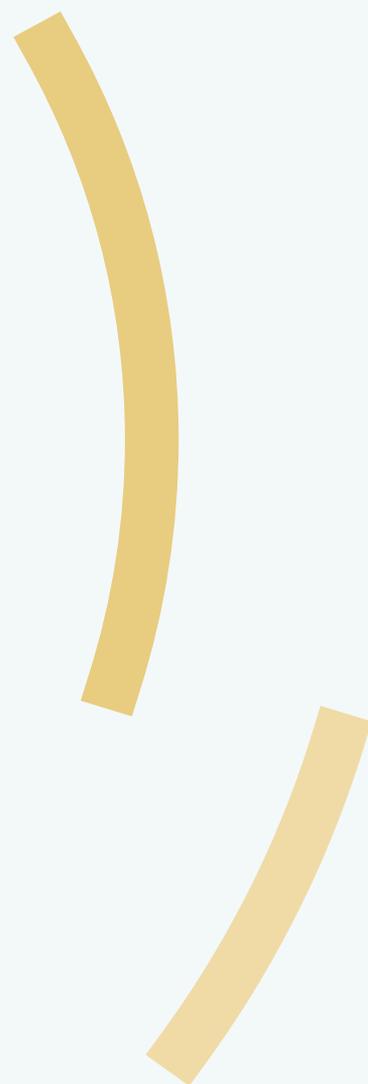
Policy recommendations

HIGHLIGHTS

- › There is evidence of further decentralization across all three dimensions, but decentralization remains limited. There is an imbalance among the different dimensions of decentralization.
- › The process of decentralization and the peace process are not mutually exclusive. Decentralization can help to provide the building blocks for a future federal structure, and provide subnational actors with the experience and capacity to govern.
- › There are a number of opportunities to improve subnational governance and the effectiveness of decentralization efforts.

CHAPTER 1

INTRODUCTION



1.1 WHY IS DECENTRALIZATION IN MYANMAR IMPORTANT?

Subnational governance is critical to the future of Myanmar and, like so much in the country, is undergoing rapid and significant change. The 2008 Constitution introduced new institutions and actors, most notably creating state and region governments, and began a process of decentralization that has the potential to significantly change the lives of people across Myanmar.

Myanmar's chief hope for ending its long-running internal conflicts¹ lies in peace processes intrinsically linked to an improved subnational governance system. A subnational governance system that is more participatory, responsive to the needs of local citizens and representative of Myanmar's ethnic, political, religious and cultural diversity has the potential to address some of the long-standing concerns of Myanmar's many ethnic groups and ethnic armed organizations (EAOs) and increase the perceived legitimacy of the state.

The system of subnational governance established by the 2008 Constitution will not be sufficient for peace. The 2008 Constitution remains contentious and is criticized by political actors who have opposed the military's role in politics.² Members of the democracy movement, EAOs³ and most political parties, including the ruling National League for Democracy,⁴ have reached



SUBNATIONAL GOVERNANCE IS CRITICAL TO THE FUTURE OF MYANMAR AND, LIKE SO MUCH IN THE COUNTRY, IS UNDERGOING RAPID AND SIGNIFICANT CHANGE.



broad agreement on the need for further constitutional change. The military, the civilian government, and several EAOs have agreed in the Nationwide Ceasefire Agreement (NCA) that a future system should be based on principles of "federalism and democracy." The peace process and constitutional reform, and the political process of decentralization occurring under the 2008 Constitution are not mutually exclusive. Decentralization can serve as a critical stepping stone towards a lasting system of subnational governance.

Beyond its effect on the peace process, subnational governance can make a meaningful contribution to Myanmar's development and improving standards of living. Myanmar's state and region governments have the potential to provide more efficient and responsive public services in a country where economic growth has been slow and the quality of public service delivery has typically been poor.

The introduction of elected state and region governments that are closer to the electorate than their national counterparts provides opportunities for deepening democracy in Myanmar. Governments at the subnational level that are accountable, participatory, and transparent can give people more power and influence in the formulation and implementation of laws and policies.

However, the positive effects of decentralization are not guaranteed. Decentralization may not deliver the expected benefits if local governments are not effectively empowered to take on, or held accountable for, their greater responsibilities.⁵ Decentralization may make the provision of services less efficient, may fail where adequate financial resources and technical capacity are not in place, and may allow functions to be captured by local elites.

A starting point for ensuring the success of subnational governance reform requires Myanmar's policy-makers, political actors, donors, civil society, and other stakeholders to have a strong understanding of the subnational institutions and actors under the 2008 Constitution, how they are functioning in practice, and how they have developed over the course of their first years in existence. This report seeks to provide that understanding through up-to-date, politically and technically grounded analysis. It outlines options to extend the role of state/region governments and subnational actors through existing legal arrangements and through future potential reforms.

This chapter provides an explanation of decentralization, its various forms and dimensions, and details the report's background, objectives, and methodology.

1.2 WHAT IS DECENTRALIZATION?

Decentralization is typically defined as the “transfer of authority and responsibility for public functions from the central government to subordinate or quasi-independent government organizations.”⁶ It is a process rather than an end product, and it involves changes both in local governance structures, and in relationships between them and central governance structures.

Decentralization is increasingly common worldwide, and can be driven by a variety of political, social, and economic factors, including the needs and demands of specific regions or ethnic groups. Some common aims of decentralization include stimulating economic growth, improving the responsiveness and efficiency of public services, and increasing the perceived legitimacy of the central government.

Beyond the above definition of decentralization, and placing greater emphasis on ensuring more efficient, responsive, and accountable public services, decentralization is “increasingly defined as the empowerment of people through the empowerment of their local governments.”⁷ As this definition makes clear, decentralization is not a “good” in itself; decentralization is a tool that can be instrumental in development.⁸

There are three main forms of decentralization: devolution, deconcentration and delegation (box A). The most significant distinction is between devolution, in which powers and responsibilities are decentralized to local governments, and deconcentration, in which powers and responsibilities are decentralized to lower administrative levels of organizations that remain part of the national government.

For the purposes of rigorous assessment, decentralization can also be divided according to



DECENTRALIZATION IS INCREASINGLY DEFINED AS THE EMPOWERMENT OF PEOPLE THROUGH THE EMPOWERMENT OF THEIR LOCAL GOVERNMENTS.



BOX A **Forms of decentralization**

Devolution occurs when powers and responsibilities are decentralized to local governments, normally defined as bodies with “corporate status” and significant autonomy. In practice, this means the local government should pass and manage its own budget, have its own political leadership (often elected), and enjoy some discretion over its administration and human resources.

Deconcentration occurs when powers and responsibilities are passed to lower administrative levels of organizations that are still part of the national administration. Deconcentration is often considered a weaker form of decentralization than Devolution.

Delegation is the shifting of functions to semi- or wholly independent organizations outside the core government sector for example, to independent authorities or, in *privatization*, to private firms.

BOX B

Dimensions of decentralization

Political decentralization involves the transfer of decision-making power and accountability to local levels. It often involves some form of devolution— the transfer of responsibilities to local governments that have been granted significant autonomy. In “democratic decentralization” these local governments are accountable to local populations through elections or other means.

Administrative decentralization focuses on distributing managerial responsibilities (for example, for delivering a given public service) among different levels of government or administration. It may also take the relatively modest form of deconcentration, in which officials at lower levels are given more authority or discretion but remain accountable to their chiefs at the center. Decentralization could also be combined with the devolution of executive authority to local governments or with the delegation of functions to outside organizations.

Fiscal decentralization describes the way in which the expenditure responsibilities are assigned and corresponding resources are provided. These resources may be provided by deconcentrating control over central funds, or by devolving to local government a more comprehensive system of planning and budgeting supported by assignment of local revenues, central-local transfers, and possibly local borrowing.

three different dimensions: political, administrative and fiscal (box B). The dimensions of decentralization are useful conceptual tools in assessing the extent of decentralization in Myanmar and thus understanding its system of subnational governance. Any assessment of governance arrangements requires consideration of the distribution of decision-making power and accountability (political dimension), managerial responsibilities (administrative dimension) and expenditure and revenue responsibilities (fiscal dimension).

Beyond their use as conceptual tools, the dimensions allow the assessment of the effectiveness of decentralization reforms. Key to ensuring the potential benefits of decentralization is ensuring that each of the three main dimensions of decentralization is balanced with the others.⁹ Consider a simple illustration: a highly decentralized local government, with elected ministers and a parliament, would be ineffective in delivering improved government services if it had no money to spend on service delivery. Here, political decentralization would be undermined by unequal fiscal decentralization.

CONCEPTUAL FRAMEWORK FOR ASSESSING DECENTRALIZATION

This report’s analysis is guided by conceptual and methodological frameworks for assessing decentralized local governance and the local public sector.¹⁰ The frameworks provide an assessment toolkit for assessing the three dimensions that has been adapted for this research. The framework divides each of the three dimensions into four key components.

Indicators of political decentralization include: local political structure, including the roles and functions of different institutions and actors; the structure and quality of local electoral systems; the nature of political party systems; and local participation and accountability.

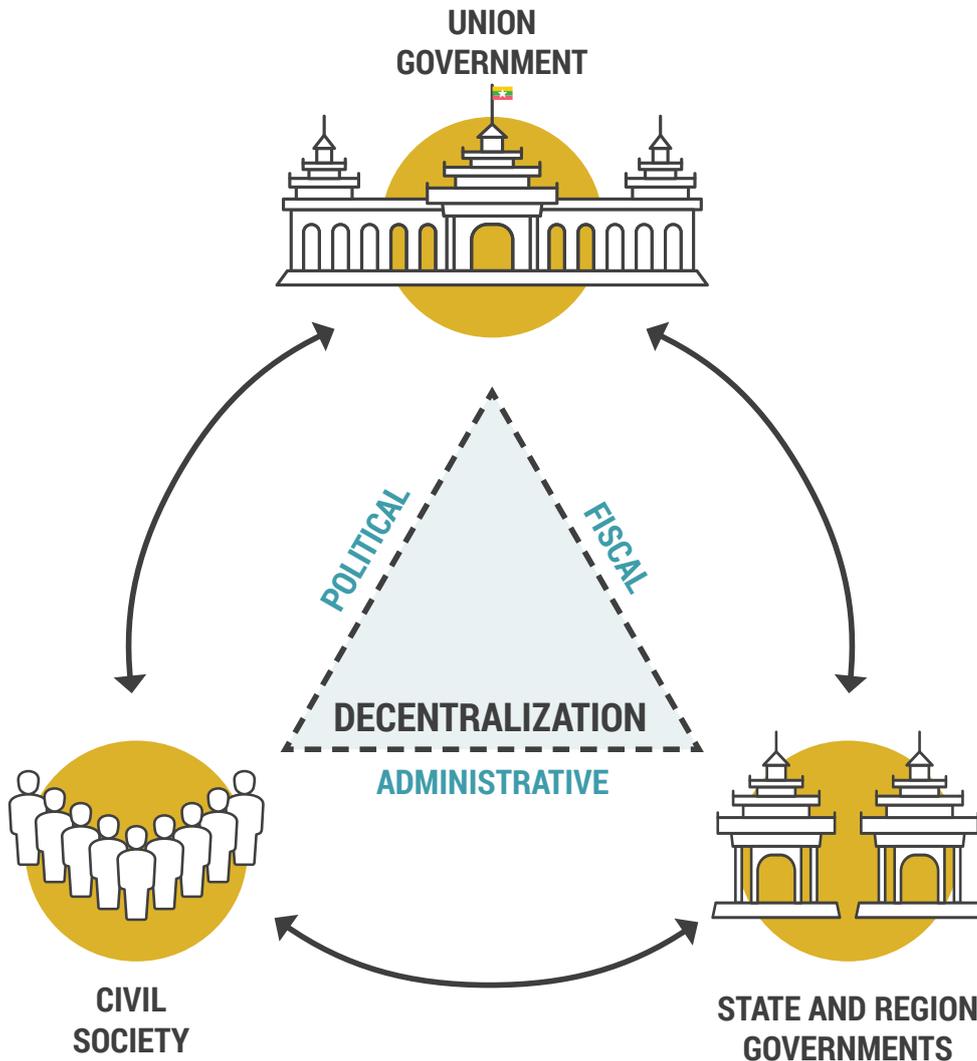
Indicators of administrative decentralization include: regulatory powers, local public financial management, local human resources administration, and the administration of local public services.

Indicators of fiscal decentralization include: expenditure assignments, revenue assignments and local revenue administration, intergovernmental fiscal transfers, and local government borrowing and debt.

In addition to assessing the technical dimensions of decentralization (i.e., political, administrative, and fiscal), assessing decentralization requires an understanding of the institutional context. This requires an analysis that considers not only the institutions, management and administration of local government, but also central government, its policies, legislation, and institutions, as well as local civil society (broadly defined to include the private sector and members of the public as well as civil society organizations (CSOs)).

In simple terms, to understand the extent of decentralization, we need to consider not only the roles and responsibilities of state/region governments, but also the wider context of governance. For example, in considering the extent to which planning and budgeting are decentralized in Myanmar, we need to understand not only the role of state/region governments, but also the role of the Union government as well as the

FIGURE 1.1 Conceptual framework



interaction with the public, including private businesses, in that process. An analysis that ignored the important role of the Union government in the planning and budgeting process would overestimate the extent to which the process is decentralized. Similarly, the nature of civil versus military authority is an important dimension of government in Myanmar to consider. Under the 2008 Constitution, the Tatmadaw has maintained political influence and authority within both the Union and state/region governments.¹¹

As shown in figure 1.1, decentralization in Myanmar, and its three constituent dimensions (political, administrative and fiscal), are a function of the interaction of state/region governments, the Union government, and civil society.

DECENTRALIZATION IN MYANMAR

Throughout Myanmar's postcolonial history, there has traditionally been a high degree of centralization (figure 2.1). While there were some early attempts at decentralization, Myanmar's decades under military rule were defined by the increasing centralization of power. Despite enshrining a continuing role for the military in government, the 2008 Constitution thus marked a significant shift in this regard, making an unprecedented step towards decentralization.

The Asia Foundation's 2013 analysis of state and region governments¹² found that, in relation to political decentralization, the formation of state and region governments and the assignment of legislative responsibilities was a dramatic development. However, the report found the overall degree of decentralization to states and regions was limited in all three dimensions and therefore in Myanmar as a whole.

With regards to administrative decentralization, the report found that, while the state/region governments had ministers, they did not yet have ministries, as the bulk of the state's bureaucratic capacity, even for those areas that are formally assigned to the states and regions, was not accountable to the state/region ministers.

Fiscal decentralization was said to be taking place in a mixed and limited way. While the states and regions had their own budgets, their scopes remained a small percentage of public spending and the budgets were not yet fully devolved, retaining significant Union-level involvement.

Myanmar's subnational governance system was defined by unbalanced decentralization, with a higher degree of political than fiscal and administrative decentralization. This imbalance risked limiting the effectiveness of the new subnational political institutions and actors established by the 2008 Constitution.

With this identified imbalance, this report seeks to reassess decentralization in Myanmar to understand what developments have taken place and their impact on each of the three dimensions since the 2013 assessment.

1.3. WHAT IS THIS REPORT'S APPROACH?

BACKGROUND AND OBJECTIVES

The 2013 *State and Region Governments in Myanmar*¹³ report provided the first empirical baseline assessment of subnational governance dynamics in Myanmar and laid the foundation for a subsequent series of reports, which have looked more closely at specific aspects of subnational governance.¹⁴ The report has remained a leading reference for stakeholders, particularly those in government, seeking to understand Myanmar's subnational institutional framework.

Since the creation of the state/region governments in 2011, there have been a number of significant developments, not least the transition in governing parties from the Union Solidarity and Development Party (USDP), led by Thein Sein, to the National League for Democracy (NLD) government, led by Aung San Suu Kyi. The results of actors exploring and experimenting with their individual roles and powers as they continue the process of interpreting and implementing the Constitution are also increasingly visible. These developments have occurred alongside peace negotiations, first led by the USDP and subsequently taken on by the NLD, aimed at achieving a lasting political settlement for a federal union.

These developments required new research, whose findings are assessed in this report. This report, based on fieldwork and secondary research undertaken in late 2017 and early 2018, was carried out with the following research objectives:

- Build on the empirical baseline and the numerous

other reports published by The Asia Foundation, the Myanmar Development Resource Institute-Centre for Economic and Social Development (MDRI-CESD), and the Renaissance Institute, and provide an updated assessment of decentralization that reflects the important developments of the past five years.

- Provide local and national stakeholders with an improved and shared understanding of the key political, administrative, and fiscal opportunities and challenges that decentralization presents to the Union and state/region governments and to subnational actors.

BOX C Research questions

The research was guided by three questions:

1. What is the constitutional, legal, and institutional framework for subnational governance, and what is the policy direction of decentralization reform?
2. What are the outcomes of subnational governance reforms in the states and regions, how do they vary, and how have the outcomes changed over the course of the past five years?
3. What challenges, opportunities and ways forward are there to improve subnational governance, service delivery and conflict management?

- Help development partners to improve the design, implementation, and monitoring of international assistance projects focussed on decentralization and subnational governance in Myanmar.

Overall, the research is a public resource intended to contribute to improving knowledge, dialogue, and policymaking for all actors in Myanmar's transition and, more specifically, in its decentralization reforms, including those pursued through the peace process.

RESEARCH METHODOLOGY

A significant source of evidence for this report has been the reports published by The Asia Foundation, in collaboration with the Renaissance Institute and MDRI-CESD, over the past five years.¹⁵ Each research paper, led by experts in their respective fields, has looked in detail at a specific issue within subnational governance. The evidence base for the reports has included primary research across Myanmar's states and regions and has included interviews with hundreds of ministers, parliamentarians, officials, political party leaders and members, civil society organizations, private-sector actors and academic experts. In addition, the report draws on the experiences of The Asia Foundation and the Renaissance Institute in delivering technical support to Myanmar's state and region, particularly in the areas of public financial management and municipal governance.

To supplement this evidence base, this report uses both qualitative and quantitative methods to provide a comprehensive assessment of subnational governance. A literature review was covering the academic literature, articles in the press, legislation, hluttaw proceedings, budget documents, and rules and regulations. Quantitative analysis of available budget data for state/region governments was carried out to provide insight into subnational expenditure and revenues.

The research team undertook field research over a period of six months (February–July 2018) in three states (Kayin, Mon, and Shan), three regions (Yangon, Tanintharyi, and Bago), and in Nay Pyi Taw. These were selected to ensure a comparison of regions with states, as well as variation in governance issues, population, poverty, geography, and conflict histories.

Researchers conducted semi-structured interviews and focus-group discussions with a broad range of subnational governance stakeholders, 100 in total, including state/region ministers and officials, state/region hluttaw members, political party leaders and members, officials working at the township and district levels, and representatives of civil society organizations. Interviews were guided by questions about the political,

administrative and fiscal dimensions of decentralization, the functioning of state/region institutions, and more open-ended contextual factors. A table detailing the interviews conducted in support of the research is available in annex A.

SCOPE AND LIMITATIONS

While this study is intended to provide a description and assessment of decentralization in Myanmar considering all aspects of subnational governance, its primary focus is on the institutions of the state/region governments. So, while the report looks at the nature of administration at the township level in Myanmar, it emphasizes the relationship between local levels of governance and the state/region governments rather than the relationship with the central, Union government. In assessing the extent of fiscal decentralization, for example, this report's primary focus is the state/region governments' revenues and expenditures, with less attention paid to Union government spending at the subnational level.

One limitation of this study is that it does not look closely at competing or alternative governance systems and institutions, as the research was carried out in areas of full government control. Some areas of the country have been affected by decades of armed conflict and have remained outside of the government's reach since 1948. These protracted conflicts have created large geographic areas of contested or "hybrid" authority. In these areas of mixed control, other actors such as customary leaders, non-state political actors, and ethnic armed organizations play key roles in local governance, including service provision.^{16,17} Likewise, the report does not look in any great detail at the six self-administered areas, which have special governance arrangements. The Asia Foundation has published a range of other studies that focus on governance and conflict dynamics in these contested areas.¹⁸ This report does, however, acknowledge the critical relationship between the political process of decentralization under the 2008 Constitution and the ongoing peace process (see section 6.2).

This study focuses primarily on the "supply side" of state and region governance: the structures, systems, and individuals involved in state and region governance rather than on the ordinary citizen. While civil society and private sector perspectives on the strengths and weaknesses of new governance institutions are included, there is still a need for the systematic examination of public attitudes towards Myanmar's state and non-state governance institutions.

Finally, this report does not make a normative argument about the level of decentralization, either greater or lesser, that is right for Myanmar, but it does

make a comparative assessment of the degree of decentralization in each of the three dimensions. In doing so, it raises an important issue for policy makers. In order to maximize the efficacy of decentralization, imbalances between the three dimensions should be addressed, which may be achieved by further decentralization in some areas, or by the opposite process in others.

STRUCTURE OF THE REPORT

Following this introductory chapter, chapter 2 provides an overview of Myanmar's subnational governance framework, including the legal framework for decentralization and the structure of subnational governance. The chapter also analyzes decentralization policy under the USDP and NLD governments. Chapters 3, 4, and 5 provide assessments of how the political, administrative, and fiscal dimensions of subnational governance are functioning in practice, including analysis of emerging trends. Finally, chapter 6 provides an overall assessment of decentralization in Myanmar, reflects on developments since 2011, and considers the links between the process of decentralization and the peace process, before providing policy recommendations regarding decentralization in Myanmar.

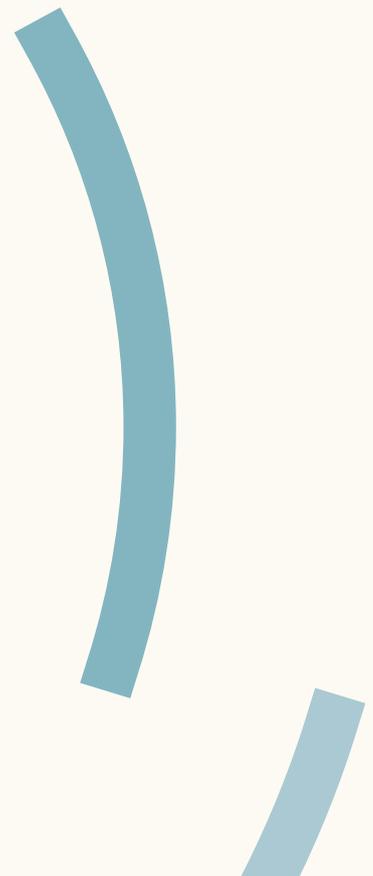
CHAPTER 2

MYANMAR'S SUBNATIONAL GOVERNANCE FRAMEWORK

This chapter provides an introduction to the legal framework for decentralization in Myanmar, including the 2008 Constitution and the subnational governance framework it established.

The chapter introduces the importance of government actors' interpretation and implementation of the Constitution, including the centrality of the Union Government in determining the roles and responsibilities of the state/region governments.

Finally, the chapter considers the decentralization policy of the USDP and NLD transition governments since 2011 and the prospects for further constitutional and legal reform. While the prospects for constitutional reform, which are inextricably linked to the peace process, may seem distant, the chapter presents clear evidence of scope for significant further decentralization within the 2008 Constitution.



2.1 WHAT IS THE LEGAL FRAMEWORK FOR DECENTRALIZATION?

Following independence in 1948, one of the defining features of the State in Myanmar has been highly centralized systems of governance.

As figure 2.1 shows, despite early attempts to create more decentralized systems, there have been few efforts since Ne Win's coup of 1962 to provide subnational actors with substantial autonomy and scope to make decisions.

The 2008 Constitution thus marks an important development with the creation of new institutions, actors, responsibilities and powers at the subnational level. The 2008 Constitution, as well as other laws, create a legal framework for decentralization in Myanmar that establishes the balance of authority between the center and subnational actors.

BOX D

Structural traits of subnational governance in Myanmar under the 2008 Constitution

A graded, territorial administrative system

- The Republic of the Union of Myanmar features a graded, territorial administrative system comprising seven states and seven regions, five self-administered zones and one self-administered division, and the Union Territory of Nay Pyi Taw.
- States and regions are made up of districts, which in turn are made up of townships. Urban wards and village tracts are grouped into townships.

A distinct level of government at the state/region level

- The 2008 Constitution created 14 state/region governments, with executives, legislatures, and judiciaries.
- The executive branch of a state/region government is led by a Chief Minister, appointed by the President.
- The legislative branch consists of a unicameral, partially elected parliament, the state/region hluttaw.

Dedicated state/region government responsibilities

- The Constitution includes two dedicated schedules, schedules 1 and 2, that divide legislative and administrative responsibilities between the Union and state/region governments.
- Schedule 5 outlines the revenues collected by state/region governments.
- Schedules 2 and 5 were amended and expanded by constitutional amendment in 2015.

Enshrined role of the military in state/region governments

- Myanmar's military, the Tatmadaw, has reserved places in both state/region governments (with a military-appointed Minister of Security and Border Affairs) and hluttaws (with 25 percent of seats reserved for serving military appointees).

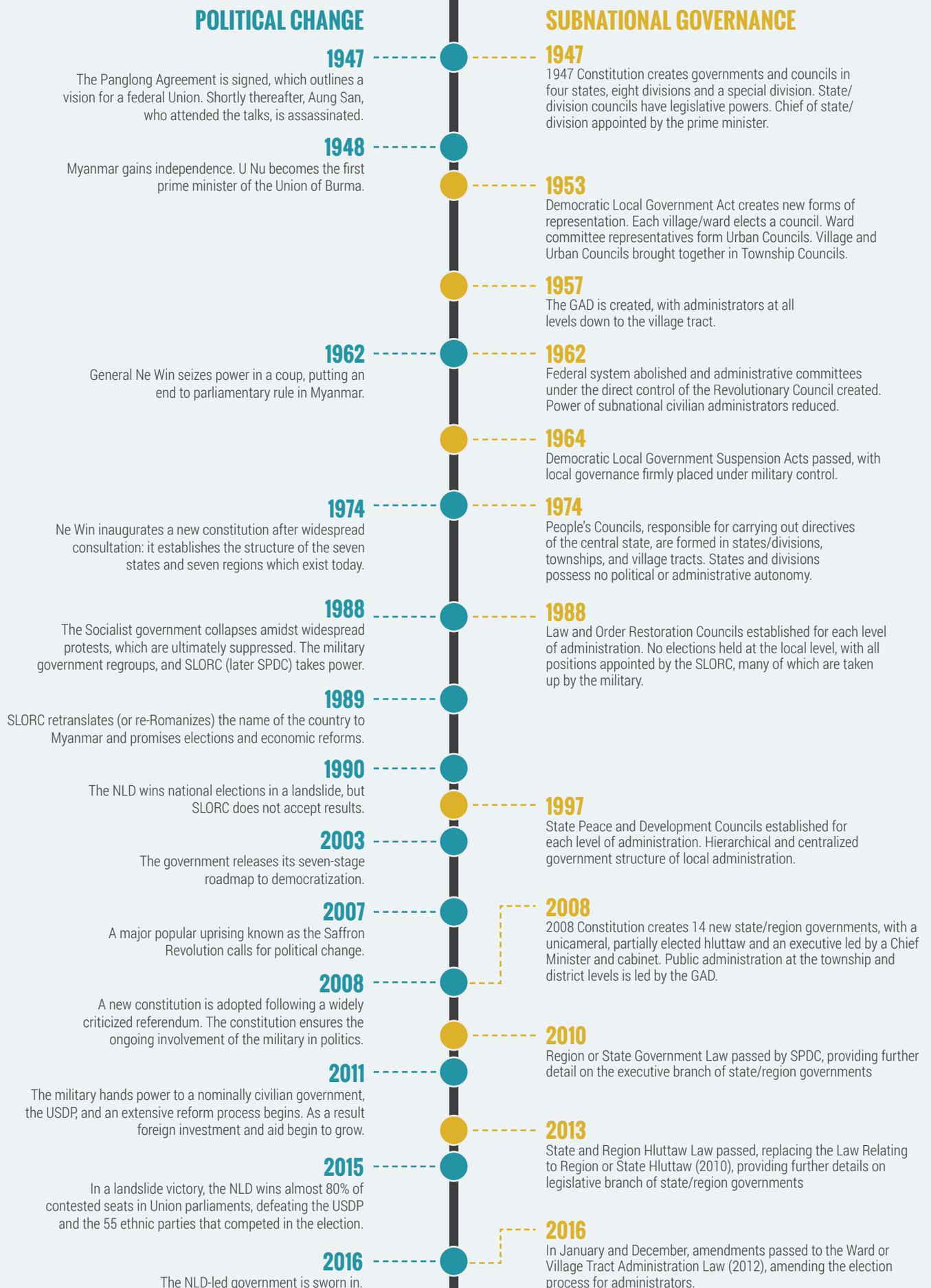
No third tier of government below the state/region level

- The Constitution does not include provisions for a third level of local government below that of the states/regions.
- Instead, there is a complex system of local governance with strong Union government presence and an unclear relationship to state/region governments.
- Local administration is carried out by government agencies; there are typically more than 30 different agencies present at the township level.

Critical role of General Administration Department (GAD) in subnational governance

- GAD acts as the administration for the state/region governments.
- GAD administrators are central to all efforts to coordinate, communicate among, and convene other government actors at all levels of subnational governance.

FIGURE 2.1 A brief history of subnational governance in Myanmar



THE 2008 CONSTITUTION

The 2008 Constitution is the basic, fundamental law in the framework for decentralization, establishing the administrative structure of the state (see chapter 2 of the Constitution) and creating 14 new state/region governments, which consist of a unicameral, partially elected state/region Hluttaw, an executive led by a chief minister and a cabinet of state/region ministers, and state/region judicial institutions, as shown in figure 2.2. Box E details the constitutional roles and duties of state and region governments. The formation of state/region governments with elected representatives forming parliaments with legislative responsibilities and executives with administrative responsibilities at the state/region level represents a significant devolution of authority from the Union government.

Schedule 2 of the Constitution is central to defining the roles and responsibilities of the state/region governments. As per article 188 and article 249, the roles and responsibilities of the state/region legislatures and executives are determined by schedule 2, which establishes a loose basis for the division of powers between states/regions and the Union (schedule 2 is reproduced in annex B). As per figure 2.3, these areas are divided into eight sectors, each with specific responsibilities (41 sub-articles in total), several of which are deferred for future definition “in accord with the law enacted by the Union.”¹⁹ As per article 254, schedule 5 outlines the taxes to be collected by states and regions (the Schedule is reproduced in annex C; see also figure 6.10). Schedule 1 of the Constitution provides the corollary legislative list for the Union government.

BOX E

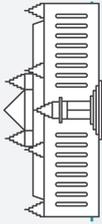
Constitutional roles and duties of state/region governments

- Art. 188.** The Region or State Hluttaw shall have the right to enact laws for the entire or any part of the Region or State related to matters prescribed in Schedule Two of the Region or State Hluttaw Legislative List.
- Art. 249.** Subject to the provisions of the Constitution, the executive power of the Region or State Government extends to the administrative matters which the Region or State Hluttaw has power to make laws. Moreover, it also extends to the matters which the Region or State Government is permitted to perform in accord with any Union Law.
- Art. 251.** The Region or State Government shall, subject to the policies adopted by the Union Government and Union Laws, implement projects that are to be undertaken in the Region or State with the approval of the Region or State Hluttaw concerned.
- Art. 252.** The Region or State Government shall, in accord with the provisions of the Constitution, submit the Region or State Budget Bill based on the annual Union Budget to the Region or State Hluttaw concerned.
- Art. 254.**
- (a) The Region or State shall collect the taxes and revenues listed in Schedule Five in accord with law and deposit them in the Region or State fund.
 - (b) The Region or State has the right to expend the Region or State fund in accord with the law.
- Art. 256.** The Region or State Government:
- (a) shall, in carrying out the functions of the Region or State Ministries, their subordinate governmental departments and organizations, manage, guide, supervise and inspect in accord with the provisions of the Constitution and the existing laws;
 - (b) may, relating to the performance of the civil service organizations discharging duties in their Region or State concerned, supervise, inspect and coordinate in accord with the law.
- Art. 257.** The Region or State Government may, for enabling the performance of the functions to be carried out in accord with the Union Law for Civil Services and in coordination with the Union Government in advance:
- (a) form Civil Services organizations relating to the Region or State as necessary;
 - (b) appoint the required number of Civil Services personnel.

FIGURE 2.2 Structure of union and state/region governments

LEGISLATURE

Passes laws



Pyidaungsu Hluttaw (Union Parliament)

Amyotha Hluttaw
(Upper House / House of Nationalities)

224 Members of Parliament (MPs)

168 elected MPs
➤ **12** MPs per state/region

56 MPs nominated by Commander in Chief
➤ can be substituted during term

Speaker of the House & Deputy Speaker of the House

Committees/Commissions
➤ Nominated by Speaker for Hluttaw approval

Joint Committees
Must have equal numbers of MPs from Amyotha and Pyithu hluttaws

Pyithu Hluttaw
(Lower House / House of Representatives)

440 MPs

330 elected MPs
➤ elected on basis of township and population

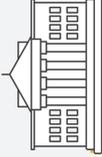
110 MPs nominated by Commander in Chief
➤ can be substituted during term

Speaker of the House & Deputy Speaker of the House

Committees/Commissions
➤ Nominated by Speaker for Hluttaw approval

EXECUTIVE

Carries out laws



Union Government

President
➤ Elected by Electoral College of all Pyidaungsu Hluttaw MPs from the three Vice Presidents

State Counsellor
➤ Aung San Suu Kyi appointed to new role by State Counsellor Bill 2016

2 Vice Presidents
➤ 3 candidates elected
(1 Amyotha, 1 Pyithu, 1 Military)
➤ Pyidaungsu Hluttaw votes

National Defense & Security Council

Finance Commission

Union Ministers
➤ Ministers nominated by Pres. from Hluttaw/
civilians
➤ MoHa, MoBA, and Ministry of Defense: Commander in Chief and President nominate active defense personnel
➤ Pyidaungsu Hluttaw approves

Attorney General
➤ Appointed by President
➤ Approved by Pyidaungsu Hluttaw

Auditor General
➤ Appointed by President
➤ Approved by Pyidaungsu Hluttaw

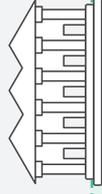
Deputy Ministers
➤ Same appointment process as Union ministers

Deputy Attorney General
➤ Appointed by President
➤ Approved by Pyidaungsu Hluttaw

Deputy Auditor General
➤ Appointed by President
➤ Approved by Pyidaungsu Hluttaw

JUDICIARY

Evaluates laws



Union Courts

Supreme Court
➤ Appointed by President

7-10 Judges
➤ Appointed by President with Chief Justice coordination

Constitutional Tribunal
Chairperson
➤ Selected from: 9 members
➤ Appointed by President

9 Members
➤ 3 Appt. by President
➤ 3 Appt. by Amyotha speaker
➤ 3 Appt. by Pyithu speaker

Courts Martial

State/Region Hluttaws

Total across all 14 state/region hluttaws:

879 Members of Parliament.

659 elected MPs

- 2 MPs per township
- 1 MP/national race > 0.1% of S/R population

220 MPs appointed by Military

Speaker of the House & Deputy Speaker of the House

- Selected from, and elected by, S/R MPs

Committees/Bodies

- Selected from S/R MPs or non-MPs
- Elected by S/R Hluttaw

.....
KACHIN (53 MPs)

.....
KAYIN (23 MPs)

.....
MON (31 MPs)

.....
SHAN (137 MPs)

.....
MANDALAY (76 MPs)

.....
SAGAING (101 MPs)

.....
TANINTHARYI (28 MPs)

.....
KAYAH (20 MPs)

.....
CHIN (24 MPs)

.....
RAKHINE (47 MPs)

.....
YANGON (123 MPs)

.....
BAGO (76 MPs)

.....
MAGWAY (68 MPs)

.....
AYEYARWADDY (72 MPs)

State/Region Government

Chief Minister

- Selected from state/region hluttaw MPs
- Appointed by President
- Approved by state/region hluttaw

Ministers

- Appointed by Chief Minister
- Approved by state/region hluttaw

Ethnic Affairs Ministers

- Elected as "national race" representatives during hluttaw elections

Minister of Security and Border Affairs

- Serving defense personnel
- Appointed by Commander in Chief
- Approved by state/region hluttaw

Chairperson of self-administered territories

- Selected by members of Leading Body
- Approved by President and Chief Minister

Advocate General

- President and Chief Minister appoint
- Approved by state/region hluttaw

Auditor General

- President and Chief Minister appoint
- Approved by state/region hluttaw

Executive Secretary

- Head of state/region GAD becomes Secretary of state/region government

State/Region Courts

State/Region High Courts

Chief Justice

- Appointed by President with Union Chief Justice and Chief Minister

3-6 Judges

- Appt. by Chief Minister with Union Chief Justice

District Courts

Courts of the self-administered territories

Township Courts

FIGURE 2.3 State and region responsibilities under Schedule 2



FINANCE AND PLANNING SECTOR

- Region/state budget
- Local plan
- Taxes, such as municipal taxes and land revenues



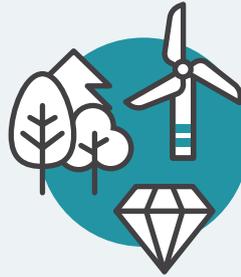
ECONOMIC SECTOR

- Economic matters
- Commercial matters
- Hotels and tourism



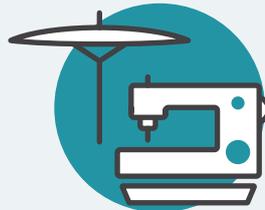
AGRICULTURE AND LIVESTOCK-BREEDING SECTOR

- Agriculture and livestock breeding
- Freshwater fisheries
- Irrigation works



ENERGY, ELECTRICITY, MINING, AND FORESTRY SECTOR

- Electric-power production and distribution (medium and small scale)
- Small scale mines
- Environmental protection and conservation



INDUSTRIAL SECTOR

- Industries (other than Union-managed)
- Industrial zones
- Cottage industries



TRANSPORT, COMMUNICATION, AND CONSTRUCTION SECTOR

- Roads, bridges, and ports
- Private vehicles
- Water resources and waterways



SOCIAL SECTOR

- Basic education schools administration
- Hospitals and clinics
- Welfare of children, women, the disabled, the aged, and the homeless
- Museum, libraries, cinemas, and cultural heritage



MANAGEMENT SECTOR

- Development matters (municipal and urban services)
- Town and housing development
- Border area and rural development

STATE AND REGION RESPONSIBILITIES UNDER SCHEDULE 2

In 2015, the Constitution was amended, with changes made to both schedule 2 and schedule 5 (a translation of the amendment can be found in annex D). The amendment law includes additional powers in each of the sectors contained in schedule 2. Most notably, the changes add new areas to state/region powers over land management, small-scale mining, environmental conservation, water-resources development, and care of children, women, the elderly and those with disabilities. Albeit limited, the changes also include powers relating to basic education and hospitals and clinics. For each of the new areas, the law includes the phrase, "in accordance with the law enacted by the Union."

One notable feature of the 2008 Constitution is the continuing role of the armed forces, the Tatmadaw, at the state/region level.²⁰ As in the Union hluttaw, military appointees occupy a quarter of the seats in each state/region hluttaw; and in the state/region governments, the minister for border and security affairs is nominated by the commander in chief, and acts both as a minister and representative of the Defense Services. The minister for border and security affairs stands in as deputy when the chief minister is away. Also of note, the Constitution includes a provision whereby the commander in chief can take control of the executive powers of a state/region or self-administered area if a state of emergency is declared.²¹

In addition, the Constitution ensures that active-duty military appointees of the commander in chief lead both the Border Affairs and Home Affairs ministries at the national level. These two ministries have powerful subnational mandates and organizational infrastructures in the form of the GAD's jurisdiction within Home Affairs and the Ministry of Border Affairs' jurisdiction over policing and immigration. Many of the staff in these departments are former military.

THE BROADER LEGAL FRAMEWORK

In addition to the 2008 Constitution, a number of statutes determine the framework for decentralization, including the Region or State Government Law (2010), the Region and State Hluttaw Law (2013), and the Ward or Village Tract Administration Law (2012, with subsequent amendments in 2016).

The Region or State Government Law (2010),²² passed by the State Peace and Development Council (SPDC) prior to the implementation of the Constitution, provides further details on the executive branch of the state/region governments, including appointment procedures, terms of office, and rules relating to resignation, termination from office, and impeachment. Most importantly, chapter IV details the duties and powers of the members of the state/region governments, including

outlining the executive powers of the government. The Region and State Hluttaw Law (2013)²³ replaced the SPDC promulgated Law Relating to Region or State Hluttaw passed in 2010.²⁴ Similar to the Region or State Government Law (2010), the law provides further details of the legislative branch of the state/region governments. The 2013 law contained a number of significant changes from the 2010 SPDC law, including:

- allowance for a state/region hluttaw office that is not specified as under the GAD;
- the possibility of the public attending hluttaw sessions; and
- proposals for a constituency fund and representative offices.²⁵

The Ward or Village Tract Administration Law, first passed in 2012, had the significant effect of providing for elections, although indirectly, to appoint ward or village-tract administrators (W/VTAs). Previously, no elections were held, and GAD township administrators directly appointed W/VTAs. Since the first round of elections in late 2012 / early 2013, the law has been amended twice (in January 2016 and December 2016), altering the election process. Under the current system, representatives from each household elect 10-household leaders. Household representatives then elect a 100-household leaders from the elected 10-household leaders. If there is only one elected 100-household leader, he/she will automatically become the W/VTA. Where multiple 100-household leaders are elected, household representatives vote again to elect a W/VTA. The process is overseen by a Supervisory Board of five elders, appointed by the Township Administrator. Despite the 2016 amendments, calls continue for reforms to allow the direct election of local administrators by all over the age of 18.²⁶

The role of the W/VTA is to assist in the maintenance of law and order, monitor development projects, and help with poverty reduction, birth and death registration, collecting land revenue, and other duties assigned by the Township Administrator and government departments in accordance with the law.²⁷ The inclusion of local development responsibilities is a notable change. The W/VTA is not a civil servant and does not receive a salary, but is supported by a clerk from the GAD. The role of the 100- and 10-household leaders under the law, apart from their involvement in the W/VTA election process, is not clearly defined, other than to support the W/VTA in their safety and administrative duties.

2.2 WHAT IS THE STRUCTURE OF SUBNATIONAL GOVERNANCE?

MYANMAR'S ADMINISTRATIVE STRUCTURE

The Republic of the Union of Myanmar comprises seven states and seven regions named in the 2008 Constitution, six self-administered zones or divisions, and one union territory containing the capital, Nay Pyi Taw, and surrounding townships.²⁸ (figure 2.4). States and regions, despite the terminology distinguishing historically “ethnic” states from majority–Bamar regions, are constitutionally equivalent.

The five self-administered zones and one self-administered division can form their own indirectly elected and appointed “leading bodies,” headed by a chairperson.¹² Schedule 3 of the Constitution provides the legislative list for the leading body of the self-administered zones and division (box F). An appointed administrative council under the authority of the President manages the Union Territory of Nay Pyi Taw.

Population data in Myanmar show wide variation in the populations of different states and regions, from about 7 million in Mandalay to only a few hundred thousand in Kayah. Land area, and consequently population density, also varies greatly.

The smallest formal administrative units are the village tract, which comprises a number of villages, and the urban ward. Urban wards and village tracts, which are equivalent to each other, are grouped into townships, where the lowest level government offices are generally located. Collections of townships are organized into districts, which in turn form the region or state.²⁹ There are 330 townships and 74 districts in Myanmar’s states and regions. The administrative structure of Myanmar is detailed in Figure 2.5. There is wide variation in the number of townships per state/region, ranging from as few as seven in Kayah and Kayin to as many as 40 and 45 in Shan and Yangon, respectively. There is also wide variation in township populations, varying from 687,867 to as little as 1,732.³⁰

BOX F

Self-administered areas in Myanmar

Myanmar’s one self-administered division and five self-administered zones (SAD/Zs) represent an alternative system of governance to that present in the majority of Myanmar. SAD/Zs feature “leading bodies,” with legislative power in their respective areas.

Leading Bodies consist of a minimum of ten members and comprise the state/region hluttaw representatives elected from townships in the SAD/Zs, defense services personnel nominated by the commander in chief and additional representatives selected by existing members. Members of the Leading Bodies then select a Chairperson from among themselves, whose name is submitted to, and who is subsequently appointed by, the president via the respective state/region chief minister. The Chairperson becomes a member of the state/region government.

Schedule 3 of the Constitution provides a legislative list for the leading bodies of SAD/Zs. The ten areas included under the legislative list include: urban and rural projects, construction and maintenance of roads and bridges, public health, and development affairs. Executive power extends to the areas covered by Schedule 3 and to matters permitted by laws enacted by the Pyidaungsu Hluttaw or by the relevant state/region hluttaw. The activities and projects of SAD/Zs are funded from the respective state/region government’s budget.

The Self-Administered Division or Self-Administered Zone Leading Body Law (SPDC Law No 17/2010) provides further details of the formation, roles, and responsibilities of the leading bodies.

One political party with a prominent role in the leading body of an SAD/Z reported that, while the current system of governance did not represent their final vision of decentralization and federalism in Myanmar, the SAD/Z was an important step towards realizing this goal and was helping those in the SAD/Z to develop the capacity to govern themselves effectively when a new deal is reached through the peace process.

FIGURE 2.4 Myanmar's administrative geographic breakdown

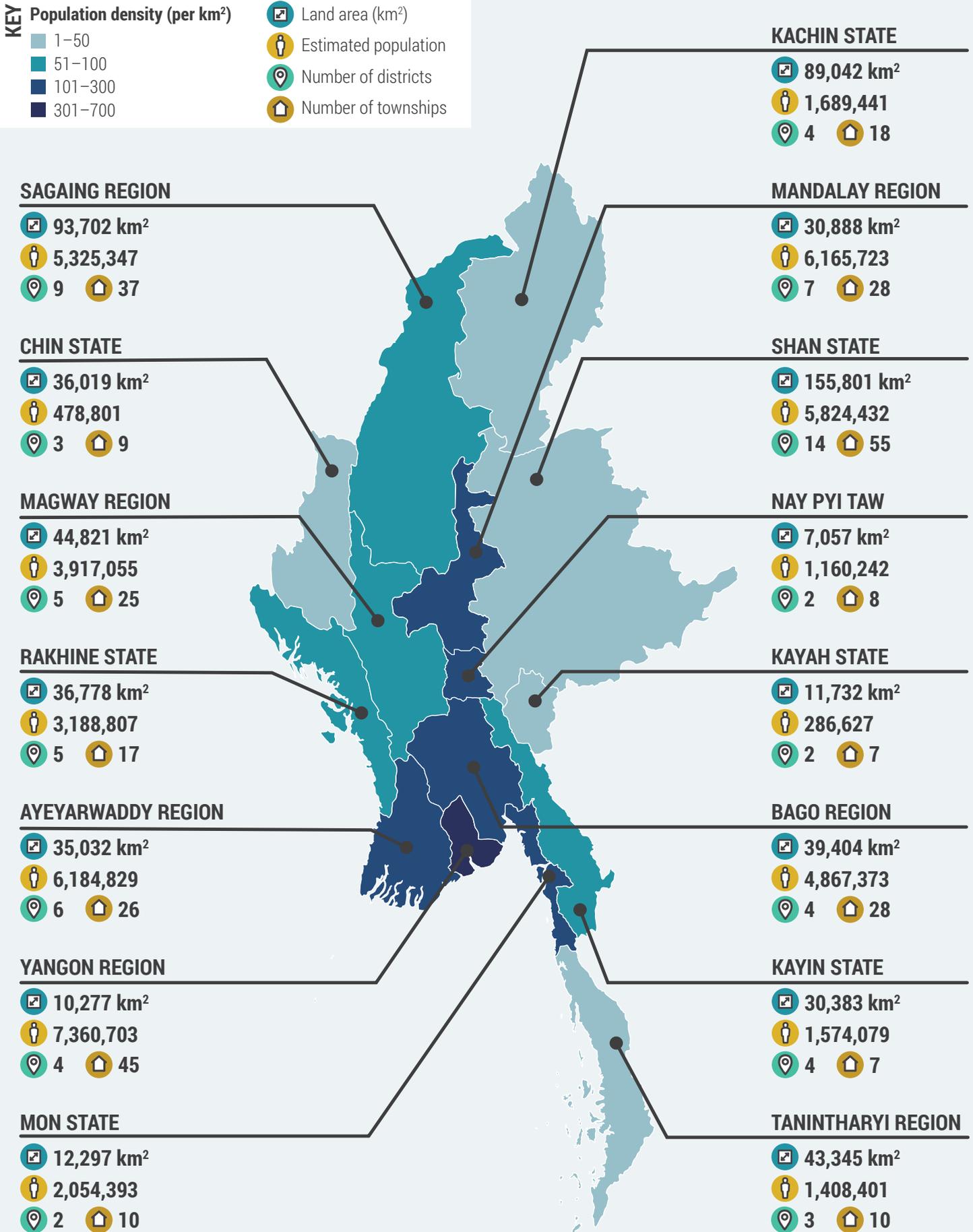
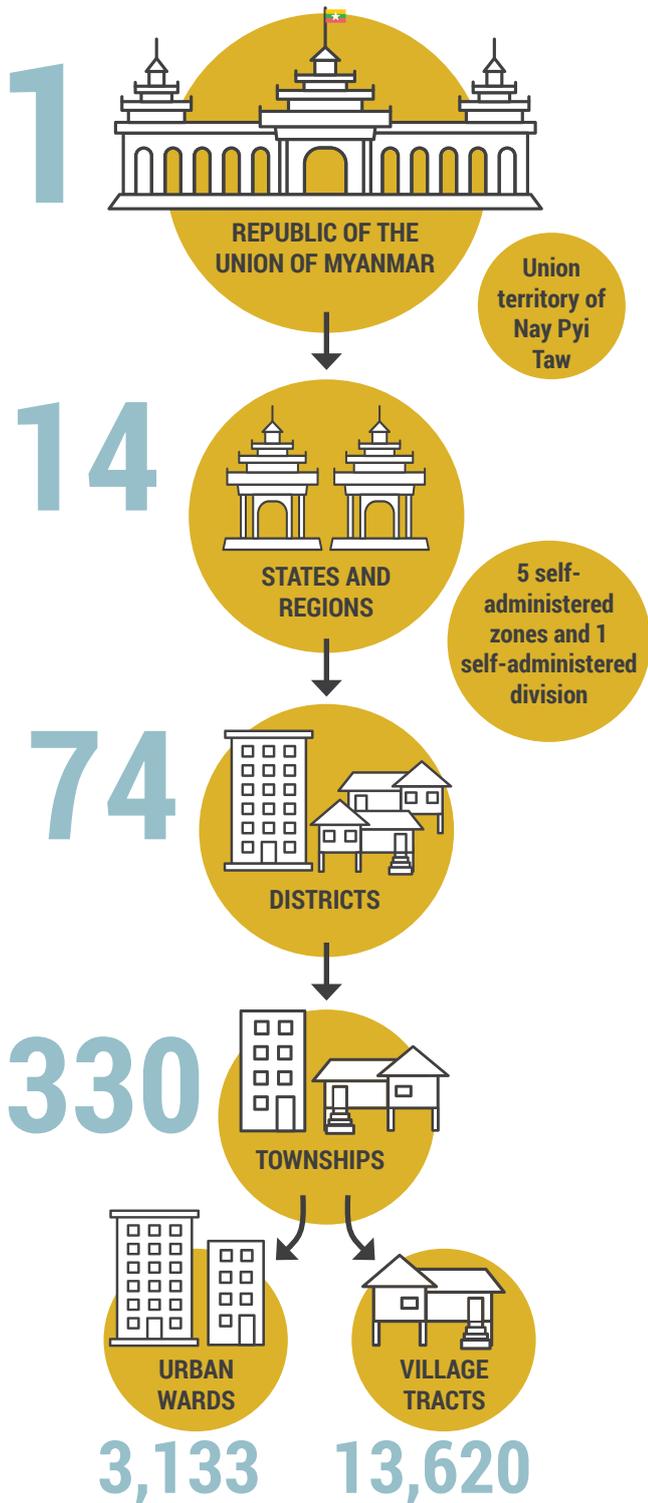


FIGURE 2.5 Myanmar's administrative structure



TOTAL POPULATION:



The 2008 Constitution does not include provisions for establishing institutions of government below the state/region level. This has meant that, with the exception of changes brought about by the Ward and Village Tract Administration Law, the existing, historical arrangements for administering districts, townships, and village tracts and urban wards levels have remained in place.³¹ Articles 288 and 289 of the Constitution set out provisions for district and township and ward and village-tract administration.³²

The absence of a third tier of government below that of the state/region governments has had important implications. For one, the perpetuation of existing arrangements has ensured an ongoing, strong involvement of the Union Government in local governance while creating ambiguous and weak links between local governance and the state/region governments.

Notably, absence of a third tier has placed the GAD at the heart of subnational administration. As per the Constitution (Article 260), and as shown in figure 2.6, the Head of the GAD is the ex-officio Executive Secretary of the Region or State in question, and the Region or State Government Law (2010) effectively establishes the GAD as the administration for the state/region governments. Below the states and regions, the district administrator and the township administrator are both GAD officers. Finally, the township administrator provides direction to the village tract and ward administrators. These arrangements ensure that the GAD is central to all efforts to coordinate, communicate among, and convene other government actors in subnational governance. The GAD's parent ministry is one of three whose ministers are constitutionally appointed by the commander in chief of the armed forces from among active-duty military personnel.³³ The Director General of the GAD is also the Permanent Secretary of the Ministry of Home Affairs.

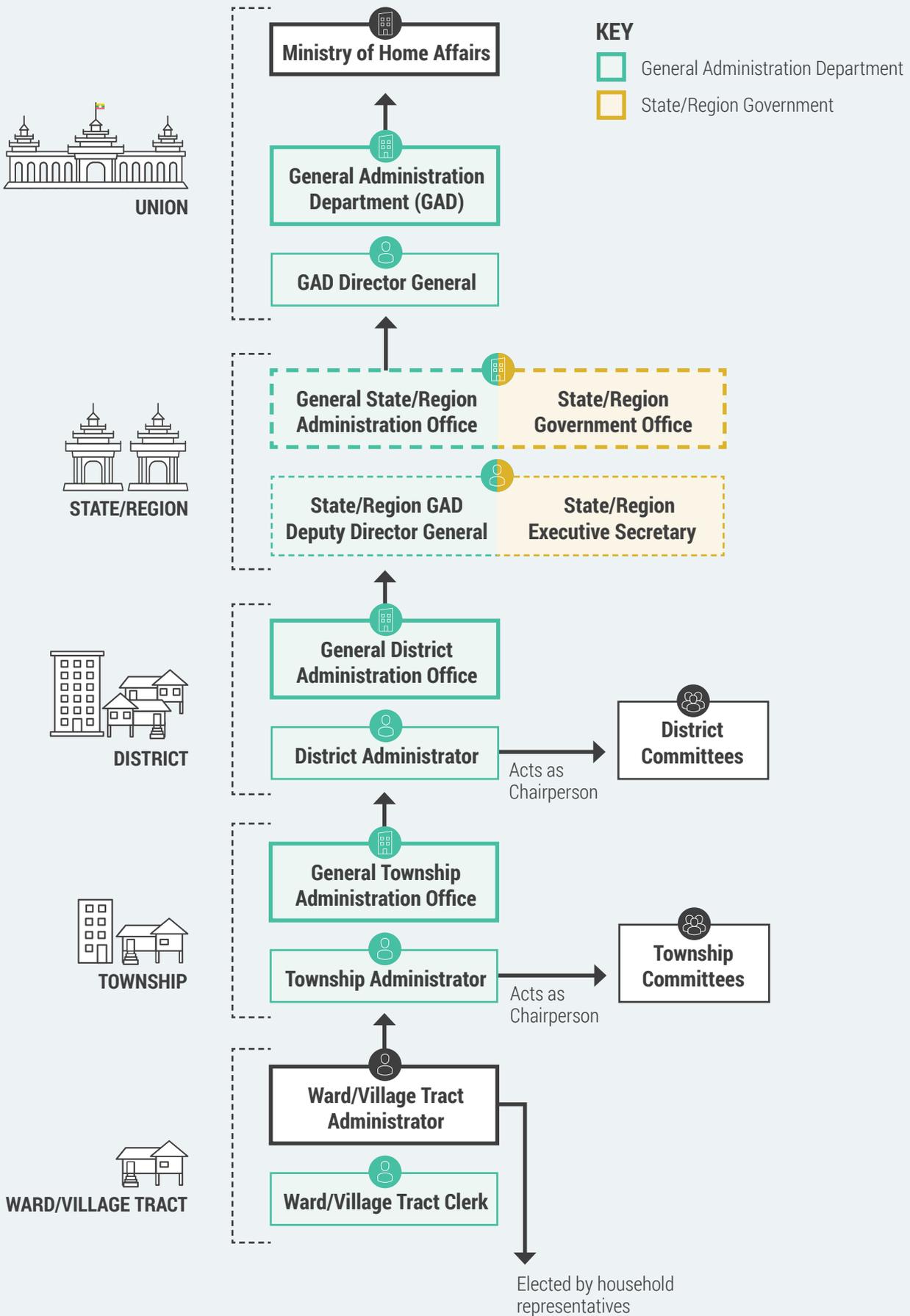
MYANMAR'S STATE AND REGION GOVERNMENTS

The 2008 Constitution established state/region governments comprising legislative, executive, and judicial branches.

LEGISLATURE

State and region huttaw membership is composed of two elected members per township plus elected representatives for each "national race" with over 0.1 percent of the state or region's population that has not already "obtained" an ethnic state (as have, for example,

FIGURE 2.6 Structure of the General Administration Department

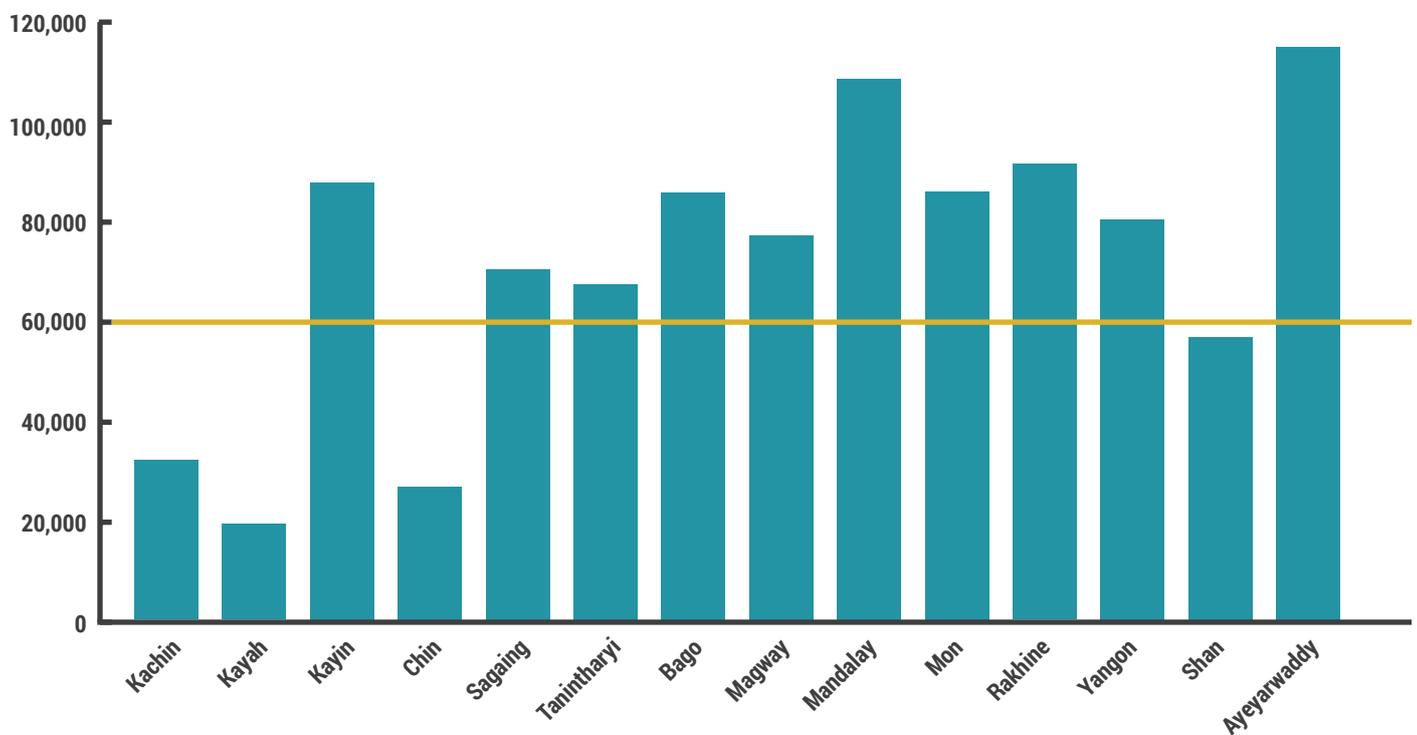


the Karen in Kayin State). The commander in chief appoints military representatives equal to one-third of these elected members (and thus one quarter of the total), the same proportion as in the national legislative institutions.³⁴ The hluttaw elects from its number a speaker, a deputy speaker and a chairperson.

Due to the varying number of townships per state/region, state/region hluttaws vary widely in size, from 20

members (Kayah) to 143 (Shan). As each state/region hluttaw bears the same responsibilities, the capacity and functioning of these bodies may be affected by having fewer members to fulfil their duties. Likewise, as Figure 2.7 demonstrates, due to the differing size of township populations, the township-based constituency system results in a widely varying number of constituents per representative.³⁵ This may affect a representative's ability to act as an agent for local issues and concerns.

FIGURE 2.7 Population per elected state/region hluttaw representative



BOX G

Constitutional provisions for the role of the state/region hluttaw

Art. 175. The following functions shall be carried out at the Region or State Hluttaw session:

- (a) recording the addresses delivered by the President;
- (b) reading and recording the message sent by President and other messages permitted by the Speaker;
- (c) recording the address delivered by the Chief Minister of the Region or the State;
- (d) submitting, discussing and resolving on a Bill;
- (e) discussing and resolving on the matters to be undertaken by the Region or State Hluttaw in accord with the provisions of the Constitution;
- (f) discussing, resolving and recording the reports submitted to the Region or State Hluttaw;
- (g) submitting proposal, discussing and resolving;
- (h) raising questions and replying;
- (i) undertaking matters approved by the Speaker of the Region or State Hluttaw.

The formal powers of the hluttaw are enshrined in article 175 of the Constitution (box G), which, most importantly, empowers the legislature to legislate in those areas specified in schedule 2 of the Constitution. The State and Region Hluttaw Law (2013) further details the powers of hluttaw representatives, including the right to submit motions and ask questions in the hluttaw with the permission of the speaker.

Within the hluttaw, the speaker has a number of important duties and powers. The formal powers of the speaker, who is elected by hluttaw members, are detailed in article 164 of the Constitution and chapter V of the State and Region Hluttaw Law. Many of the powers of the hluttaw and its representatives, such as the power to submit motions, to ask questions, and to create committees, are subject to obtaining the permission of the Speaker.

EXECUTIVE

The executive branch of the state/region governments is led by a chief minister and a cabinet of state/region ministers. The President of Myanmar plays a crucial role in the selection of the chief minister.

In addition to the president's leading role in the appointment of the chief minister, the State or Region Governments Law (2010) makes clear that the

chief minister is responsible to the president.³⁶ The appointment process for chief ministers involves the president selecting a state or region hluttaw member possessing the required qualifications, who is then confirmed by the hluttaw (box H). As a candidate may only be rejected for proven failure to meet the constitutional qualifications, the selection of the chief minister is effectively in the hands of the President, with the proviso that he or she be a member of the state or region hluttaw.

The appointment of state and region ministers is largely in the hands of the chief minister,³⁷ with no set portfolios or prescribed numbers of ministers in the state/region government. There are three different types of ministerial posts for state and region governments. The majority are selected by the chief minister from among the hluttaw representatives or other suitable candidates and then approved by the president.³⁸ Unlike these "civilian" ministries, the state or region minister for Border and Security Affairs is a military officer nominated by the commander in chief of the Defense Services, who does not relinquish his military post. In addition, where elected ethnic representatives are present (according to the provision for dedicated constituencies for groups with 0.1 percent of the population), these elected hluttaw representatives will be appointed Minister of Ethnic Affairs for their ethnicity.

After approval, the list is sent to the president for formal assignment of the ministers, in cooperation

BOX H

Constitutional provisions on appointment of chief ministers

Art. 261.

- (a) The Chief Minister of the Region or State shall have the following qualifications:
 - (i) person who has attained the age of 35 years;
 - (ii) person who has qualifications, with the exception of the age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
 - (iii) person whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
 - (iv) person who is loyal to the Union and its citizens.
- (b) In order to appoint the Chief Minister of the Region or State concerned, the President shall:
 - (i) select a suitable Hluttaw representative who has the prescribed qualification from among the Region or State Hluttaw representatives concerned;
 - (ii) submit the list of the elected Hluttaw representatives to the Region or State Hluttaw concerned for its approval.
- (c) The President shall appoint the Hluttaw representative approved by the Region or State Hluttaw as the Chief Minister of the Region or State concerned.
- (d) The appointment of a person as a Chief Minister of the Region or State nominated by the President shall not be refused by the Region or State Hluttaw unless it can clearly be proved that the person concerned does not meet the qualifications of the Chief Minister of the Region or State.
- (e) The President has the right to submit again the list with a new name replacing the one who has not been approved by the Region or State Hluttaw for the appointment of the Chief Minister.



THE CONSTITUTION ASSIGNS STATES AND REGIONS EXECUTIVE AUTHORITY OVER THE SAME AREAS AS THOSE INCLUDED IN THE LEGISLATIVE LIST (SCHEDULE 2), THOUGH NEW RESPONSIBILITIES MAY BE ADDED UNDER UNION LAW.



with the chief minister.³⁹ This input from the president is significant, as it allows for specific candidates to be given portfolios according to central political considerations.

The chief minister also formally appoints the chairpersons of any SAD/Z within their state or region after their selection by the leading bodies.⁴⁰ The complete list of ministerial candidates and chairpersons is sent to the state or region hluttaw for approval, and as with the chief minister himself, the hluttaw can only reject candidates if it can prove that they do not have the qualifications specified in the Constitution. If the hluttaw rejects any candidate, the chief minister can submit a new nomination list.

The Constitution assigns states and regions executive authority over the same areas as those included in the legislative list (schedule 2), though new responsibilities may be added under Union law.⁴¹ State and region cabinet ministers, led by a chief minister, are thus mandated to “manage, guide, supervise and inspect” departments covering these areas in the state/region.⁴² Typically, ministers’ portfolios comprise a number of different departments.

JUDICIARY

States and regions have a High Court consisting of a chief justice and three to seven judges (see articles 305–318, Constitution of Myanmar). The High Court

supervises subsidiary district, township and self-administered area courts. The president nominates the state/region chief justice, in consultation with the chief justice of the Union, and the chief minister nominates the judges, also in consultation with the national chief justice. The nominations are submitted to the state/region hluttaw for approval, but as with other posts, the assembly can only refuse the nominations with “clear proof” that the nominees do not meet the qualifications.⁴³ However, the state/region hluttaw can impeach High Court judges through an investigation and a two-thirds vote, but only at the instigation of the president or chief minister.

The state/region High Courts have jurisdiction to adjudicate on original, appeal, and revision cases and other matters prescribed by law.^{44,45} District Courts and courts of the SAD/Zs have the jurisdiction to hear both criminal and civil cases, appeals, revision cases, and other matters prescribed by any law.^{46,47,48} Township Courts have the jurisdiction to try both criminal and civil cases and other matters prescribed by law.^{49,50}

All courts are subordinated to the national Supreme Court, which has final appellate authority over other levels, including resolving “disputes, except the constitutional problems, between the Union Government and the Region or State Governments.”⁵¹ For issues of constitutional interpretation, including constitutional disputes between regions, states, and the Union, power rests with a separate Constitutional Tribunal of the Union. The President and the speakers of the Pyithu and Amyotha Hluttaws appoint the nine members of this body in equal share, and there is no appeal.⁵²

In general, appointment procedures and judicial structures limit judicial independence in Myanmar as a whole and in its states and regions, “allowing for overt executive control over the courts.”⁵³ In addition to the centralized, executive control over appointments, decentralization within the judiciary is further limited as “the authority of the Supreme Court is used in turn to reinforce its control over the lower courts.”⁵⁴

In January 2018, the Supreme Court of the Union announced a five-year judicial strategic plan for reforming the judiciary.⁵⁵ The plan aims to promote effective rule of law and public trust and confidence in the courts, upgrade the integrity of the court, and enhance judicial independence and administrative capacity.

The state or region government also includes an advocate general, nominated by the chief minister (with the same pro forma approval by the hluttaw) to provide legal advice and guidance. The advocate general is accountable to both the president and the attorney general of the Union through the chief minister.⁵⁶

2.3 HOW HAVE MYANMAR'S TRANSITIONAL GOVERNMENTS INTERPRETED AND IMPLEMENTED THE CONSTITUTION?

As with any new Constitution, the early years of implementation provide actors with opportunities to interpret the 2008 Constitution in different ways, with important implications for decentralization and the balance of power between the center and subnational actors and institutions. The scope for interpretation is broader for the state/region governments, as schedule 2 leaves some sectors with significant ambiguity. In some sectors there is more clarity, such as in development affairs, which includes the provision of municipal services and is the exclusive responsibility of the states/regions, and the foreign affairs sector, which is the exclusive responsibility of the Union. In other areas, however, the assignment of responsibilities is less clear. In the agricultural sector, for example, provision 3(a) of schedule 2 simply says "agriculture." Yet schedule 1, detailing Union responsibilities, lists 12 different responsibilities in the agricultural sector.

Critical to understanding decentralization in Myanmar, therefore, are the questions of: how are the responsibilities of state/region governments and other actors in subnational governance being interpreted, and who is responsible for interpreting them? These questions underpin much of the content of the following chapters, but key to framing these discussions is the

relationship between actors at the Union level and within the state/region governments.

One such actor at the Union level is the Constitutional Tribunal. Given its role in adjudicating the distribution of power between the different branches and levels of government, the Tribunal could have a potentially significant effect on decentralization in Myanmar. To date, however, it has played a limited role and has frequently deferred to the Union government and parliament. The impact of the Tribunal has been limited in part by the small number of cases it has heard (14). Cases are limited in part because access to the Tribunal is significantly restricted, with access denied to individual citizens and limited to senior elites within the executive and legislative branches.^{57,58}

As box I shows, in the two cases that the Tribunal has heard to date relating directly to the roles of state/region governments, the Tribunal has not attempted to interpret its mandate broadly, and in the case regarding the Mon State Tax Law, the Tribunal effectively deferred to the Union government.

The leading role of the Union in interpreting the role of the state/region hluttaws and executives is further strengthened by the phrase "in accordance with the law

BOX I

The Constitutional Tribunal or the Union – two cases of interpretation^{59,60,61}

The first case, submitted by the Mon State speaker in 2012, related to the Mon State Tax Law. The law set a new land tax rate for the State, but the concerned departments did not comply with the law. The departments stated that, as per Articles 446 and 447 of the 2008 Constitution, Union laws shall prevail. The Mon State hluttaw and the state administration argued that the relevant Union laws were not constitutional, as land tax was said to be clearly defined under schedules 2 and 5. The Tribunal suggested the Mon State Hluttaw coordinate with the Union president. The president suggested that the new Land Tax Law would be implemented only when all states and regions have passed land tax laws. Consequently, the Mon State Land Tax Law became a pending law.

The second case, the Kachin Budget Case submitted by the Kachin State speaker, asked the tribunal to decide whether the Kachin Hluttaw had the right to amend or reject a budget bill proposed by the State government, and whether the government's decision to fund the construction of a garden was beyond the legislative power of the government (under Schedule 2). The Tribunal held that the Hluttaw only had the power to do so in matters that fall under 193(b) of the Constitution. "What was more striking was that the Tribunal declined to decide on any of the other issues raised in the case, effectively leaving it to parliament to decide how to interpret the legislative lists in the Constitution" (Crouch 2018b).

enacted by the union,” which appears in many places in schedule 2, in the Region or State Government Law (2010) and the State and Region Hluttaw Law (2013), and repeatedly throughout the 2015 constitutional amendment.

This phrase could be interpreted as meaning that states/regions need to wait for union law to explicitly detail their responsibilities, or it might be interpreted as meaning that states/regions are responsible for areas that Union law does not explicitly proscribe. For example, the 2015 amendments include a reference to states/regions being responsible for the welfare of women, in accordance with the law enacted by the Union. In theory, this could provide states/regions with a broad remit to support women’s welfare and empowerment.

In practice, however, those working within the state/region governments, in both the hluttaws and in government, have interpreted this as meaning that the Union must pass a law making explicit the division of responsibilities, which, given the absence of such laws, has limited the activities of state/region governments across broad areas.⁶²

Thus, within Myanmar’s political system, a convention is emerging whereby state/region-level actors and the Constitutional Tribunal both defer to the Union government to interpret the Constitution and delineate the respective responsibilities of different levels of government.

The Union government’s authority to determine the responsibilities of the state/region governments is reinforced both by the appointment process and by the party system. As the chief minister is appointed by and ultimately accountable to the president, the chief minister has an incentive to respect the Union government’s interpretation of the Constitution. This is further reinforced by the fact that, at present, the president and the state counsellor are leading members of their party.

DECENTRALIZATION POLICY UNDER THE TRANSITIONAL GOVERNMENTS

With the emergence of Union government supremacy in interpreting the Constitution, understanding the decentralization policy of both the USDP and NLD governments is essential to understand how the Constitution is being implemented and the likely trajectory of further reform.

Under President Thein Sein, the USDP’s decentralization policy featured the notion of “people-centred

development.” This refrain suggests the government’s rationale for decentralization: that the population will benefit from better governance and greater responsiveness. In order to achieve this, the USDP government focussed its subnational governance policies on economic development, administrative reform, and political reform to support the nascent peace processes. The Framework on Economic and Social Reform⁶³, drafted by the Centre for Economic and Social Development, and endorsed by the president, to advance people-centered development policy, offers further detail on the government’s approach, including the development of laws and regulations on decentralization and the acceptance of “federalism” as a goal of the peace process.

In practice, the USDP government pursued people-centered development through the use of local development funds, explored in greater detail in chapter five, and through administrative reform at the local level. Administrative reform came in the form of the Ward and Village Tract Administration Law, which sought greater public accountability for ward/ village-tract administrators, and through the establishment of various committees at all levels of administration. Committees such as the Development Support Committees, at both township and village tract/ward levels, featured public participation in local development, including community leaders and representatives from civil society, business, and professional associations.

In support of administrative reform, the USDP government formed an Administrative Reform Coordination Committee at the Union level,⁶⁴ chaired by minister of the President Office No.5 and including both Union and state/region ministers. The committee’s role was to implement and coordinate decentralization and administrative reform, and it served as an important forum for state/region administrators to discuss administrative issues with their Union counterparts. Over the life of the committee, 142 issues were raised and discussed based on suggestions from the states/regions, with agreement reached for reform on 78 issues. The committee has not continued its work under the NLD.

To date, the NLD has not published a comprehensive decentralization policy. Its 2015 election manifesto⁶⁵ made no reference to decentralization, but did declare the goal of creating a genuine federal democratic union. The manifesto stated the need for the balanced development of all the states and regions. The NLD government’s 12-point economic plan, published August 2016,⁶⁶ provided some further detail, adopting as a priority the rapid development of fundamental economic infrastructure such as electricity generation, roads, and ports.

The manifesto and the 12-point give some sense of the NLD's priorities for the state/region governments, but they do not determine the balance of power between levels of government or the amount of state/region autonomy in developing policy and implementation. NLD members of the state/region governments say the party is firmly committed to decentralization, with some ministers calling for a clearer definition of their roles and responsibilities that permits greater decision making.⁶⁷ The manifesto also affirms the NLD's commitment to establishing a "genuine federal democratic union" as part of the peace process.

The Myanmar Sustainable Development Plan,⁶⁸ which is the most detailed articulation of NLD government policy to date, acknowledges the need for an action plan for further decentralization consistent with the Constitution. It also expresses a desire to decentralize management of development activities as much as possible, explore administrative decentralization in the transport sector, decentralize natural resources management, and build government capacity at all levels. In President Win Myint's 2018 New Year address, he stated:

*In view of the fact that we need to make preparations for the Federal Union administrative system, we will need to reduce central control and make changes where needed based on the suggestions and recommendations of the States and Regions.*⁶⁹

The plan for further decentralization should not be confused with a complete commitment to the political autonomy of the state/region governments. As President Win Myint's first Presidential Instruction after coming to power in March 2018 states:

*The ministers of the Region or State being responsible to the Chief Minister of the Region or State concerned, need to conduct their works after reporting to their respective Chief Minister and obtaining the Chief Minister's agreement and approval. In the same way, the Region or State governments are to discharge their works according to policies set by the Union Government and without contradicting the Union laws.*⁷⁰

The instruction appears to do two things. First it establishes, or simply reasserts, a hierarchical structure within the state/region governments and between the state/region and Union governments. More fundamentally, it suggests that the Union Government views its state/region counterparts, at least in part, as bodies responsible for implementing the policies of the Union Government, rather than as autonomous bodies responsible solely for developing and implementing their own policies.



***NLD MEMBERS OF THE STATE/
REGION GOVERNMENTS
SAY THE PARTY IS
FIRMLY COMMITTED TO
DECENTRALIZATION***



CHAPTER 3

THE POLITICAL DIMENSION

Political decentralization occurs when decision-making power and accountability are shifted to lower levels of the state and, as such, is the dimension most closely related to questions of devolution and autonomy. It goes beyond just giving the local level the responsibility or resources to perform certain functions (akin to administrative and fiscal decentralization). Rather, it gives local government the autonomy to decide **what** functions need performing and **how** they should be performed. An equally important question for political decentralization is to **whom** the local government is accountable for those decisions. Democratic decentralization occurs when local governments are made responsible to the local electorate.

This chapter examines political decentralization at the state/region level and below. Following the description of the structure of state/region governments under the Constitution in chapter 2, this chapter examines how the executive and legislative branches of government have functioned in practice under the USDP and NLD governments. The chapter then considers the opportunities for participation and accountability at the local level, meaning the township level and below, in the absence of local government. Finally, the chapter considers the emerging trends in political decentralization since the creation of the state/region governments.



3.1 HOW DOES THE STATE/REGION EXECUTIVE BRANCH FUNCTION IN PRACTICE?

As detailed in chapter 2 and shown in figure 3.1, the state/region executive branch (i.e. the state/region government) consists of a cabinet led by a chief minister. The state/region cabinets comprise state/region ministers, including the chairpersons of self-administered areas, a state/region attorney general and auditor general, and a secretary.

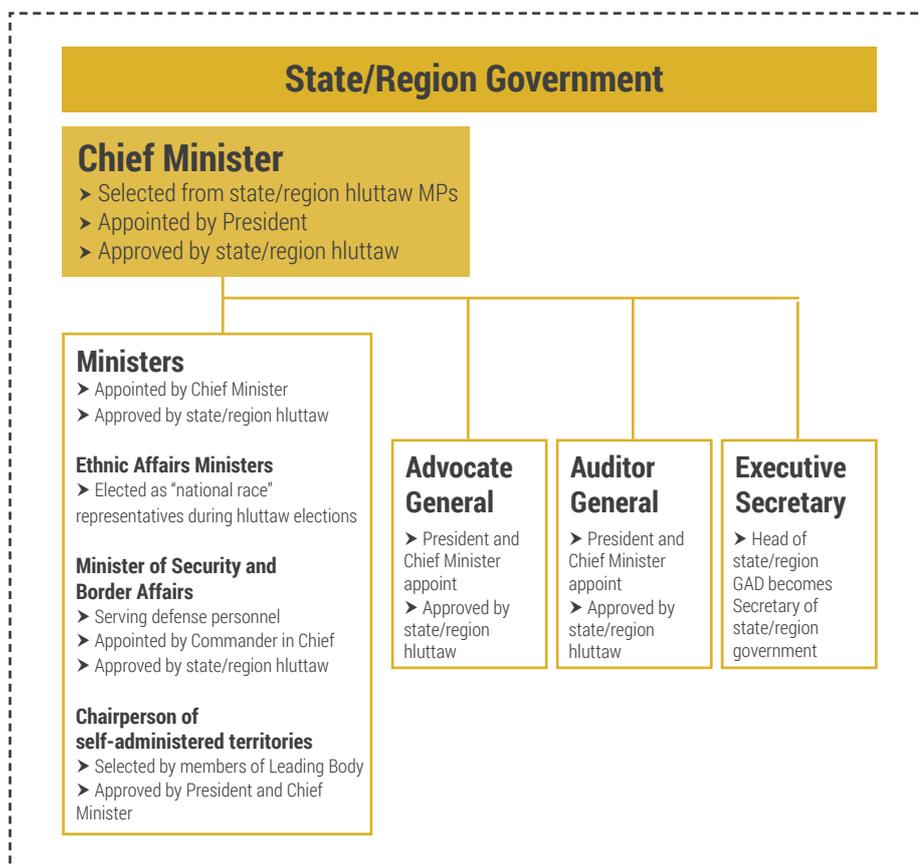
APPOINTEES TO THE STATE/REGION GOVERNMENTS

In comparison with the predominantly military background of chief ministers under the USDP's President Thein Sein, chief ministers appointed by the president under the NLD have been civilians, many of them longstanding advocates for democracy in Myanmar. Despite this, the centralized appointment process has continued to reinforce the domination of the ruling party of the Union government, with both USDP

and NLD appointees being from their respective parties. The appointment of leading figures within their parties⁷¹ to the position of chief ministers reveals the perceived importance of the position.

Under the Thein Sein-led USDP, 10 of the 14 chief ministers were former military officers, and one was a serving brigadier general.⁷² With the exception of the latter (who as an active-duty officer was barred from official party affiliation), all chief ministers were the leading USDP members in their state or region (in most cases, the state/region USDP chairman).⁷³ At least four had previously served on state/region or national State Peace and Development Councils, the leading national and local decision-making bodies of the SPDC regime. The appointment of the active duty military officer is notable, as it highlights the fact that the chief minister is not constitutionally required to be an elected member of the hluttaw, and so can be a military-appointed representative.

FIGURE 3.1 Structure of state/region executives



Under the NLD, all 14 state/region chief ministers are NLD party members. This includes Shan and Rakhine States, where the NLD does not have a majority in the hluttaw. More than half of the chief ministers have long histories with the NLD, having stood in the 1990 elections and having been political prisoners. Many have senior positions within the party, such as Zaw Myint Maung, Mandalay chief minister and deputy chair of the NLD. Six chief ministers are members of the party's central executive committee – the party's highest authority. Others, such as Phyo Min Thein, have political histories outside of the party, with the Yangon chief minister having previously been the chairman of the Union Democratic Party, prior to being elected to the Pyithu Hluttaw in 2012 as a member of the NLD. In some states/regions, the chief ministers joined the party in the build-up to the 2015 elections, including Khat Aung, Kachin chief minister, and L Phaung Sho, Kayah chief minister. Four of the appointees have backgrounds as civil servants.^{74,75}

As with chief ministers, both the NLD and the USDP have reserved the majority of cabinet positions for their own party members. From 2010 to 2015, the USDP was the dominant presence in the state and region cabinets, with 69 percent of all cabinet posts, a figure that rose to 75 percent if only civilian posts were considered. The largest other party represented among cabinet members was the National Unity Party (NUP), with eight posts.⁷⁶ The other parties represented were regionally or ethnically based, with the All Mon Regions Democratic Party (AMDP), the SNDP, and the Kayin People's Party (KPP) each enjoying a presence in several states and regions.

Following the 2015 state/region elections, as figure 3.2,^{77,78} shows, over 60 percent of cabinet posts are held by NLD hluttaw members. Notably, in six states/regions the NLD is the only political party represented. The second-largest party represented is the USDP, with eight cabinet positions, six of which are in the Shan State government. Eight other political parties, all ethnically or regionally based, are represented in cabinets. Importantly, the majority of cabinet members from non-NLD parties are either ethnic affairs ministers or chairpersons of the special administrative zones/area, and thus are not appointed by the chief minister in the same way as the other ministers. In Myanmar's regions, the only cabinet ministers from political parties other than NLD are ethnic affairs ministers.

One notable trend under the NLD-led state/region governments is the significant increase in the number of non-elected cabinet appointees. Under the USDP, the norm was for all cabinet ministers appointed directly by the chief minister to be drawn from the elected state/region hluttaw representatives. Only in Chin State did the chief minister utilize a constitutional provision allowing

other suitable candidates to be chosen, naming non-MPs as the ministers of social affairs and of agriculture and livestock breeding. The stated reason for this approach was to involve individuals with specialist knowledge of the respective portfolios, as well as to ensure that the cabinet was geographically representative of all the townships in the state.⁷⁹

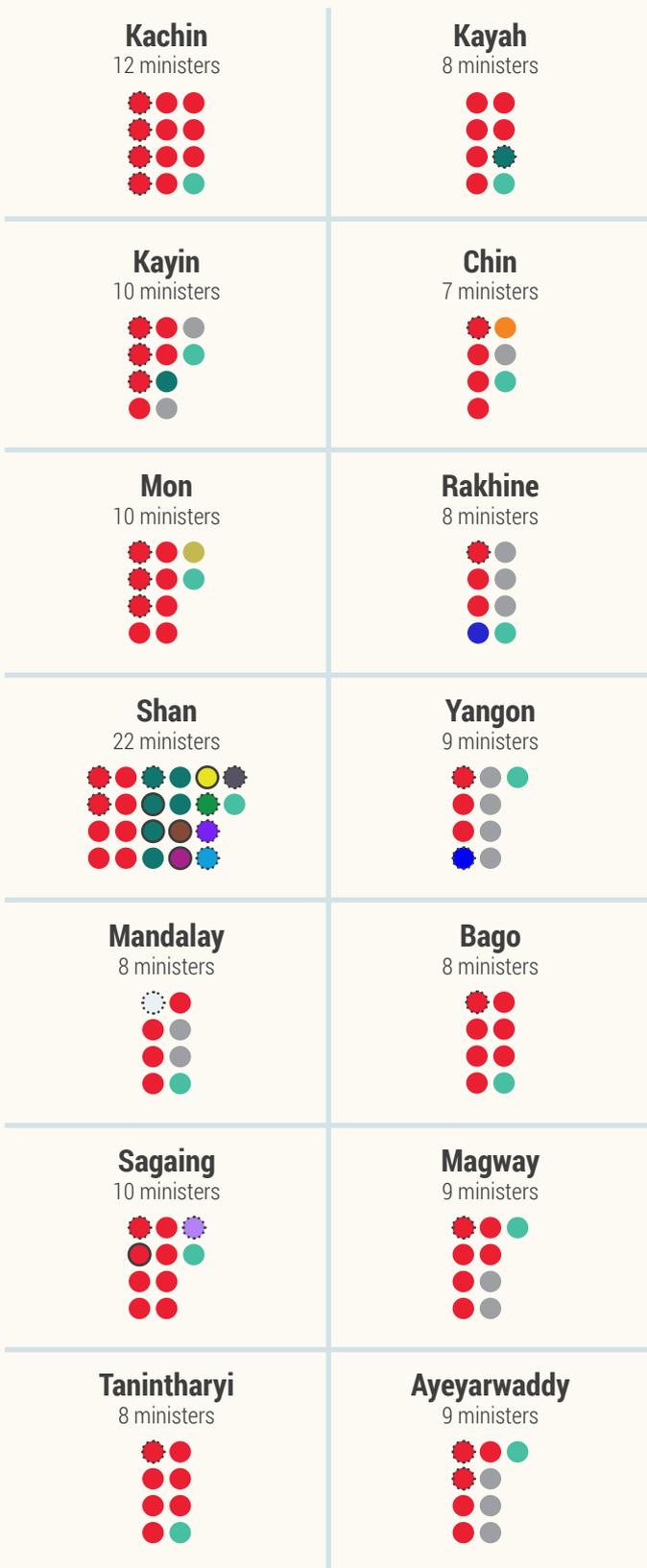
Under the NLD, this practice has been expanded, with over 27 percent of state/region cabinet positions filled by non-elected appointees, if military appointees are included. This percentage rises to 33 percent in the regions. In a number of states/regions, former senior civil servants have been appointed to oversee their former departments.⁸⁰ Most notably, in Yangon, nonelected members outnumber hluttaw members in the regional government by five to four. While chief ministers may make appointments using whatever criteria they deem fit, and may choose to appoint better-qualified individuals, this may limit democratic decentralization and accountability.

Despite some progress, women are significantly underrepresented in the state/region cabinets. While there are now two women serving as Chief Ministers, and the number of cabinet ministers who are women has increased from four to nine, half of the state/region cabinets have no women, and the percentage of cabinet ministers who are women is less than 7 percent.

A further significant difference in the makeup of state/region cabinets between the USDP and NLD has been the reduction in the number of cabinet portfolios⁸¹ since 2016. Under the USDP, the cabinet make-up of each state and region was held to ten standard portfolios and a varying number of ethnic affairs ministers determined by the number of groups meeting the population criterion. This produced cabinets ranging from 10 members in Chin State, which has no ethnic affairs minister, to 22 in Shan State.⁸²

Under the NLD, the Union government merged a number of Union ministries,⁸³ which reduced the number of portfolios in the governments of most states and regions.⁸⁴ The portfolios are not consistent across the states/regions, and one notable feature is that many ministers have multiple portfolios for example, the minister for electricity in a number of states is also the minister for construction or transportation. As a consequence, the number of cabinet ministers is as few as seven in Chin State and eight in five other states/regions. Figure 3.3 provides two examples of ministerial positions in state/region governments. The cabinet structure of Bago is typical of many region governments. Cabinet positions such as planning and finance have been merged to mirror their Union counterparts, and ministers hold multiple portfolios for example, the minister of development affairs is also the minister of

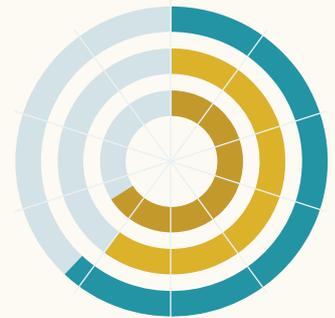
FIGURE 3.2 State and region cabinet minister composition



OF 138 TOTAL CABINET MEMBERS, PERCENTAGE THAT IS:

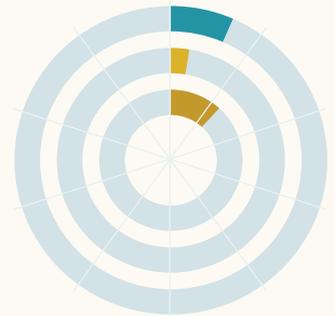
1. FROM THE NLD

- TOTAL - 62%
- STATES - 60%
- REGIONS - 66%



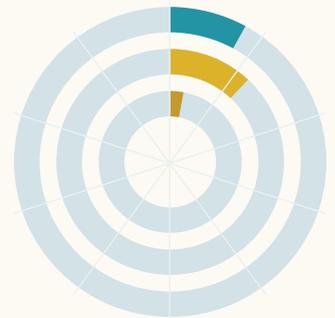
2. WOMEN

- TOTAL - 7%
- STATES - 3%
- REGIONS - 12%



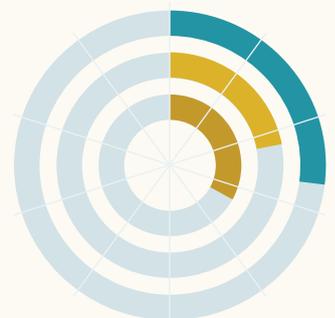
3. FROM ETHNIC OR REGIONAL PARTIES:

- TOTAL - 8%
- STATES - 12%
- REGIONS - 3%



4. UNELECTED:

- TOTAL - 27%
- STATES - 22%
- REGIONS - 33%



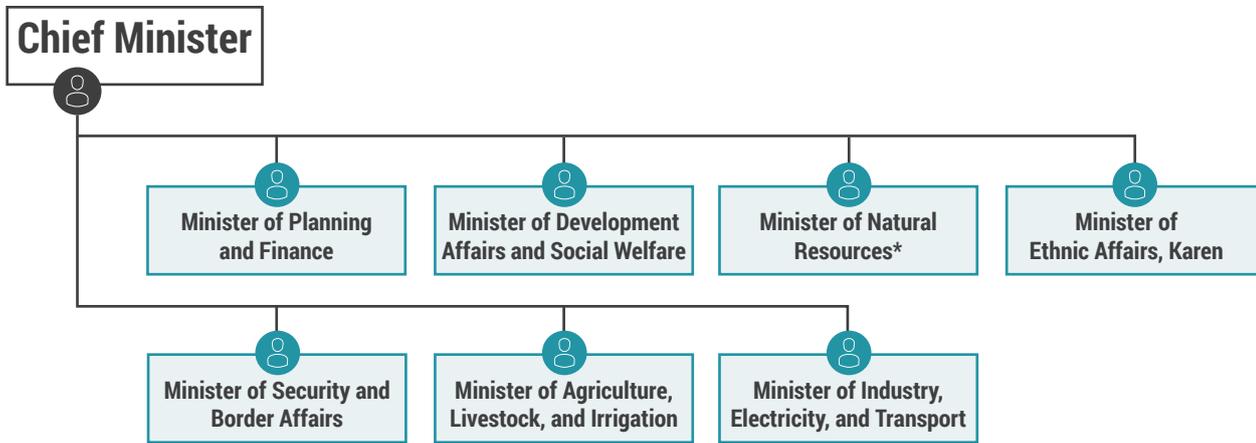
KEY

- | | | | |
|----------|-------------|--------------|---|
| Military | MNP | ZCD | No official party affiliation |
| NLD | LNDP (Lisu) | WDP | Chairperson of special administrative zone/division |
| USDP | Independent | LNDP (La Hu) | Ethnic affairs ministers |
| ANP | TNP | ANDP | Position vacant |
| | PNO | TNDP | |

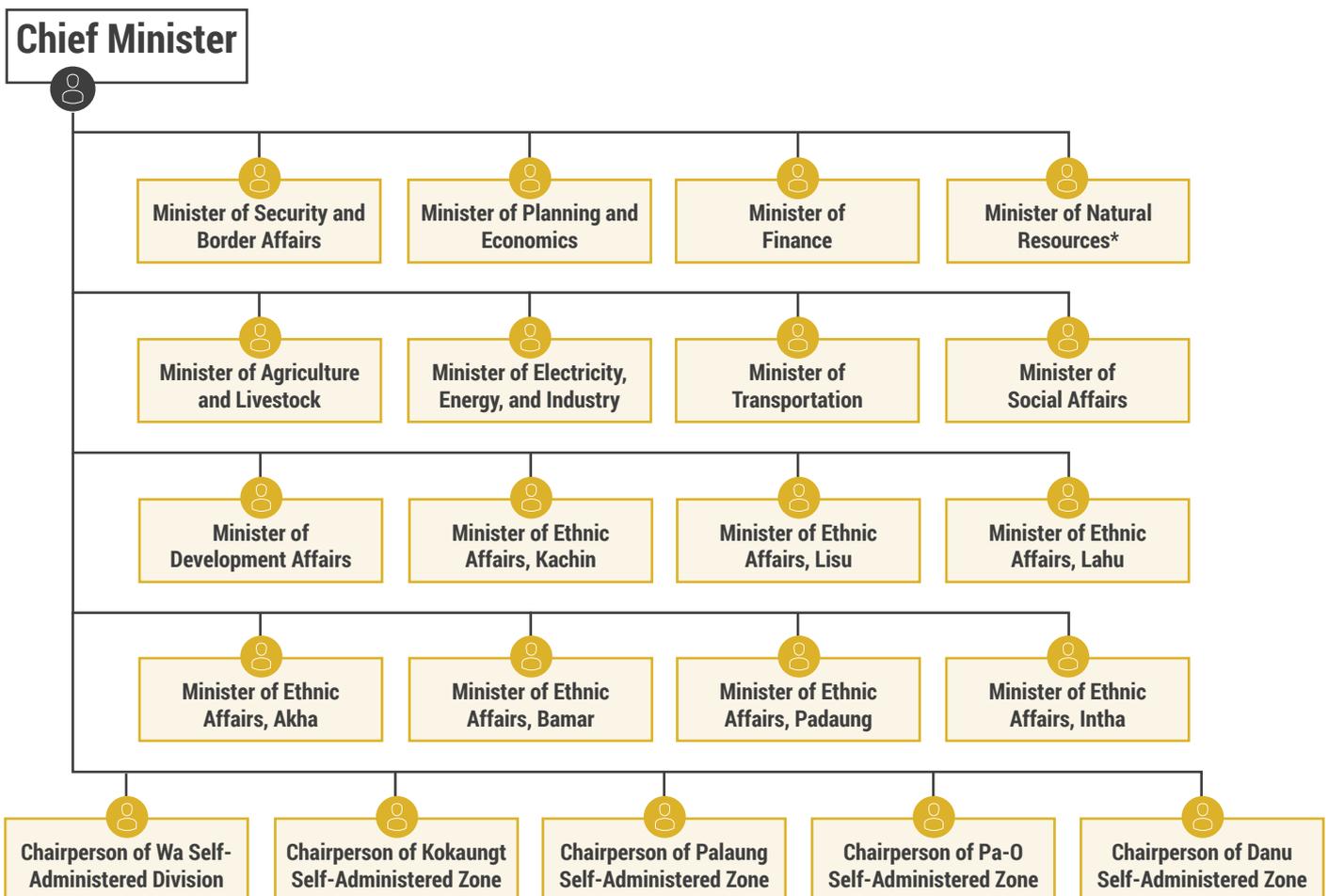
Data correct as of June 1, 2018

FIGURE 3.3 Example state/region government ministers

BAGO REGION GOVERNMENT



SHAN STATE GOVERNMENT



*The full title for Bago Region is: Minister of Natural Resources, Forestry, and Environmental Conservation
 The full title for Shan State is: Minister of Natural Resources and Environmental Conservation

social welfare. Shan State, however, has 21 ministerial positions, with seven ministers of ethnic affairs and five chairpersons of SAD/Zs.

ROLES AND RESPONSIBILITIES OF THE STATE/REGION GOVERNMENTS

The state/region governments hold executive authority over the areas defined in schedule 2, with the possibility of new responsibilities being added under Union law. Ministers are mandated to “manage, guide, supervise and inspect” departments covering areas for which they have responsibility.⁸⁵ Additionally, ministers may “supervise, inspect, cooperate and coordinate” the work of the civil service organizations in their state/region.⁸⁶ The exact nature of the relationship and accountability between ministers and departments is the subject of much of the following chapter. This section explores the areas in which state/region governments work and their priorities, giving consideration to how the different actors in the cabinets work with each other to achieve their goals.

From their creation, the roles of the state/region governments have been shaped significantly by the policies of the Union government. Under the USDP, President Office No.6, led by Union minister Hla Tun, was responsible for coordination between the Union government and the state/region governments. Hla Tun called on the state/region governments to work with local people to deliver regional development.⁸⁷ This focus on ensuring regional development was further defined by President Thein Sein, who identified the regional development tasks as including the electricity, health, education, communication, and transport sectors.⁸⁸

Under the NLD, the Union government has continued to shape the roles of state/region governments, as evidenced by Presidential Instruction 1/2018, which charges the state/region governments with carrying out work in accordance with Union government policy. State/region chief ministers and cabinet members frequently spoke of their priorities as having been defined by the Union government and the party’s aims and objectives, as laid out in the NLD’s election manifesto and its 12-point economic plan.⁸⁹ One regional agriculture minister, for example, reported that the state counsellor had personally set priorities for agriculture in each district of the region, with the minister focusing on achieving those goals.⁹⁰ The role of the Union government in shaping the work of the state/region governments is facilitated by frequent communication; the state counsellor reportedly speaks with each chief minister via video conference on a monthly basis.

Despite Union influence in shaping their roles, the importance of the states/regions in implementing policies, as well as the breadth of activities for which state/region governments are responsible, is increasing under the NLD. Under the USDP, it is not clear that the state/region governments, while important, held the central role in regional development. Rather, the USDP prioritized the involvement of local committees and administrators in township-level development, with Thein Sein emphasizing that the newly elected village administrators were the most important contributors to rural development, rule of law, education, health, and social-sector improvement.⁹¹

Under the NLD,⁹² state/region governments are continuing to prioritize regional development, with a strong focus on developing infrastructure in transport, electricity, water supply, and sanitation, and, to a lesser extent, agriculture and industry. In transportation, the primary focus is the development of rural roads, connecting villages without paved roads for the first time. In the electricity sector, the main state/region priority is village electrification, providing villages with electricity for the first time. Similarly, states/regions are prioritizing the provision of potable water to areas that currently do not have it.

NLD-led state/region governments are leading the implementation of policies aimed at regional development by identifying infrastructure priorities, for example. In Chin State, the focus is on converting existing roads so that they are traversable in all seasons.⁹³ The state/region role is supported, in part, by growing state/region budgets, explored in greater detail in chapter 5. State/region governments have also been more proactive in developing their own policies for regional development. The state government in Kayah has developed a proposal in collaboration with a private company to build a 1,280-megawatt powerplant and in Yangon, the region government has developed the Yangon Bus Service (YBS) and the Yangon Water Bus. These are notable policy interventions developed by state/region governments.

In addition to regional development, state/region governments are expanding their role in promoting the rule of law in their respective areas. Ministers speak of leading a clean and fair government free from corruption and cronyism. The exact mechanism by which this is being pursued differs among the state and regions. Some focus on improving village administration through transparency and accountability. Others focus on procurement. One common area of focus across the states and regions, including but not limited to areas affected by conflict, is land rights and resolving land disputes and land seizures.^{94,95}

FIGURE 3.4 State and region government priorities

PRIORITIES

REGIONAL DEVELOPMENT

Support regional development through investment in infrastructure:



Roads



Bridges



Public transportation



Water supply



Electricity



Agriculture



Industry



Environmental conservation

PROMOTING THE RULE OF LAW



Clean government



Fair local administration



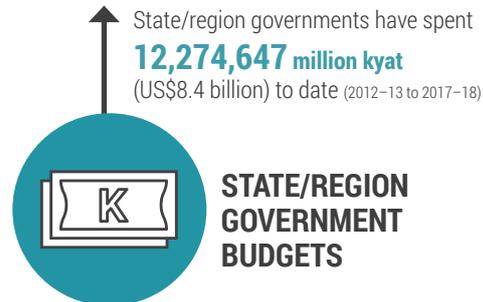
Promoting land rights



Open procurement



Budget transparency



New Union laws are clarifying and expanding the role of state/region governments. The passage of the Myanmar Mines Law in 2018, for example, created new responsibilities for state/region governments in the management of small- and medium-scale mines. Further laws are planned. The draft Myanmar Gemstone Law, for example, which is currently being debated in the Amyotha Hluttaw, would give licensing authority and associated revenues to the states/regions.

Finally, there are examples of state/region governments taking on roles in novel areas, depending on local circumstances. For example, the Kachin State government is now cooperating with Chinese authorities to arrest Chinese timber smugglers who are accused of stealing timber from Kachin.⁹⁶ In Yangon, the regional government has prioritized efforts to address the resettlement of an estimated 400,000 squatters in the city.⁹⁷

Key to understanding how state/region governments function is the critical role of chief ministers, who are

the dominant cabinet actors. The importance of chief ministers is guaranteed by their role in nominating cabinet ministers. Ministers are legally responsible to their chief minister⁹⁸ and must secure the agreement and approval of the chief minister for their work.⁹⁹ In respect to fiscal affairs, the chief minister is the sole state/region representative on the Union Finance Commission and National Planning Commission. The chief minister is also responsible for signing laws submitted by the state/region hluttaw and the self-administered areas' leading bodies.

Under the USDP, there was some variation in the working style of state/region governments and the roles taken by the chief minister and cabinet.¹⁰⁰ At one end of the spectrum, some chief ministers completely dominated the other parts of the government. One party representative noted that the chief minister controlled the government and the hluttaw representatives were weak in power and capacity, while a cabinet minister noted that the chief minister did not share information with him even regarding his own portfolio.¹⁰¹ In contrast,

in Chin State, the chief minister regularly convened cabinet meetings to discuss and approve significant decisions collectively.¹⁰² Some cabinets held meetings every two weeks or so, while one smaller cabinet had met only once in the previous six months.¹⁰³ In general, however, the chief minister took a leading role in determining policy across cabinet portfolios.

The dominance of the chief minister over the rest of the cabinet has continued under the NLD. Chief ministers play a key role in setting the direction of the state/region governments and dictating their ministers' priorities.¹⁰⁴ Many ministers spoke of regular cabinet meetings as a forum where they shared for comment many or all decisions they made. These meetings, while appearing collegial, serve as an opportunity for chief ministers to oversee the work of their ministers and to veto or make amendments as they see fit. Ministers are unlikely to make significant decisions without the express approval of their chief minister. State/region department heads spoke of receiving direct instructions from chief ministers that bypassed the state/region minister responsible for the department, and some said they saw themselves as accountable to both their minister and the chief minister.¹⁰⁵

The authority and power of ministers vary greatly among state/region governments. Their authority varies in relation to the departments they oversee and their respective mandates, with a broader role for ministers overseeing work under schedule 2. Their power also varies according to their personal relationships with their departments and their level of expertise. The relative power of their respective chief ministers and their departments' Union ministry also affects the power and influence of ministers. The nature of ministers' power and authority and their relationship with their departments is explored in greater detail in chapter 4.

Since their creation, the role of state/region ministers for ethnic affairs has been clarified, but there remains evidence of their marginalization within the cabinet. Under the USDP government, ministers for ethnic affairs were considered junior to other ministers in some states/regions, and in others, they were not considered cabinet ministers at all.¹⁰⁶ Since then, a case in the Constitutional Tribunal has made clear that the Ministers for Ethnic Affairs are "full" ministers. The creation by the NLD of the Department for Ethnic Language and Culture and the Department for Ethnic Rights Protection has given state/region ministers for ethnic affairs departments to oversee, bringing them in line with other state/region ministers. While some ethnic affairs ministers have reported feeling like full members of the cabinet, two ethnic affairs ministers reported that they are often not invited to, or permitted to fully participate in, cabinet meetings.¹⁰⁷



THE AUTHORITY AND POWER OF MINISTERS VARY GREATLY AMONG STATE/REGION GOVERNMENTS.



3.2 HOW DO THE STATE/REGION LEGISLATURES FUNCTION IN PRACTICE?

Myanmar's state/region legislative branch, consisting of a unicameral parliament, the hluttaw, is empowered to legislate in those areas specified in schedule 2 of the Constitution.¹⁰⁸ The state/region hluttaws also perform some important nonlegislative functions, notably oversight of the state/region executive and functions related to representing their constituents.

COMPOSITION OF THE STATE/REGION HLUTTAW

Two general elections have now been held for the state and region hluttaws under the 2008 Constitution. The election of the NLD government and the transition from USDP rule are historic and significant development.¹⁰⁹

Following the 2010 elections, the USDP was the dominant party in the 14 state/region hluttaws, where it was the largest party in 13 and held a majority in eight.¹¹⁰ In total, the USDP occupied 56 percent of all seats in the state/region hluttaws, with 19 percent held by 23 other parties, 21 of which were ethnically- or regionally-based, and four independent candidates, and the remaining 25 percent reserved for the military. The NUP was the second-largest political party, with a presence in 10 state/region hluttaws, largely as a consequence of the NLD's boycott. After the NUP, the next two largest parties were the Shan Nationalities Democratic Party (SNDP), which held 36 seats, including 31 in Shan State, and the Rakhine Nationalities Development Party (RNDP), with 19 seats, the largest party in the Rakhine State hluttaw.

The NLD became the leading party in the state/region hluttaws after the 2015 General Election. As Figure 3.6 shows, five years after the NLD's boycott of the 2010

FIGURE 3.5 Structure of state/region hluttaws

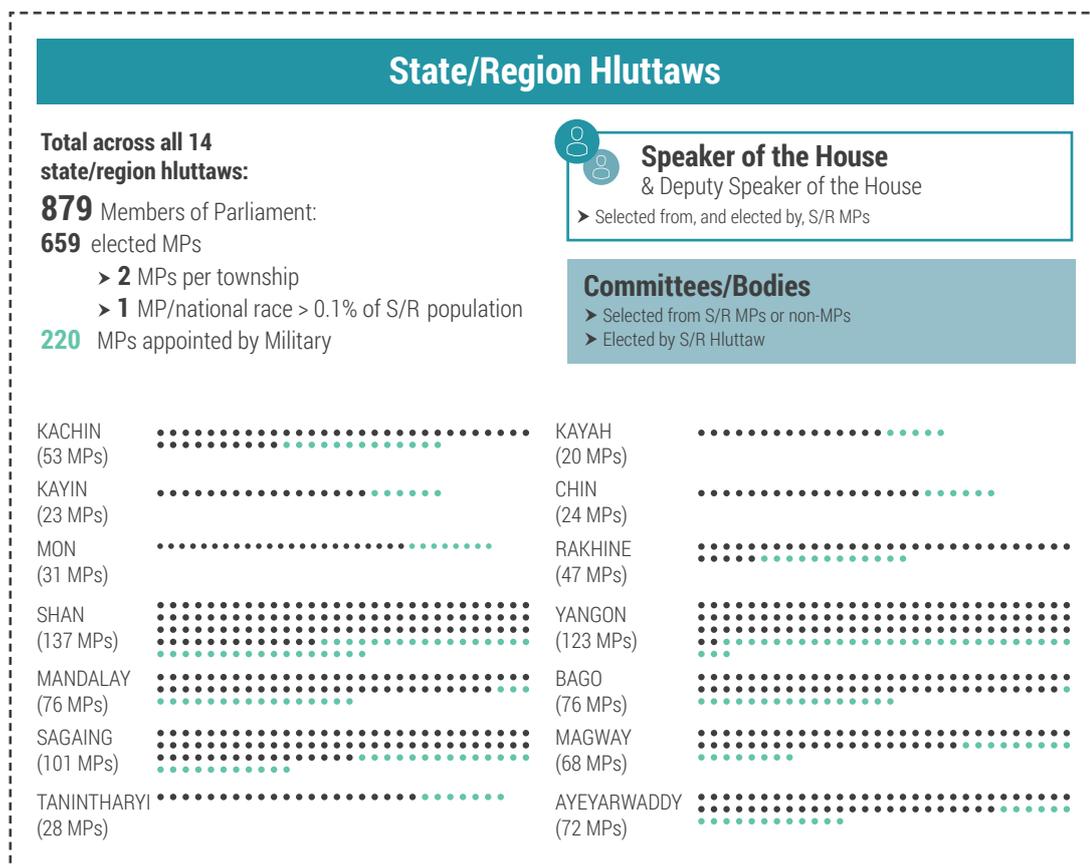
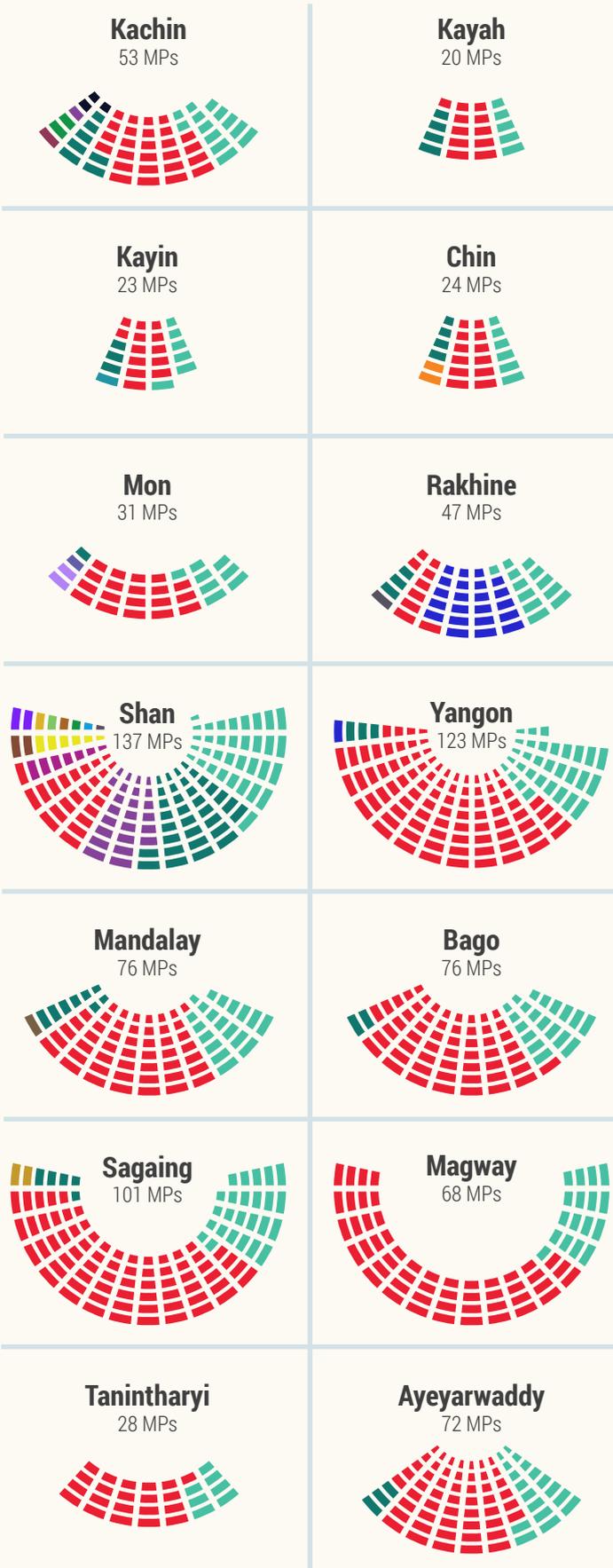


FIGURE 3.6 State and region hluttaws composition (following 2015 General Election)



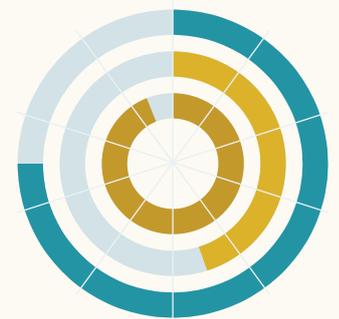
KEY

- Military
- AMDP
- NLD
- MNP
- USDP
- Independent
- ANP
- TNP
- SNDP
- PNO
- KSDP
- WDP
- SNLD
- KDUP
- LNDP (Lisu)
- WNUP
- UDPKS
- LNDP (La Hu)
- KPP
- ANDP
- ZCD
- DPM
- TNDP

OF ELECTED PARLIAMENTARIANS, PERCENTAGE THAT IS:

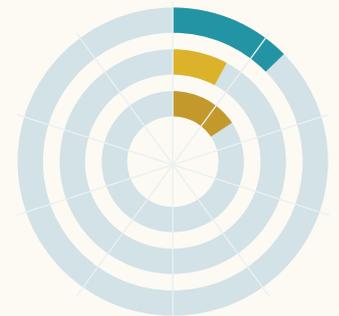
1. FROM THE NLD

- TOTAL - 75%
- STATES - 45%
- REGIONS - 94%



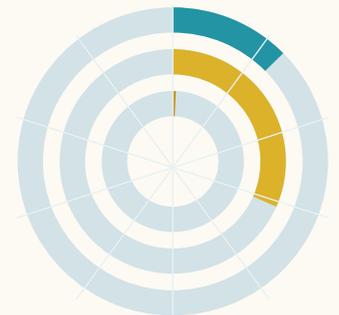
2. WOMEN

- TOTAL - 13%
- STATES - 8%
- REGIONS - 16%



3. FROM ETHNIC OR REGIONAL PARTIES:

- TOTAL - 13%
- STATES - 32%
- REGIONS - 1%



elections, the NLD had significant success in the state/region hluttaw elections, winning over three-quarters of all elected seats, becoming the largest party in 12 of the 14 states/regions, and achieving a majority in 11 hluttaws. In two regions, the NLD is the only political party with elected members. Twelve of the 14 state/region Speakers are from the NLD.¹¹¹ The NLD performed less well in the states, winning 45 percent of elected seats, than in the regions, where it won 94 percent.

Despite losing its overall majority in 2015,¹¹² the USDP continues to have a significant presence in the state/region hluttaws, with 12 percent of the available seats and representatives in 12 of the 14 hluttaws, and it is the largest party (though without a majority) in the Shan State hluttaw. The USDP performed better in the states than in the regions, winning 22 percent and 5 percent of available seats, respectively.

Regional and ethnic parties are stronger in the state hluttaws, where they hold 32 percent of elected seats, than in the regions, where they have less than 1 percent.¹¹³ While there are 14 regional or ethnic parties in the Union-level Pyithu and Amyotha Hluttaws, there are 19 in the state/region hluttaws. Most significantly, in Rakhine State, the Arakan National Party (ANP) won 66 percent of the elected seats, and in Shan State, 12 different political parties are represented in the hluttaw, and regional/ethnic parties hold 45 percent of elected seats.

One consequence of the NLD's electoral dominance, however, has been an overall reduction in regional or ethnic parties in the state/region hluttaws. During the previous term, such parties made up 18 percent of the elected representatives in the state/region hluttaws. This number fell to under 13 percent after the 2015 general election. Some blamed their disappointing performance on too many regional or ethnic parties running in townships, which split the vote.¹¹⁴ A number of such parties have expressed a desire to merge or to reach agreements with other parties to not field candidates against each other in advance of the 2020 elections, and there has been some progress in this regard, but there are significant ideological and personality conflicts between parties that may prevent any lasting agreements.¹¹⁵

The establishment of state hluttaws opens a potential avenue for the expression and representation of ethnic and regional aspirations and grievances, one of the most important theoretical benefits of decentralization for diverse and complex societies. The impact on politics and conflict dynamics is conditioned by two factors: the actual functions of state and region governments and the role of the hluttaw within them; and the development of political parties in the states and regions. It should also be emphasized that these ethnic political parties do not have a monopoly on political representation of

ethnic minorities; the NLD did win many votes in the states, and many of its representatives and ministers are ethnic minorities. Further, nonstate armed groups enjoy a degree of legitimacy in ethnic areas, while the "above-ground" parties are in some cases rivals and in other cases affiliated with them.

There has been significant progress in women's representation in the state/region hluttaws, although more advancement is needed. In the 2015 general election, 12.7 percent of elected seats were won by women, a sizeable increase from the 3.6 percent in the 2010 election. In Yangon, the proportion of women in elected seats is almost 20 percent. Despite this progress, this representation continues to fall short of a level where women can play an equal role in the hluttaws. Progress is most needed in the state hluttaws, where the proportion of elected women MPs is less than 8 percent, and there are three state hluttaws with no women at all.¹¹⁶ Women's representation is further hampered by the military, which has appointed just two women among the 220 military MPs in the state/region hluttaws.¹¹⁷ Importantly, there is also evidence of women MPs playing a leading role in some states/region hluttaws, acting as the chairpersons of important committees, raising questions and motions, and ensuring important issues such as the role of state/region hluttaws in the peace process are not overlooked.

State/region hluttaws advance democratic decentralization by providing for the local selection of candidates who will be accountable to their local constituents. In the NLD, candidate selection begins at the township level, with township executive committees normally selecting three candidates according to party criteria and recommending the one with the best potential. The criteria include education, reputation, history with the NLD, and social activity. The state/regional party headquarters then add comments and send the recommendations on to the Union-level party headquarters, which accept township recommendations around 70 percent of the time and on most other occasions choose another of the locally selected candidates. Only rarely were candidates said to be "parachuted" into townships by party headquarters.¹¹⁸

ROLES AND RESPONSIBILITIES OF THE STATE/REGION HLUTTAW

State/region hluttaw representatives view their role as three-fold: representing their constituents, overseeing the executive, and legislating. Each of these functions is explored in greater detail below. Figure 3.7 provides an overview of these three activities. While hluttaws share a common view of their functions, how they work in practice varies widely due to differing priorities, sizes, capacities, and relations with the cabinet, the

chief minister, and administrative departments. Those working within the state/region governments, including hluttaw representatives, government ministers, and officials of the bureaucracy, reported unanimously that the role and influence of the hluttaw and individual representatives had increased significantly under the NLD-led governments.

Assessing the functioning, activities, and effectiveness of the state/region hluttaws is complex, and should not be reduced to a set of simple indicators. However, one simple measure of increased activity since the 2015 elections is the number of days hluttaws have been in session. One previous study¹¹⁹ found that seven selected state/region hluttaws had met for an average of 89 days over the five-year period 2010–2015. Since the 2015 elections, a period less than half as long, state/region hluttaws have met for an average of 72 days.^{120,121} Should this trend continue, the 2015 hluttaws will meet for more sessions and for a greater number of days than their predecessors.

There has been wide variation since the 2015 elections in the number of days hluttaws have met, ranging from 32 days in Kayah State to 137 days in Yangon. There is no clear correlation between the size of the hluttaw and the number of days in session, but there is a noticeable difference in the number of days regional hluttaws have been in session, 89, and the number of days state hluttaws have been in session, 55. This may reflect the priority that representatives place on spending time in their townships, rather than being a fair measure of their activity. The discrepancy may also be explained by the relative difficulty states face in convening the hluttaw, with longer distances and more difficult journeys to reach state capitals.

One important consideration in the functioning of the state/region hluttaws is the constitutional provision that chief ministers must be, and cabinet ministers may be, a members of the hluttaw. Previous research has identified a general sense that, once appointed to the cabinet, ministers were somehow no longer “regular” hluttaw members.¹²² Hluttaw members who were not in the cabinet complained of limited participation by cabinet members in their routine deliberations.

In states/regions with smaller hluttaws, this may have a disproportionate effect, as the cabinet may include a large proportion of the members of the hluttaw. In Kayin, for example, there are only eleven hluttaw members once the cabinet and military representatives are excluded. Having a small number of members may reduce the effectiveness of the hluttaw as a representative body: previous research has found, for example, that the pattern of legislative activity corresponds very closely to the size of the hluttaw.¹²³ Evidence since 2016 gives a slightly different picture: the Kayin State Hluttaw has passed the most laws so

far, and there is no clear correlation between the size of hluttaws and the number of laws passed, the number of days the hluttaw is in session, or the number of motions made or questions asked. Further research is needed to better understand the impact on townships and their constituents when their representatives join the cabinet.

Whatever the effect of representatives becoming ministers, hluttaw representatives without exception have referred to the government and its ministers as being separate from the hluttaw. Rather than see this as hampering the effectiveness of the hluttaw, MPs have articulated a need for a clear separation between the branches to permit effective oversight.¹²⁴ In this way, state/region hluttaws are similar to parliamentary systems around the world, with a need to balance a minister’s role in parliament with the legislature’s function of holding the government to account.

LEGISLATING

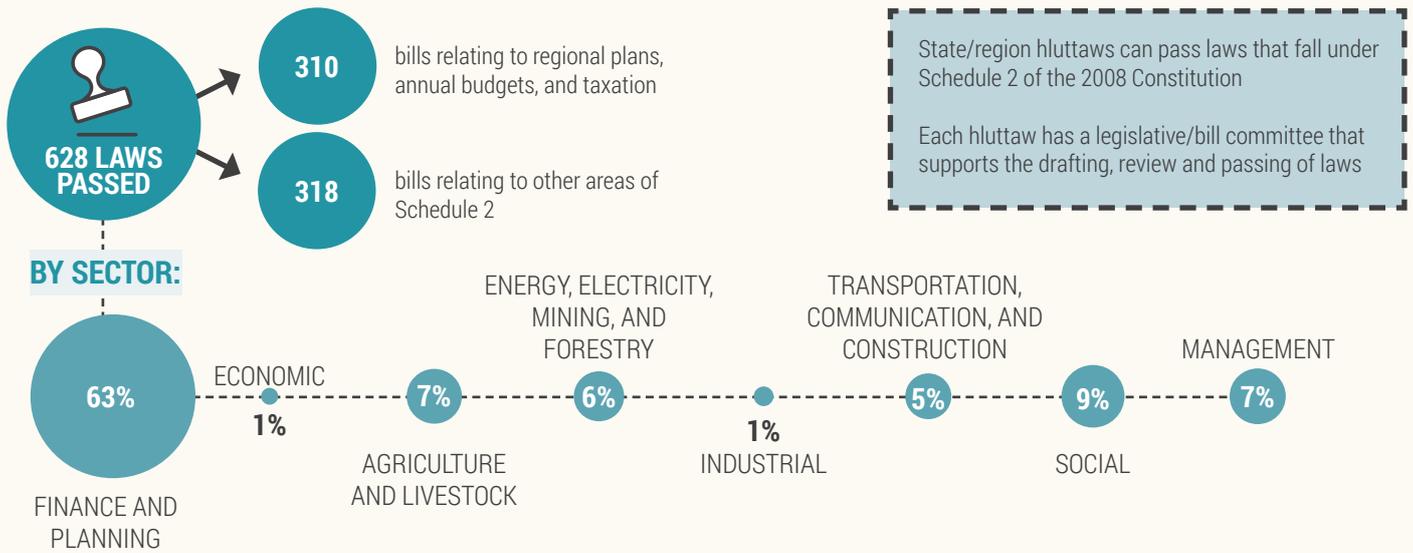
Since their creation in 2010, all state/region hluttaws have passed legislation, but the nature and quantity of legislative activity have varied significantly. In analyzing state/region legislative activity, an important distinction can be made between routine and nonroutine laws. According to the Constitution, certain laws prepared and submitted to state/region hluttaws by the executive branch are considered routine, including the Annual Budget Law, the Supplementary Budget Allocation Law, the Local Development Plan Law, and the Tax Law.¹²⁵ Nonroutine laws, which can be passed in areas covered by schedule 2, are a key way in which state/region hluttaws and governments can address local policy needs. Figure 3.7 provides an overview of the total number of laws passed to date by state/region hluttaws, with a breakdown by sector.

During the USDP government, the number of nonroutine laws and their subject matter varied among the states and regions.¹²⁶ State/region hluttaws passed an average of 18 nonroutine laws. The Sagaing, Mandalay, and Kachin State Hluttaws passed the most nonroutine laws—30, 29, and 27, respectively. Kayah, Kayin, and Yangon passed the fewest—nine, 10, and 10, respectively.¹²⁷ All states/regions passed laws in the agriculture and livestock, energy, electricity, mining and forestry, transportation, communication and construction, social, and management sectors. No laws were passed in the economic sector, and only two laws were passed in the industrial sector. Typical legislation included development affairs laws, tax laws, and fishery laws.

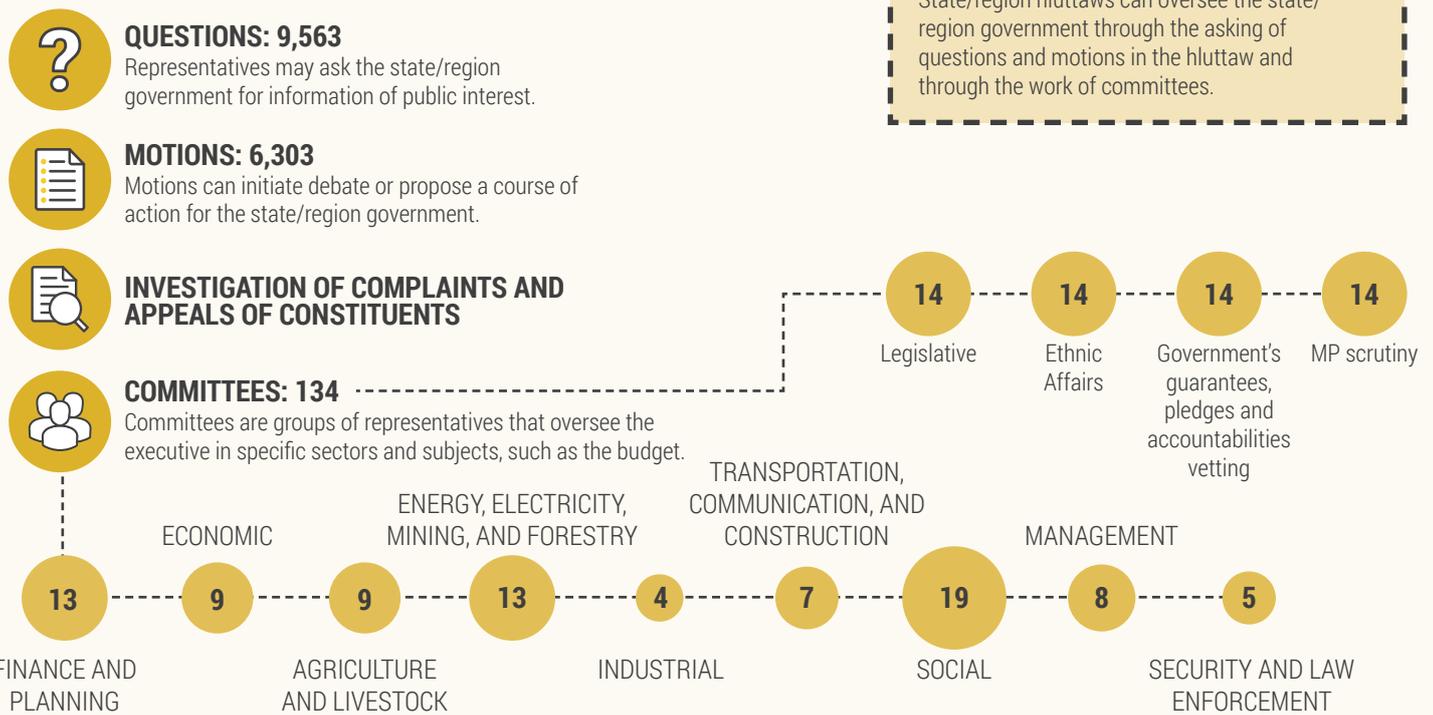
So far,¹²⁸ there have been 66 nonroutine laws under the NLD-led governments. The majority of legislation has been routine. One-third of the nonroutine laws have been amendments to laws passed in 2010–2015. Mandalay

FIGURE 3.7 Functions of the state and region hluttaws and their representatives

LEGISLATING*



OVERSIGHT OF THE EXECUTIVE*



REPRESENTING THEIR CONSTITUENTS



*Data on laws passed, questions, and motions is from the creation of state/region hluttaws until April 24, 2018

has passed the fewest nonroutine laws, two, both of which are amendments to laws passed under the USDP. Kayin and Kachin have passed the most laws—nine and eight, respectively.

Laws passed by state/region hluttaws since 2016 have covered a wide variety of subjects (for a full list see annex E), including all sectors covered under schedule 2. They have typically addressed taxes, including land, drug, and alcohol taxes (nine laws across seven states/regions), fresh-water fisheries (six states/regions), and municipal laws (seven state/regions, with other hluttaws currently reviewing legislation in this area—see box J for a case study of the 2018 Yangon City Development Law).

In addition to these typical areas, state/region hluttaws have enacted laws in a number of novel areas: in Mon, the Medium and Small Scale Electric Power Generation and Electricity Distribution Law; in Magway, an amendment law on private motor businesses; and in Shan, a Salt and Salt Products Law and a Gemstones and Jewelry-Cutting Law. In Kachin, an Aged People's Law was passed in 2017 that outlines the health- and welfare rights of elderly people in the state, building on the Union-level Aging Law of December 2016. Despite the passage of the law in Kachin, there reportedly has been little progress in implementation, as the state government requires the Union-level Ministry of Social Affairs to allocate funds.¹²⁹ The law reveals an apparent incongruity between political decentralization, which has allowed the hluttaw to pass a law on the subject, and fiscal and administrative decentralization, which has prevented the state/region government from implementing without Union support.

There is also evidence of legislation being passed in response to issues identified by civil society. In both Ayeryarwady and Bago, fresh water fishery laws were amended following recommendations from local fishery CSOs.¹³⁰

State/region hluttaw legislative committees are central to the legislative process. In each hluttaw, legislative committees are responsible for reviewing and preparing bills, with very limited scope for representatives to pursue legislation outside of these committees. Under the NLD, these committees are largely focused on scrutinizing legislation proposed by the executive branch, and in some states/regions, the priority of the committees has been to review legislation passed during the previous hluttaw, to identify areas needing amendment, and to develop by-laws where they have not yet been passed. For example, in Magway, the state/region hluttaw has passed two nonroutine laws, two amendment laws, and five sets of by-laws since 2016.

Some state/region representatives said they were disappointed that their hluttaws had not passed enough

laws.^{131,132} One MP stated that other representatives were overly focused on solving their constituents' daily problems instead of passing legislation for the whole population.¹³³ This may be more valid in some sectors, such as industry or the economy, where few laws have been passed.

Legislative outputs are not necessarily evidence of hluttaw activity, however. First, a number of representatives contacted for this research said legislation was not their priority, and some legislative committees have concentrated on reviewing legislation from the previous hluttaw. Second, hluttaws should not be viewed as solely responsible for passing legislation. According to the "90 percent rule,"¹³⁴ an academic theory, which posits that the executive branch of government controls at least 90 percent of the legislative agenda, the paucity of legislation should be partly understood as a consequence of inactivity by the executive branch. Finally, previous research¹³⁵ has suggested that the lack of clarity about the jurisdiction of schedule 2 has discouraged representatives from legislating in sectors such as the economy.

OVERSEEING THE WORK OF THE EXECUTIVE

State/region hluttaws have a number of ways to hold the executive to account. The primary oversight structures are the committees, which use a number of mechanisms, including the submission of motions or questions, to which members of the government and departmental officials must respond, and the investigation of complaints and appeals submitted by the public. Figure 3.7 provides summary of oversight, including a breakdown of all committees in state/region hluttaws.

Since the creation of the state/region hluttaws, several thousand questions, motions, and complaints have been raised.¹³⁶ This has continued under the NLD, with over 9,000 questions raised in parliament since 2016, and 387 motions passed.¹³⁷ There are significant variations among the states and regions, with as many as 1,397 questions asked in Bago and as few as 163 in Chin. Likewise, the number of motions passed is as few as four in Kayin and as many as 80 in Kachin.

The content of questions and motions also varies. In Mandalay, the majority of questions one year related to water in water-scarce areas, educational issues such as school construction, and the development of roads and bridges.¹³⁸ In Bago, analysis of all questions since 2016 shows that around a third were directed to the region's agriculture and livestock minister and the departments he oversees, another third were directed to the minister for municipal and social affairs, and 17 percent were directed to the minister for industry and electricity. In

BOX J

2018 Yangon City Development Law

The Yangon City Development Committee (YCDC) is responsible for municipal services in 33 of Yangon Region's 45 townships. In June 2018, following an 18-month process, the Yangon Region parliament passed a new Yangon City Development Law, altering the structure and roles of the YCDC. The law provides a useful case study in the state/region legislative process, as well as a notable example of state/region hluttaws defining the role of the state and pursuing governance systems that are more democratic and accountable.

In late 2016, State Counsellor Aung San Suu Kyi requested that the 2013 Yangon City Development Law be revised. The law was drafted by the YCDC in a process led by Hlaing Maw Oo, secretary of the YCDC, and with the help of 31 government-appointed experts and nine members of parliament. A second draft of the law was submitted to the Yangon Region Hluttaw in February 2018, with representatives from different committees holding consultations and discussions on the law. The Yangon Region Hluttaw made significant changes to the draft law (see below) before it was finally passed in late June.

The law is intended to replace the 1922 City of Rangoon Municipal Act and supplement the 2013 YCDC law, with a specific focus on amending the governance structures within YCDC. The law made the following changes:

- It requires YCDC to hold an election within 90 days of every government taking office (this was not included in the 2013 YCDC law, with the consequence that no elections took place in 2014).
- It abolishes district-level committees, leaving only the YCDC and township-level development committees.
- It increases the membership of YCDC from nine to 11 members, with four appointed by the government, six elected members, and the mayor, who is a member of the Yangon Region government. For the first time, the majority of committee members will be elected.
- It establishes the new position of deputy mayor, to be elected by members of the YCDC from among themselves.
- It sets the membership of township development committees at five, including three elected members, the deputy township general administrator, from GAD, and the township development administrator, appointed by YCDC.
- It establishes popular elections of YCDC and township committees, with universal suffrage for ages 18 and above, replacing elections in which only household-leaders were eligible to vote.
- It liberalizes the qualifications for candidates for election, reducing the minimum age to 25 and relaxing residency criteria.
- It places YCDC's 20 departments under a new structure of seven working groups and three departments.

Notably, the Yangon Region Hluttaw revised the draft legislation to create the position of deputy mayor and to completely remove a contentious section that provided for YCDC-led enterprises for construction, the service industry, recreation, and other businesses. The removal of this section means YCDC will no longer have the right to run businesses. Currently, YCDC leases markets, car parks, and land and runs banks. The Yangon Region government will need to await clarification of the law's bylaws to decide how existing businesses will henceforth be run.

contrast, the minister of planning and finance received less than 3 percent of questions. When the government responds to questions, it may pledge to perform a certain action. In Bago, nearly three-quarters of all questions resulted in a pledge. Representatives' views differ on how effectively the state/region governments fulfill their pledges,¹³⁹ suggesting the need for further research.

The number of committees in state/region hluttaws has grown steadily. From 2010 to 2015, hluttaws

had a minimum of three committees: the Legislation Committee, the Representative Vetting Committee, and the Ethnic Affairs Committee. As the parliamentary term progressed, all but three hluttaws formed several more committees.¹⁴⁰ Ayeyarwaddy had the most, with 13.

Since 2016, the number of committees has further increased. The average number of committees is now 10, and greatest, in Mandalay, is 14. (Annex F includes a full list of committees in all state/region hluttaws.) Most notably, in addition to the three committees identified

above, all state/region hluttaws now have committees that are some variation of a planning, budgeting, and finance committee and a government guarantees, pledges, and accountability committee. Additionally, the majority of state/region hluttaws have committees with remits that cover natural resources and environmental conservation; agriculture, livestock, and irrigation; and economic development.

In addition to the increased number of committees, there is evidence of increased committee activity. A previous study of state/region hluttaws found that the oversight function of committees was weak, with committees in only three hluttaws active and functioning.¹⁴¹ Interviewed representatives lamented that they had few avenues to respond to questions and complaints. In complaints about land disputes, for example, they said they could suggest that people take their claims to the General Administration Department, or they could refer the issue to some other higher authority.

Since 2016, the Mon State Hluttaw and its Complaints, Pledges, and Appeals Committee have been working to rectify this.¹⁴² The committee has received 1,423 complaints since the beginning of parliament, most pertaining to land disputes or to ward and village-tract administrators. The committee visits sites and investigates, speaks to stakeholders, gathers evidence, and creates a report, which is then submitted to the speaker and sent on to the relevant state/region office. The committee follows up until a resolution, achieving a satisfactory outcome in more than 50 percent of land cases and 70 percent of ward and village-tract administrator complaints. Where there is no satisfactory outcome, the committee appeals to the state chief justice or to the relevant Union-level body. In one case, the committee gathered evidence relating to a corrupt village-tract administrator, which they passed on to the Union Corruption Commission. The administrator is now serving a lengthy jail sentence.

There is also evidence of parliamentary committees taking on more unusual roles. In Mon State, a women's and children's rights committee was established with women MPs taking leading roles, which is investigating complaints relating to domestic abuse and violence and child sexual exploitation. In the six months since its creation, the committee has handled over a dozen complaints. It helps victims navigate the justice system, works with police and the courts, and provides victims with counselling and accommodations. The work of the committee is an interesting precedent in a parliamentary body, effectively providing a public service to those in need where services are not already provided by the state.

There is also evidence that the hluttaws are exercising greater oversight of state/region governments. This

has become particularly apparent in the annual budget process, especially in Yangon, where MPs have been quick to express displeasure with the government's proposed budgets.^{143,144} More vigorous challenges to the annual budget have occurred in many other states, including Ayeyarwady¹⁴⁵ and Kayah.¹⁴⁶

Beyond the annual budget process, oversight by state/region committees has extended to monitoring the implementation of projects, including in Mandalay.¹⁴⁷ In Yangon, the Finance, Planning, and Economic Committee frequently scrutinizes projects of the Yangon Region government, including YCDC projects.¹⁴⁸ Committee members have complained, however, that their oversight has been hampered by lack of transparency from the government. This has also occurred in other regions. Parliamentarians in Tanintharyi, for example, have criticized the lack of transparency surrounding a government-proposed fish market.¹⁴⁹

In addition to Yangon, MPs in Shan and Rakhine, where the NLD does not have a majority, have increasingly challenged the government's performance. In Rakhine State, representatives have been very vocal about the budget and what they perceive to be unnecessary projects and spending.¹⁵⁰ The Rakhine State Hluttaw was even able to remove the municipal affairs minister through impeachment. Thirty-five of the 45 members voted for impeachment, arguing that the minister had neglected his duties, particularly in implementing work without the approval of parliament and not consulting enough with parliament on state budget matters.¹⁵¹ In NLD-majority hluttaws, support for the government is not guaranteed. In a notable example from 2018, the Magway chief minister withdrew the proposal of two ministers when 17 NLD representatives voiced their objections.¹⁵²

Despite this increasing oversight of the executive, some representatives express frustration with their inability to hold the state/region governments to account, particularly in hluttaws with an NLD majority.¹⁵³ MPs have said that, while they can perform oversight of the departments in their states/regions, they are less able to hold the government to account. Some representatives have said that they cannot easily review or challenge the government's policies.¹⁵⁴

In some instances, hluttaw representatives complain that their speakers have limited their oversight of the government.¹⁵⁵ Speakers have wide-ranging influence. They can decide whether committees are created, influence or veto committee findings and reports, moderate or decide questions and motions in parliament, and choose which legislation will be entertained by the hluttaws. As one state/region MP reported, "the speaker is the king of the hluttaw; if they don't permit us, we can't do anything."¹⁵⁶ In interviews,

representatives gave examples of speakers refusing to table questions or motions or amending them to remove sensitive content. The speaker of the Mandalay Hluttaw, for example, has stated publicly that “the hluttaw and the government have just started. So, we, the parliament, will try not to put our government in a difficult situation.”¹⁵⁷ It is not unusual or necessarily irrational for a ruling parliamentary majority to attempt to instill discipline and cohesion in its members,¹⁵⁸ but this may interfere with the hluttaw’s performance of its duties.

REPRESENTING THEIR CONSTITUENTS

Many MPs view as their primary role and spend the majority of their time working within their constituency to help residents.¹⁵⁹ Hluttaw members view themselves as more closely connected to the population than other officials.¹⁶⁰ This continues under the NLD, and many MPs receive a steady stream of complaints and requests for help from their constituents, often during visits to their constituency office or through phone calls or Facebook messages. One MP interviewed stated that there wasn’t a single individual in her constituency who didn’t have her phone number and know that she was available for them day or night.¹⁶¹ Civil society organizations (CSOs) interviewed for this research said MPs were available to meet with them and empathetic, but some were unsure of the representatives’ ability to effect change.¹⁶²

While MPs played some role in representing their constituents during the USDP government,¹⁶³ under the NLD, MPs have been representing their constituents in ever more various ways, some informal and some formal, differing from hluttaw to hluttaw and from MP to MP. There is a range of informal mechanisms to help constituents. Some MPs spend much of their effort mediating between constituents and their ward or village-tract administrator or township administrator. Most of one Yangon MP’s time was spent liaising with the YCDC to resolve municipal issues like garbage collection. For many MPs, issues can be resolved by communicating directly with the relevant department officials, without the need to go through the state/region government or the relevant Union ministry. Equally, MPs can communicate directly with state/region ministers, without going through formal hluttaw procedures.

Since 2016, MPs have increasingly been involved in township committees that offer more formal mechanisms for representing constituents. The Township Planning Formulation and Implementation Committees (TPFIC) are part of the “bottom-up” planning process (explored in greater detail in chapter 5), and the Lands Rights Committees are responsible for resolving land disputes (see below). MPs can also use

the mechanisms of their hluttaw by asking a question or submitting a motion or complaint to call attention to their constituents’ needs. MPs also play an important role in determining where Constituency Development Fund monies are spent in their respective townships (see chapter 5).

MPs offered a variety of explanations why they give priority to constituent affairs. Some MPs felt they had little choice: constituents come to them for help, and they feel they can’t refuse, particularly when the constituent has no other options. Some MPs, who perhaps were not members of the legislative committee or were frustrated in their executive oversight role, felt this was where they could make the most difference.

Notwithstanding the positive work of many MPs representing their constituents, it is an open question whether this is where representatives “ought” to be spending most of their time. One MP said constituent services were jeopardizing the hluttaw’s ability to pass much-needed legislation and support the wider reforms of the transition. Ultimately, this is a question for individual representatives, hluttaws, and state/region governments to resolve.

3.3. HOW DO PARTICIPATION AND ACCOUNTABILITY FUNCTION AT THE LOCAL LEVEL?

The 2008 Constitution does not include governments below the state/region level, which means that existing arrangements for local administration and governance remained in place by default, with district and township departments part of Union ministry structures. Despite the absence of a third tier of government, there are structures and opportunities for limited local participation and accountability, which both the USDP and the NLD governments have made efforts to support and expand.

Under the USDP, President Thein Sein's efforts to increase local participation and accountability centered on the Ward or Village Tract Administration Law (2012, and amended twice in 2016), the creation of committees with public participation, and the establishment of a number of local development funds intended to be more responsive and accountable to local needs.

As detailed in chapter 2, the Ward or Village Tract Administration Law included provisions for the indirect election of ward and village-tract administrators (W/VTAs) where previously they had been directly appointed by the GAD township administrator. Despite two subsequent laws, in 2016, amending the W/VTA election process, the right to vote is still restricted to one representative per household, limiting democratic accountability and indirectly discriminating against women and youth, as men are typically the heads of households and thus often designated as the household representative.

The W/VTA remains a critical actor in subnational governance: numerous studies have shown them to be the main official people seek out to resolve issues and disputes and make decisions.^{164,165,166,167} Although the law also assigns some development functions to W/VTAs, most people still think of them in their "traditional" role—maintaining law and order and performing administrative duties—and few are aware of their role in local development.¹⁶⁸ Research in 2015 found that fewer than one-third of people have noticed a difference in the way W/VTAs respond to their requests or how they communicate with the public.¹⁶⁹ As of September 2017, only 101 of the 16,829 W/VTAs were women.¹⁷⁰

President Thein Sein expanded the role of local committees, with a number of complementary committees emerging at the district, township, ward, and village-tract levels. The promotion of committees featuring local participation was central to the USDP government's people-centered development efforts, a

way to "balance the authority of GAD administrators with participation by the community."¹⁷¹ The government created a number of key committees with public participation,¹⁷² including Development Support Committees (DSCs) and Township Development Affairs Committees (TDACs).

DSCs, created at the township (TDSC) and ward/village-tract levels, were created to serve as a forum for various local interest groups to support the township administration on development issues.¹⁷³ DSCs comprised representatives from different sectors, trade groups, and civil society. DSC members were expected to ascertain the needs and priorities of the community and support line departments, in an advisory position, in incorporating those needs into their planning.¹⁷⁴ The process for selecting DSC representatives varied from township to township, but, on the whole, should not be considered free and fair elections. There was no official mechanism for DSCs to regularly consult with local people.¹⁷⁵ In many townships, however, DSCs played an integral part in the allocation and monitoring of local development funds. Following the 2015 elections, one of the first actions of the NLD government was to abolish the DSCs via presidential decree.^{176,177}

The remit of the TDAC is to support the activities of the Development Affairs Organizations. The TDAC is unique, as its role is enshrined in state/region law rather than executive decree, and it has decision-making powers rather than being purely advisory. The purpose of the TDAC is twofold: to reflect public priorities, and to ensure successful project implementation. In collaboration with DAO offices, TDACs set priorities for annual planning and budgeting of township DAO funds. The committees comprise four public members: a chair, a people's representative elected by people living in the municipality, other people's representatives (often from the business community or someone with engineering or municipal experience), and three civil servants, including the executive officer of the DAO and the GAD deputy administrator.

In this way, TDACs can be viewed as a nascent form of elected municipal council. Although precise figures for the country are unknown, few members are women.¹⁷⁸ The influence of the TDACs appears to vary significantly from township to township, with some having little influence over the activities of the DAO. Previous research covering elections to the TDACs,¹⁷⁹ and subsequent research covering the 2018 elections,¹⁸⁰ has shown broad variations in the selection or election processes for committee members. In many areas, W/

VTA nominates potential TDAC public representatives, who select the final TDAC representatives from among themselves. As with the DSCs, the process in some places seems far from free and fair elections. Also like the DSCs, TDACs have no formal mechanism for interaction with local people,¹⁸¹ and thus the effectiveness of the committees in encouraging public participation varies.

The establishment of development funds like the Poverty Reduction Fund, the Constituency Development Fund, and the Rural Development Fund under the USDP government created additional opportunities for local participation in identifying and responding to local needs. However, under the USDP, public participation was limited to indirect involvement through the people's representatives in the DSCs and TDAC,¹⁸² and so they were subject to the same weakness as the committees, with their accountability to local people compromised by opaque and confusing electoral processes. Only very few citizens were aware of the committees, and direct

participation in ward/village-tract meetings was fairly low, with less than half of local people participating.¹⁸³

Since the 2015 elections, while the W/VTA law has been amended and the DSCs disbanded, there have not been systematic efforts to reform the structures of local governance to increase local participation and accountability. Instead, the NLD government and its township MPs are increasingly involved in the work of local committees. The logic behind this is that township MPs are representatives of the people and accountable to them through the ballot box, and thus they represent the most effective means of ensuring public participation in local governance. This is best exemplified by the involvement of township MPs in the planning process, through the Township Plan Formulation and Implementation Committees, which are explored in greater detail in chapter 5. Likewise, MPs have reported spending a significant proportion of their time holding the W/VTA to account for their work.¹⁸⁴

3.4 WHAT ARE THE EMERGING TRENDS IN POLITICAL DECENTRALIZATION?

Assessing political decentralization in Myanmar requires an analysis of: local political structures, including the roles and functions of the different actors; the nature of political party and electoral systems, and; local participation and accountability. In considering these different elements, a number of trends have emerged during the interpretation and implementation of the 2008 Constitution: In considering these different elements, it is possible to identify a number of trends that have emerged during the interpretation and implementation of the 2008 Constitution:

(1) **The Union government plays an important role in shaping the state/region governments.** Ministerial appointments have largely replicated the dominance of the central governing parties, reinforcing the accountability of the state/region governments to the Union. The appointment of NLD chief ministers has created particular pressures in Shan and Rakhine, where the NLD is not the largest party in parliament. State/region ministers remain responsible to the Union government for their work, both legally and as a Union policy. There has been a clear tendency in both transition governments for

the Union government to define the policies and priorities of the state/region governments.

- (2) **State/region governments are taking on more responsibility.** As the 2008 Constitution becomes more securely entrenched in the nation's politics, state/region governments are more vigorously executing their responsibilities and taking on a broad range of new ones. They have consistently focused on regional development, with an emphasis on infrastructure; increasingly, they are assuming a leading role in defining this work. Beyond regional development, state/region governments under the NLD are now prioritizing the rule of law, most noticeably in their work to resolve land-rights issues. A number of state/region governments are also identifying new and novel areas of work that respond to local needs.
- (3) **State/region huttaws are an important and diverse political space.** Within the state/region huttaws, the 2015 election and the peaceful transition from USDP- to NLD-dominated huttaws were significant developments in the institutionalization of a new electoral and political-party space. The state

hluttaws in particular have emerged as a place for significant representation and participation of different political parties, with 21 different parties represented, and close to one third of elected seats won by regional or ethnic parties. While further progress is needed, the tripling in the proportion of women representatives in the state/region hluttaws is also a positive development.

- (4) The role and influence of state/region hluttaws is increasing.** Hluttaws are increasingly assertive in their oversight of the state/region governments, particularly in some state and regions, such as Yangon and Rakhine, and in relation to some issues, such as the annual budget. However, this increased assertiveness should be weighed against the frustration voiced by some MPs that party political sensitivities are limiting the ability of the hluttaws to hold to account members of the executive branch from the same party.
- (5) State/region hluttaw representatives are most active in representing their constituents.** Representatives are spending an increasing amount of time working with other government actors, such as the GAD and planning departments at the local level, to ensure that the needs and concerns of their constituents are heard and addressed. Hluttaws have been less active in developing and passing legislation. Nevertheless, there are examples of legislation that could have important implications for local people.
- (6) Union and state/region governments have prioritized efforts to make local governance more participatory and responsive to local needs.** Below the state/region governments, local governance was not reformed by the 2008 Constitution, leaving existing arrangements for local administration and governance in place by default, limiting public participation and democratic accountability. However, the township and ward/village-tract levels have assumed growing importance under both transition governments, with efforts to ensure that government is more participatory and responsive to the local electorate. Under the USDP, efforts focused on increasing the role of committees, fostering public participation, and reforming the W/VTA. Under the NLD, greater participation and accountability are being pursued through the increased involvement of state/region hluttaw representatives at the local level.

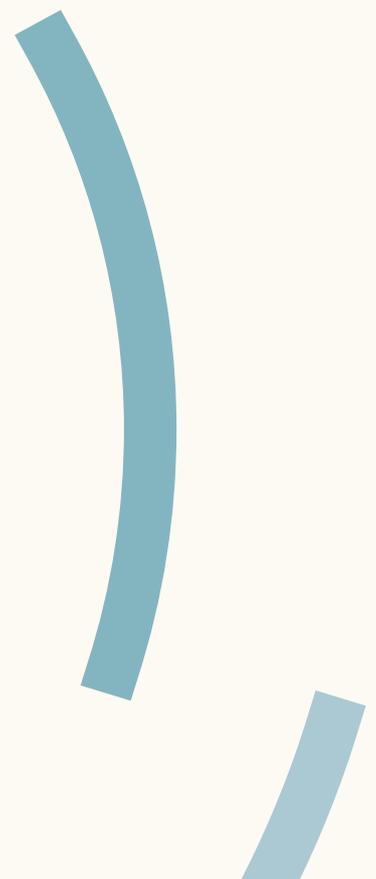
CHAPTER 4

THE ADMINISTRATIVE DIMENSION

Administrative decentralization relates to the structure of executive authority and occurs when responsibilities and functions are assigned to lower-level bodies. This process can occur through deconcentration (in which lower-level units of central ministries take on additional responsibilities) or through devolution (where local governments are given assigned functions, usually in several sectors).

Administrative decentralization includes consideration of how local public services are administered, including the flexibility, autonomy, and regulatory powers local actors have in service delivery, and to whom administrators are accountable. Human-resources administration and procurement are two important dimensions.

The Constitution assigns administrative responsibility for the activities listed in schedule 2 to the states/regions, while allowing for the future assignment of additional administrative powers by the Union. In this chapter, the nature of accountability between the state/region governments and subnational departments is considered, with a typology defined and developed. Following this, administration below the states/regions is considered, including the roles and responsibilities of different departments as well as committees.



4.1 HOW DO STATE/REGION GOVERNMENTS CONDUCT THEIR ADMINISTRATION?

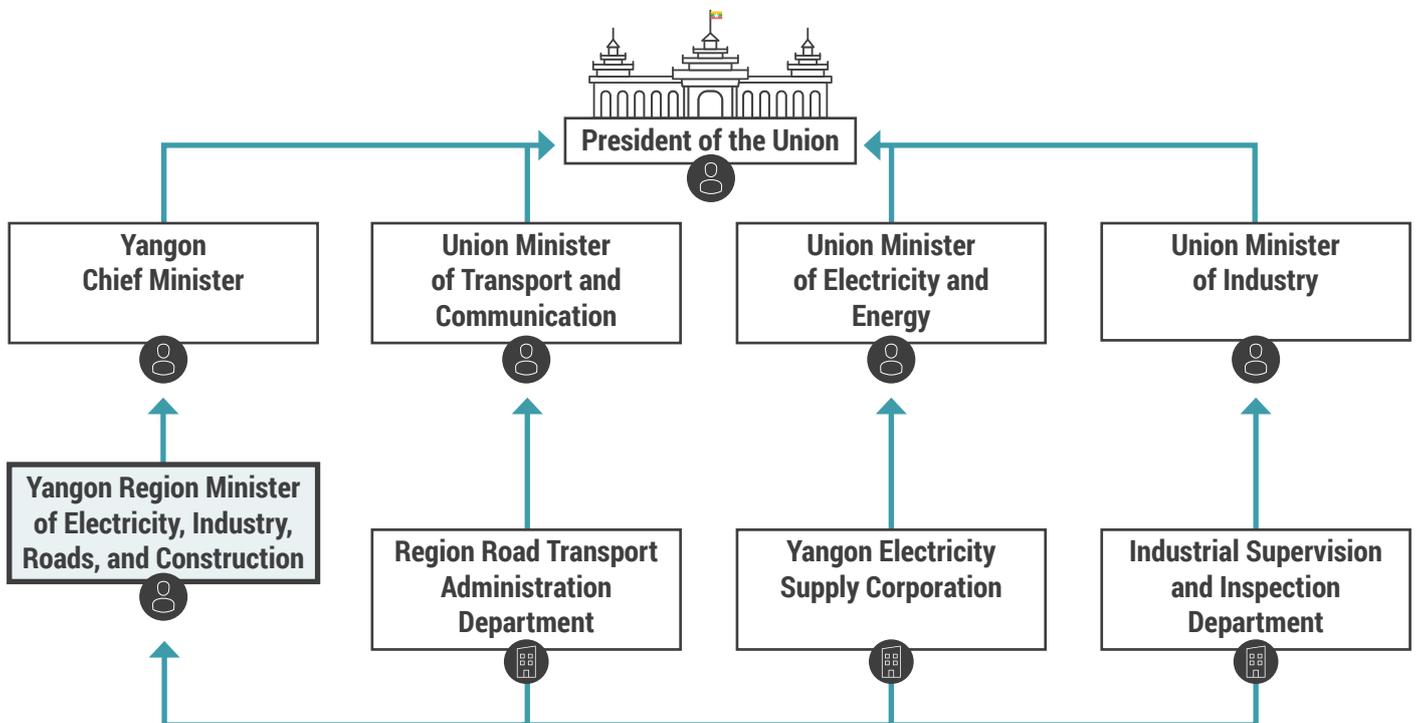
The relationship between the state/region ministers and the departments they oversee, and particularly the nature of accountability between state/region ministers and their departments, is crucial to understanding how state/region governments function. The exact nature of the relationships varies greatly from department to department and is an area where the implementation of the Constitution has resulted in complex and shifting structures and ways of working.

What is accountability? "Accountability exists when there is a relationship where an individual or body, and the performance of tasks or functions by that individual or body, are subject to another's oversight, discretion, or request that they provide information or justification for their actions."¹⁸⁵

The exact structure of state/region governments and their ministerial portfolios varies among the states and regions.¹⁸⁶ As detailed in chapter 3 and illustrated in figure 3.3, under the NLD, a number of ministerial portfolios, such as planning and finance, have been merged in many of the states/regions. Most states have ministers who manage multiple portfolios. For example, in several states/regions, the minister of development affairs is concurrently the minister of social welfare.

Most state/region ministers have responsibilities that cover multiple departments. In Tanintharyi Region, for example, a total of 78 different departments and state-owned enterprises are shared among eight ministers.¹⁸⁷ Many ministers have responsibilities covering more than 10 departments. The Bago planning and finance minister, for example, has responsibility for over 17 departments. Those with multiple portfolios will have an even greater number of departments.

FIGURE 4.1 Yangon Region Minister of Electricity, Industry, Roads, and Construction, indicative departments* and their union ministries



KEY
 → Accountability

*The Yangon Region Minister of Electricity, Industry, Roads and Construction is responsible for many more departments.

Importantly, the Constitution did not establish new ministries at the state/region level. Instead, the role of the new state/region ministers was introduced into the preexisting system of Union ministries and their subordinate state/region departments and subnational offices at the district and township levels. This means that, with the sole exception of the Development Affairs Departments, each department at the subnational level is part of different Union ministries. Figure 4.1 provides the example of the Yangon Region minister of electricity, industry, roads, and construction, and three of the departments the minister is responsible for, which in turn each part of a different Union ministry.

The exact relationship between state/region ministers and the departments they are responsible for varies enormously and is a function of many variables, including the personalities and politics of the various individuals in the state/region and Union governments. As a starting point, the two different roles—to “manage, guide, supervise, and inspect” (for those departments whose responsibilities fall under schedule 2), and to “supervise, inspect, cooperate, and coordinate” (for those departments that fall under schedule 1)—create two different types of relationship between state/region ministers and departments. Three broad types of accountability exist:

(1) SOLE ACCOUNTABILITY TO THE STATE/REGION GOVERNMENT

Departments whose responsibilities fall wholly under schedule 2, which are wholly funded by the state/region government, and which report exclusively to a state/region minister. The Department for Development Affairs, reporting to the state/region minister for development affairs, is the only department that currently meets this criterion.

(2) DUAL ACCOUNTABILITY

Departments that receive at least part of their funding from state/region budgets, and some of whose activities cover responsibilities laid out in schedule 2. For these departments, state/region ministers may “manage, guide, supervise and inspect” their work. The Roads, Agriculture, Electricity Supply, and Enterprise Departments and the GAD are notable examples.

(3) DUAL, BUT LIMITED, ACCOUNTABILITY

Departments that are funded solely by the Union and are accountable to a Union ministry, but for which there is a corresponding state/region minister who performs a role of supervision, inspection, cooperation, and coordination in relation to the department’s work. The Health and Education Department and the Department for Rural Development are notable examples.

Figure 4.2 provides one example of a state/region government structure, the relationships between ministers, and a sample of the departments they are responsible for.¹⁸⁸ As the figure shows, ministers are typically responsible for a number of departments that cover a breadth of activities and with which ministers have different types of accountability relationships.

This section will now consider in greater detail the nature of each of the three accountability relationships, explore some of the variation within these types, and identify some of the trends in accountability since the creation of the state/region governments.

DEPARTMENTS THAT ARE SOLELY ACCOUNTABLE TO STATE/REGION GOVERNMENTS

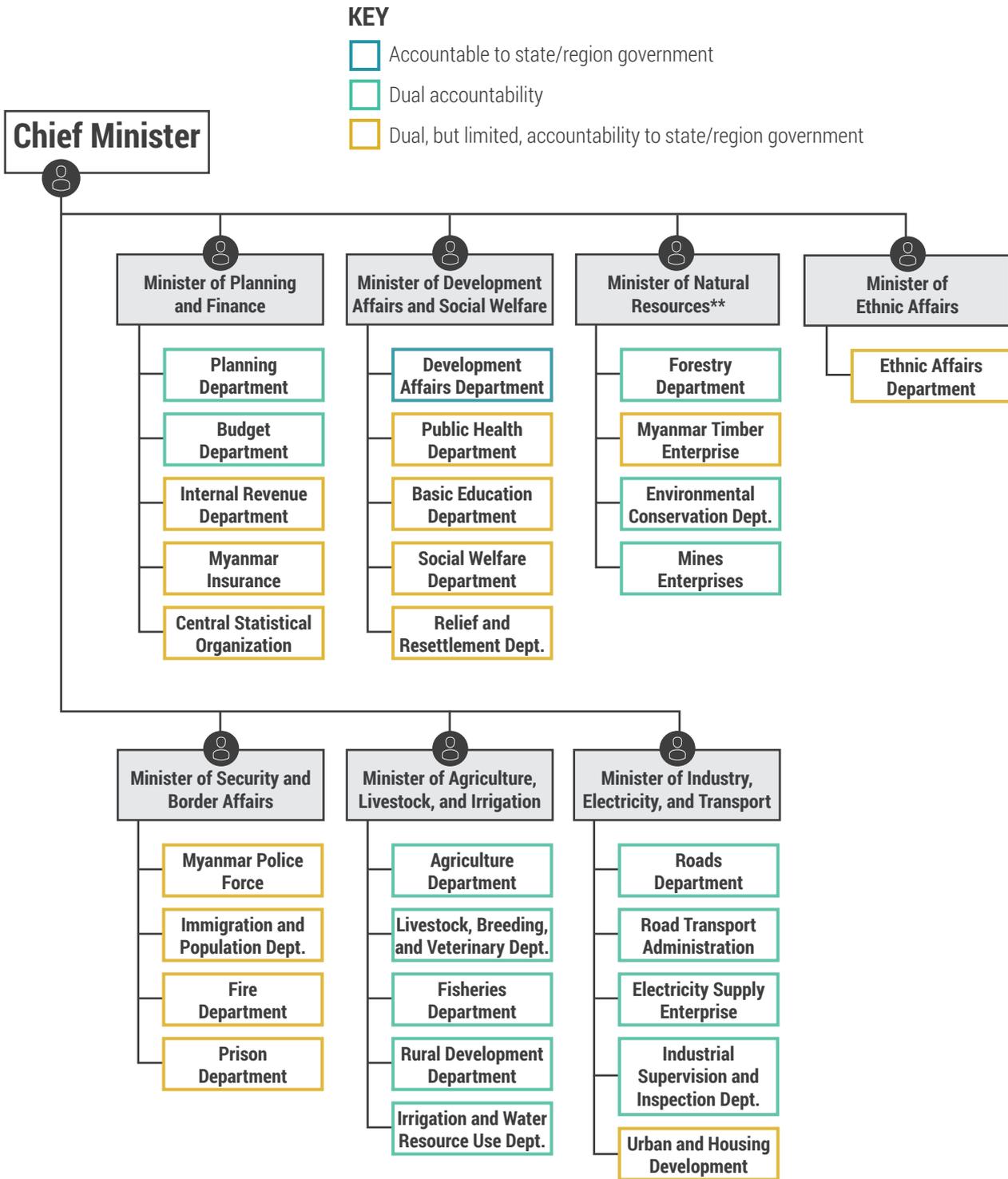
State/region Departments of Development Affairs (DDAs), as the only fully decentralized bodies in Myanmar, are currently the only departments that are solely accountable to the state/region governments.¹⁸⁹ Figure 4.2 provides an overview of the accountability relationship between state/region governments and DDAs.

DDAs oversee the work of Development Affairs Organization (DAOs), which are responsible for the provision of municipal services. Services range from urban water, sewage, garbage collection, roads, and bridges to street lighting and drainage, and DAOs also oversee local economic governance by issuing licenses and permits to local businesses, collecting taxes and fees, and holding auctions to operate services such as local ferries and toll roads.

The functions of DAO offices and their services are defined in the 14 state/region development affairs laws and have changed little since the creation of state/region governments.¹⁹⁰ The jurisdiction of these DAO offices has narrowed since the 2011 formation of state and region governments, to focus on the “urban” areas of townships, (i.e., wards).¹⁹¹

At the apex of all state and region DAO/DDA systems are the state/region ministers of development affairs, who have a mandate to run the DAO/DDA system for their respective states/regions. The DAO/DDA system is not part of a Union ministry. The DAO/DDA system is thus devolved to the states/regions and is a nascent state or region civil service. DAO/DDA systems are also unique in the discretion they exercise over budget and planning decisions (see chapter 5), as the state/region government can determine expenditure and revenue-raising without the involvement of a Union ministry.

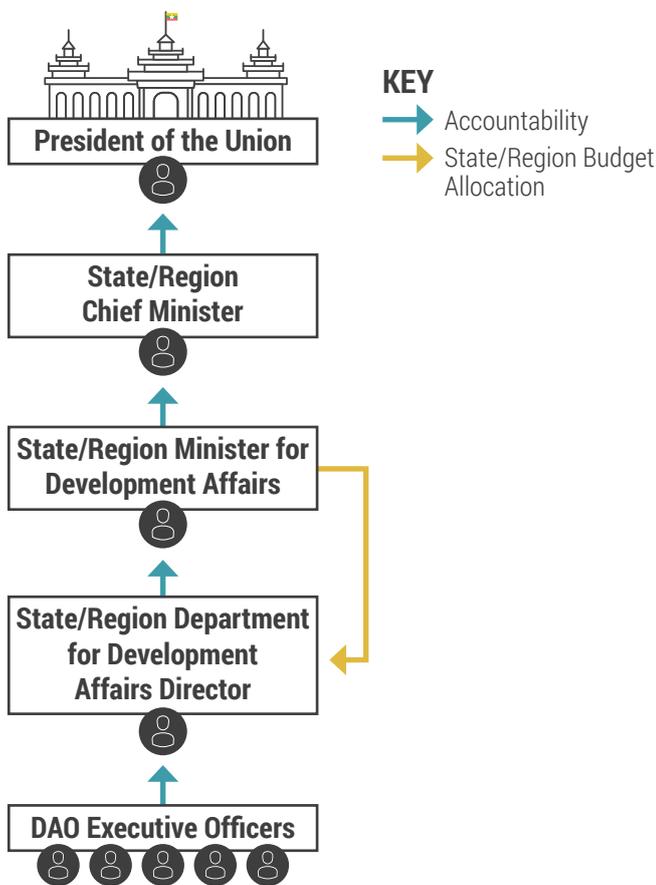
FIGURE 4.2 Structure of Bago Region government (with indicative departments*)



* For a complete list of departments in Bago Region government structure, see Annex H.

**The full title for Bago Region is: Minister of Natural Resources, Forestry, and Environmental Conservation.

FIGURE 4.3 Sole accountability



State/region DDA offices have a unique degree of control over their work.¹⁹² The key function of state and region DDA offices is to coordinate and supervise township DAO offices. The state and region DDA offices channel the policy priorities of state/region governments and sign off on projects/budgets, once they are submitted for approval, as well as large-scale procurements such as equipment purchases. They submit an annual consolidated budget.

Municipal affairs for Yangon and Mandalay Cities and the Union Territory of Nay Pyi Taw are organized differently than in other urban areas and are managed by the Yangon City Development Committee (YCDC), the Mandalay City Development Committee (MCDC), and the 10-member Nay Pyi Taw Council, respectively. Most notably, they differ in that they allow for consolidated management of townships—33 townships for Yangon and seven for Mandalay.¹⁹³

The degree of freedom from Union oversight afforded to development affairs brings both opportunities and

challenges in the provision of municipal services. Independence from Nay Pyi Taw has posed some challenge for the DDAs, as they are now responsible for their own basic finances, policy development, human resources, pensions, and procurement. Despite this, directors of DDAs have reported that¹⁹⁴ they are able to develop municipal services in their respective areas that are more responsive to people’s needs, and that they are supported by ministers with a good understanding of their day-to-day work and with whom they are able to meet and discuss their work frequently. DDAs continue to follow Union human-resources policy, which places important limits on how many staff they can hire and the maximum day rates they are able to pay day laborers.

DUAL ACCOUNTABILITY—DEPARTMENTS THAT ARE ACCOUNTABLE TO BOTH THE STATE/REGION AND UNION GOVERNMENTS

With the exception of Development Affairs, departments at the state/region level responsible for activities listed in schedule 2 are part of Union ministries, creating a system of dual accountability: departments are accountable to the state/region government and to the Union government. This system places important limits on the discretion of state/region governments to exercise their administrative responsibilities. Figure 4.4 demonstrates the relationship between the state/region Electricity Supply Enterprise, the state/region government and the Union government.

Based on the constitutional division of labor under schedule 2 and the areas where there is income or expenditure in a given state/region budget, this group includes around 20 departments. Most notably, the group includes the GAD, which has a fundamental role in subnational administration (explored in greater detail below) and the Roads Management Department, Electricity Supply Enterprise, Agriculture Department, and Irrigation Department. These departments, taken together, account for a significant proportion of state/region government expenditure as well as their schedule 2 functions.

The situation has been referred to as ministers without ministries. Despite performing functions formally assigned to the state/region government by the Constitution, these departments are not standalone ministries corresponding to the cabinet portfolios of state/region ministers. This has occurred because, upon the creation of the state/region governments, new state and region departments staffed by state/

BOX K

Development Affairs – decentralization, autonomy and experimentation

One of the common justifications for decentralization is that local authorities better understand the particular needs of a population and can better tailor policy to the particular context. According to the “subsidiarity principle,” functions should be performed by the lowest level of government that can do so efficiently. Development affairs encompasses a number of services such as garbage collection that may efficiently be delivered by local levels of government.

One potential unintended consequence of decentralization and the greater autonomy to make decisions is that objectives, policies chosen to achieve them, and the manner of implementation of those policies can vary widely. These consequences can be observed in Myanmar’s administration of development affairs: DAOs face many common problems that do not have simple solutions—for example, not all houses have regular waste collection—and many different approaches are being tried to address these problems.

In Shan State, the government introduced a policy whereby six of the largest cities would contract out some of their waste collection to private providers. The content of those contracts, and the way they are monitored and enforced, varies among those six cities. Other cities in Shan still rely on the DAO to collect waste. This diversity of practice takes place within a relatively uniform context of guidance and oversight established by the state DDA.

On top of this diversity of activities within a state or region are the differences among the states and regions. For instance, while cities in Shan experiment with contracting out collection to private companies, other cities, such as Hpa-an, are trying a different model, with W/VTAs overseeing the work of private collection companies.

It is hard to know in advance which of these approaches will prove best for Myanmar and under what conditions. As different cities adopt different solutions to solve their problems, it becomes possible for DAOs to learn from each other’s experiences—the good and the bad. Conversely, the same decentralization that permits diversity of practice makes it more difficult for states/regions to learn from the reforms being undertaken in other parts of the country. Experimentation is potentially wasteful if the same mistakes keep getting repeated and success stories are not shared.

region civil servants were not created. Instead, the state/region governments discharge their functions through the preexisting departments within the centralized, Union ministerial structure. This situation came about not because state/region governments are unable to establish their own ministries and departments (see box L), but largely for expediency during the transition.

These overlapping responsibilities may result in confusing accountability relationships. While the functions a department performs are the responsibility of the state/region government, with the state/region minister responsible for directing the department, the head of the state/region department is appointed by, and ultimately accountable to, the Union ministry.

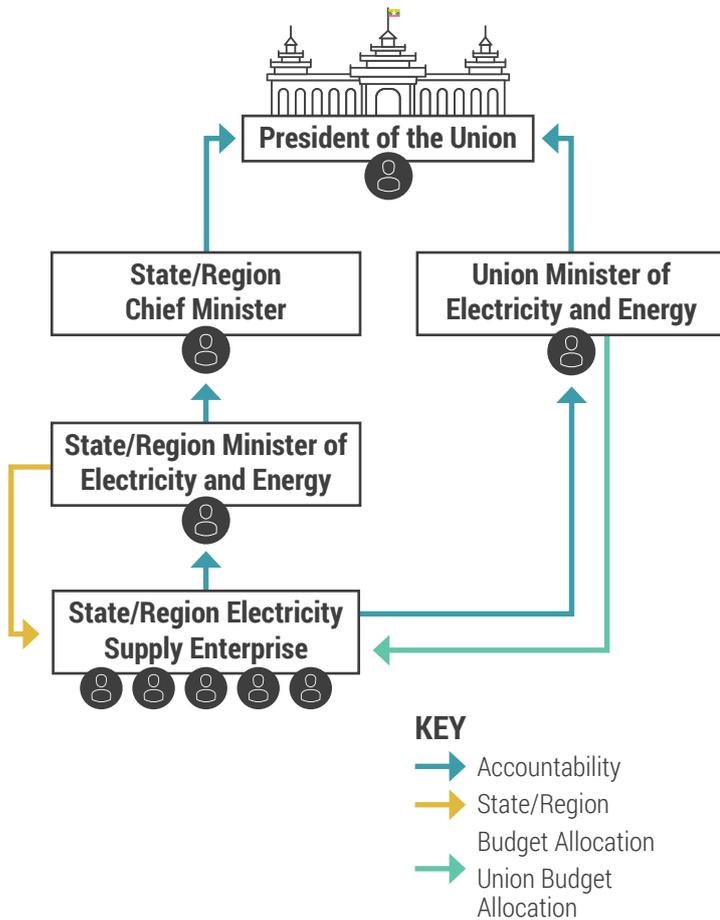
Each department is therefore “accountable” to both its Union ministry and minister and its state/region minister. This raises a fundamental question—for these

departments, where does true accountability lie?

There are a number of important limits on accountability of departments to their state/region ministers. First, even where state/region functions are concerned, because the leaders of the ministry offices at the state/region level are still part of a central ministry hierarchy, “[c]entral ministers still see themselves as in control over their whole ministries.”¹⁹⁵

Additionally, and as with many questions of public administration, accountability is also related to human-resource management. The authority to hire, fire, or promote the staff sits with the Union ministry to which the department belongs. As emphasized throughout the decentralization literature, some local control of executive staff is essential for the local accountability of staff and the autonomy of local government.¹⁹⁶ While such control by itself does not guarantee local government effectiveness, ambiguous accountability

FIGURE 4.4 Dual accountability



relationships have previously prevented local officials from acting.¹⁹⁷

In short, state/region ministers charged with executive and administrative responsibilities have been found to remain outside the existing sectoral administrative structures and to have difficulty asserting the authority needed to breathe life into the process of devolution.¹⁹⁸ As one chief minister observed:

[s]tate-level ministry departments do not have a stake in local development, [and] don't go out to assess [and] monitor. But state-level government does have a stake.¹⁹⁹

Further research, however, has noted that Union ministries do not circumvent state/region ministers and work directly with subnational departments in areas that fall under state/region ministers' authority.²⁰⁰ Since the creation of the state/region governments ways of working have developed, and departments are becoming more accountable to the state/region ministers. Without exception, ministers reported that, with regard to schedule 2 functions, their departments were responsive to their instructions, that they have good working

BOX L

Can state/region governments create new departments that are solely accountable to them?

One area of the Constitution that has yet to be fully explored is article 257, which provides for state/region governments to “form civil service organizations relating to the region or state as necessary” and “appoint the required number of civil services personnel.” This may allow state/region governments to establish ministries and departments with little or no Union influence. To date, there has been little apparent interest in exploring this option, although one Mandalay Region economic policy document has noted the possibility of establishing departments to meet policy goals.

In the absence of significant steps towards exploiting article 257, the Department of Development Affairs remains a key example of how service delivery could be organized outside of Union ministry structures.

One area where there has been significant change is in the creation of independent hluttaw offices. In 2016, separate hluttaw offices were created for each state/region, removed from the remit of the Ministry of Home Affairs and GAD, with the Pyidaungsu Hluttaw Office as the central office for the state/region hluttaw offices. While many of the staff have transferred from the GAD, they now work for the Hluttaw Office Department and no longer need to submit reports to GAD and MOHA. (A copy of the Hluttaw Office structure in one state can be found in annex M).

The Pyidaungsu Hluttaw holds much of the responsibility for human-resource management. For promotion and transfer of personnel, for example, the head of the state or region hluttaw office submits the transfer letter, together with the approval of the hluttaw speaker, to the Pyidaungsu Hluttaw. With many of the Hluttaw Office staff having little experience in their new functions, a need has been identified for capacity building. The 2018 Myanmar Hluttaw Organization Law, for example, identifies as one of its functions the improvement of the capacity of hluttaw representatives and Hluttaw Office staff.

Careful consideration should be given to whether there are sound reasons for states/regions to establish their own civil service organization to implement policies and programs.

relationships with their departments, and that the current administrative structures are conducive to working effectively.²⁰¹

Also without exception, no state/region department heads report having received instructions from their Union ministry on schedule 2 functions that contradicted instructions from the state/region government.²⁰² Department heads reported that they feel accountable to both the state/region government and their Union ministry. Many said they felt more accountable to the state/region government because they are the individuals whom they meet with most frequently and from whom they receive the majority of their instructions, and that they take problems and policy

questions to the state/region minister. Additionally, those working in state/region departments said that reports from state/region ministers were a decisive factor in career advancement, which provided a strong incentive to work with them.

So, while the formal state/region structures have not changed significantly, ways of working have developed that permit state/region ministers and department heads to work with each other effectively and responsively. As one chief minister observed unequivocally, “All the departments are accountable to the state government.”²⁰³

BOX M

To whom is the GAD accountable?

Due to its critical role in subnational administration and the fact that it is part of the military-controlled Ministry of Home Affairs (MOHA), the GAD is potentially the most important department with dual accountability. Under the 2008 Constitution, the GAD should be understood as playing two institutional roles, with a broad mandate. The first is the continuation of an “historic role,” and the second, a nascent one, is defined by the decentralization of subnational governance since April 2011. (See annex K for an overview of GAD’s historic and more recent responsibilities.)

Under the 2008 Constitution, the GAD’s preexisting role as a primary link between the Union government and subnational administration has continued, and it was strengthened by the removal of Peace and Development Councils and the routine involvement of Tatmadaw officers in general administration. This historical role focuses on an eclectic variety of core mandates stretching from excise management to collecting assorted taxes, collecting demographic data, land management, and local dispute resolution, as well as the core function of administering the country’s basic administrative units—districts and townships—and the supervision of all wards and village tracts.

In addition, the GAD holds newer responsibilities specifically relating to the creation of the 14 state/region governments. The head of the state/region GAD becomes, by virtue of their position, the executive secretary of the state/region government and is the senior civil servant in the state/region. State/region ministers, lacking their own ministries, are supported by GAD staff, who function as the conduit between them and their departments. The state/region government’s office is the GAD state/region administrative office.

This new role has gradually changed the GAD from a centralized department of the Union government to an increasingly decentralized department with a mandate to respond to the demands of the state/region governments. One GAD region director stated that the majority of GAD’s work was now on behalf of the regional government, with relatively few directives from MOHA in Nay Pyi Taw. Likewise, at the township level, GAD staff reported spending an increasing amount of their time on activities such as resolving land disputes under the direction of state/region governments.

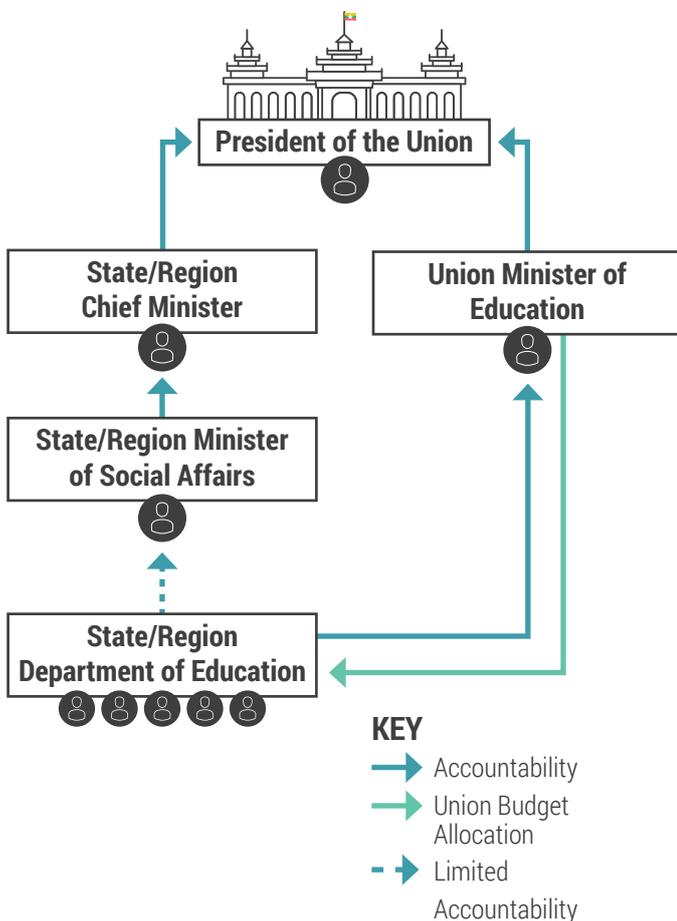
As with other dually accountable departments, there remains a question of how accountable GAD is to the state/region governments. GAD officials keenly stress that they are bound to follow the directives of the state/region government, following the Constitution. GAD officials also state that there is sufficient incentive to work effectively for the state/region governments, as promotions and transfers are contingent on their support.

The extent to which GAD is responsive and accountable to the state/region governments will remain critical in the years to come as its ability to serve the government of the day is tested.

DUAL, BUT LIMITED, ACCOUNTABILITY—DEPARTMENTS THAT ARE ACCOUNTABLE TO THE UNION, WITH LIMITED ACCOUNTABILITY TO THE STATE/REGION GOVERNMENTS

Departments responsible for schedule 1 functions are accountable to their Union ministry. A significant number of departments, despite being physically located in the states/regions, remain directed by, and accountable to, their corresponding Union ministry, because their functions do not fall under schedule 2. However, there remains a limited role for state/region governments, as ministers are able to supervise, inspect, cooperate with, and coordinate with departments. Figure 4.5 outlines the relationship between these departments and the state/region and Union governments, using the example of education.

FIGURE 4.5 Dual, but limited, accountability



Two of the most important departments are the Public Health Department and the Basic Education Department, which have the most staff and facilities in the states and regions.²⁰⁴ There are also numerous departments that perform functions under both schedule 2 and schedule 1, for the latter of which they are accountable to their respective Union ministry. For example, large-scale projects of the Electricity Supply Enterprise fall under schedule 1.

While the state/region ministers have little formal authority over these activities, they do play important roles in their administration. Both state/region ministers and department heads view state/region ministers as important actors in the work of departments.²⁰⁵ Fundamentally, as described by state/region ministers, schedule 2 mostly determines the decision-making process and should not be seen as meaning that ministers do not have roles in the rest of the department's work.²⁰⁶ State/region ministers may influence departments responsible for schedule 1 functions in a wide variety of ways:

- (1) **DECISION-MAKING.** While the Union government/ministry may be the ultimate decision-maker on a given issue, agreement, recommendations, and advice are increasingly being sought from state/region ministers. For example, in a recent report, the Natural Resources Governance Institute found that license applicants in the minerals sector needed the support of the state/region government. The Ministry of Natural Resources and Environmental Conservation was said to be highly unlikely to approve licenses without these endorsements.²⁰⁷
- (2) **COORDINATION ACROSS DEPARTMENTS.** State/region ministers are well placed to coordinate the activities of different departments. For example, a state energy minister reported that, as part of the government's efforts to electrify villages, he was working closely with the Electricity Supply Enterprise, the Department of Rural Development, and the Department of Border Affairs to ensure the development of a comprehensive and coherent plan.
- (3) **DEVELOPING PROPOSALS.** State/region ministers are not prohibited from developing proposals for consideration by the Union. For example, the Kayin State government proposed an ambitious, coal-powered power plant for consideration by the Union government (the power plant exceeded the state government's decision-making authority, as its output is greater than 30 megawatts).
- (4) **DEVELOPING POLICY.** While a Union ministry may be responsible for developing policies, state/region ministers may have some scope to help shape

BOX N

Do state/region ministers need their own ministries?

While the situation of ministers without ministries continues, both for departments that are dually accountable and for those that are solely accountable to the Union, there is a clear trend towards state/region ministers being able to shape the work of their departments regardless of where formal accountability lies. So, does this mean that the current accountability structures are effective, and that state/region ministers do not need their own ministries?

Despite perceptions of improved accountability, as long as formal arrangements remain the same, accountability to the states/regions may remain limited. While there have been few reported tensions under the current government between Union ministry instructions and state/region government instructions regarding schedule 2, this is a consequence of ways of working that are potentially reversible. If a new government or a new Union minister wished to exert more control over the discharge of a state/region department's responsibilities, it is not clear how these tensions would be resolved.

In essence, the key to answering the question of whether state/region ministries are needed is to see how these new ways of working would fare, not when state/region and Union ministers share the same party, party leadership, and aims and objectives, but when state/region and Union ministers do not share common goals and interests. Under this tension, ministers without ministries may prove untenable.

them. For example, while the Ministry of Education is responsible for determining the policy for teacher recruitment, one state minister of social welfare had added to the policy to make it suitable to the state's context by ensuring that teachers who spoke local ethnic languages were recruited.

- (5) **PLANNING AND BUDGETING.** As explored in greater detail in chapter 5, for some departments, state/region ministers play an important role in developing the proposals that are submitted to the department's Union ministry. From fiscal year 2018–19, state/region governments will be able to comment on all submissions to the Union budget from their state/region.

While the above examples should not be confused with decision-making power, they do represent a trend, referred to by numerous state/region department heads, of state/region ministers assuming an increasing role in shaping the work of departments. In particular, state/region ministers with strong technical grounding in the work of their departments and, in some cases, with experience working for the relevant ministry felt they were able to effectively influence and direct much of the work of departments implementing schedule 1 functions in their states/regions.

However, not all state/region ministers are able to shape the work of their departments effectively. While in the minority, some state/region ministers were clear that, without control over their department's budget, they had little ability to shape its work. Other ministers—for example, a state minister for natural resources—

explained that the departments were not responsive to their instructions. The ability of state/region ministers to effect change in the departments they oversee is, in part, a function of the respective Union minister's willingness to "allow" the state/region minister to shape the department's work. In Mandalay, the chief minister has said that further decentralization is being hindered by weaknesses in collaboration between Union-level ministers and the state/region governments.²⁰⁸

DECONCENTRATION WITHIN DEPARTMENTS

While the accountability structures between state/region ministers and departments working in the states/regions provide evidence of the extent of devolution in administration, deconcentration may also occur within departments, as powers and responsibilities are passed to lower levels of administration.

Since the creation of the state/region governments, there has been some limited deconcentration from Union ministries to the subnational level. Efforts to deconcentrate within some Union ministries, including Education and Health, have been ongoing since 2011.²⁰⁹

One education director described how the responsibilities of the regional education department had changed, saying that "[b]efore it was top down and we had to implement orders and directives from above. Now, the system is more bottom up."²¹⁰ The structure of state and region departments of different sizes had been rationalized, region and state heads had increased

in rank from Assistant Director to Director, and staff numbers had gone up. In terms of human-resource management, the authority to promote and transfer different levels of staff was now deconcentrated to districts (for middle and high school heads and township education officers), and townships (for primary and middle school teachers). Township education officers had also been asked to contribute to planning and budgeting by identifying staffing and school facility needs, a process aided by increases in the education budget and the introduction of new information management systems. However, authority to hire and fire staff and for procurement and budgeting (including for operating expenditures) still rested with the Union ministry.²¹¹

State and region health departments also reported being given greater responsibilities. One regional department described similar arrangements with respect to human resource management: the ability to promote and transfer but not hire and fire. Increases in staffing had been approved. The director noted that staff capacity would need to be developed if the department were to take on greater responsibilities. One significant difference between the health and the education department, at least in this region, was that the health department had managed the tendering of one construction project and so is involved in procurement.²¹²

More recently, officials have spoken of numerous examples of deconcentration—for example, inclusion in the tender process for school construction and furniture and uniform procurement.²¹³ In addition, officials spoke of increased involvement in recruitment. It is important to note, however, that officials did speak of their limited decision-making power, answering questions more often than not with the phrase, “that’s a decision for Nay Pyi Taw.” More fundamentally, perhaps, officials spoke of the increased responsiveness of higher levels of administration to their needs, with fewer top-down directives issued without consideration of the realities on the ground. This is best exemplified by the developments in the bottom-up planning process, explained in greater detail in chapter 5. The National Education Law 2014 includes an explicit statement that a “decentralized system will be implemented dependent on the development of their [educational staff] ability to make decisions and take responsibility.”²¹⁴

The Union Civil Service Board’s Civil Service Reform Strategic Action Plan²¹⁵ provides evidence of further commitment to decentralizing aspects of human resources management in the coming years. The plan states:

Current arrangements are highly centralized and States and Regions will come to have more authority and a more prominent management role in Civil Service affairs... The role of line ministries, States and Regions, districts and Townships in management of human resources, in training and capacity development of staff, in ensuring responsiveness and receptiveness to the needs of people will all need to be examined.²¹⁶

Previous research found that Union control over the authority to grant mining concessions was seen as an important limitation in a subject of direct state and region concern.²¹⁷ The sharing of the proceeds from mining is a contentious issue in center-local relations, as well as in Myanmar’s ethnic conflicts. The concerned state/region governments were unable to monitor and respond to the many grievances arising from mining activity.²¹⁸ Civil society organizations also expressed frustration that they could not pursue problems related to mining activity with a state or region government. In one case of people being displaced by a mining project, a local lawyers’ organization noted that the local government was sympathetic, but unable to act due to Union authority over mining.²¹⁹

With the passage of the Environmental Preservation Law and the Mining Law, the state/region governments now have responsibilities related to granting small mining licenses and carrying out environmental and social impact assessments. In one state, this has led to the responsible minister working with local communities to establish mine monitoring groups, which include CSOs and local villagers. CSOs speak positively about this development and feel the minister is listening to them, but say it is too early to tell whether the minister is willing and able to take decisive action when issues are identified.²²⁰

4.2 HOW IS MYANMAR ADMINISTERED BELOW THE STATE/REGION LEVEL?

The nature of district, township, and ward and village-tract administration is key to understanding where powers and responsibilities lie below the states and regions. As explained in chapter 3, below the state and region governments there is no “third tier” of elected local government. Instead, in line with Myanmar’s graded territorial administrative system, a number of government departments, most of which are part of Union ministries, perform a wide range of functions. In a system of *local governance without local government*, a number of committees exist at different levels that are responsible for oversight and coordination among departments. The GAD is the most important body for coordinating subnational governance below the states/regions.

Directly below the state/region level are the 74 districts. Most departments at the state/region level have a district-level office, responsible for overseeing the work of township offices, coordinating among them, and aggregating and sharing information from the townships, as well as relaying government decrees. GAD district administrators will be asked to resolve disputes that cannot be resolved at lower levels, such as those involving the abuse of power by township or ward/village-tract administrators.²²¹

TOWNSHIP ADMINISTRATION²²²

The township level is at the heart of subnational administration; Myanmar’s 330 townships are the building blocks of public administration and service delivery. For most people in Myanmar, much of their engagement with the state, whether on personal matters such as births and deaths or private matters of economic governance, will begin with a township-level official or their W/VTA.

Townships were a central element in President Thein Sein’s reform agenda, which stressed “people-centered development.” Under the NLD, the importance of the township level is undiminished, although the mechanisms for ensuring effective township administration and governance have changed. There has not, however, been any fundamental change to the legal framework for township administration.

The departments present at the township level are roughly similar across the country but vary from township to township. Although there are fewer department offices compared to the state and region

level, previous studies have found that township offices are still numerous, with about 40 core departments usually present in each township (a list can be found in annex I).²²⁴ The GAD, the Internal Revenue Department, the Department of Agricultural Land Management and Statistics, and the Myanmar Economic Bank are present in almost all townships and have a similar role and level of authority in each. Some departments, such as the DAO and the Housing Department, are urban focused, whereas the Department of Rural Development (DRD), the Department of Agriculture, and the Department of Forestry play a more central role in rural areas. The relative importance of departments also varies in relation to their importance to the state/region. For example, the Department of Fisheries plays an important role in Ayeyarwady, where fishing is an important part of the economy, whereas the Mines Department plays an important role in Kachin State.

In place of an elected township government, these township-level offices serve as the key providers of local services. Depending on their schedule 2 or 1 functions, most of these offices are sector focused, reporting to their Union ministries or state/region departments, resulting in the siloed and isolated performance of functions.

Four major, cross-sector departments are the key exceptions: the GAD, DAOs, DRD, and Planning. These departments have wide-ranging duties and functions (some overlapping) and operate as the primary interfaces between the state and the general population.

Township General Administration Offices (GAOs)²²⁵ of the GAD are a township’s most powerful authority, playing a key role in the coordination, communication, and convening of all government actors across the township.²²⁶ The GAO leads on the oversight and granting of township-level permissions and has an overarching mandate that extends over the other departments, with the possible exception of DAOs.²²⁷ GAOs are led by township administrators, who identify their roles as the promotion of social and economic development through management of township affairs, oversight of implementation for development projects, and coordinating with other parts of government.²²⁸ Notably, no township administrators in any of the 330 townships of Myanmar are women.^{229,230} Township administrators and their deputies play an important role in township committees (see below).

GAOs are the primary focal point for many of the average Myanmar citizen’s engagements with the state.

The GAO is where key functions of government take place, including population registration, land registration, and many forms of tax collection.²³¹ While institutional reforms under President U Thein Sein brought several structural changes to Union and state/region ministries, the GAD at the township level has remained relatively unchanged in its office structure and staff composition, and indeed, has even seen its relative power and institutional significance increase since the 2008 Constitution. Due to their preeminent role, GAD township administrators hold the responsibility to investigate complaints and mediate and resolve them.²³² The GAO may also use its significant implementation capacity on behalf of other departments that lack manpower.

DAOs, led by executive officers, are another important township-level institution and are the primary urban governance entity. DAOs, and CDCs in Yangon, Mandalay, and Nay Pyi Taw, are the leading bodies for providing urban services, including urban road construction and maintenance, sewage and sanitation, street lighting, and urban water supply.²³³ DAOs also perform a significant number of economic governance functions, such as issuing business licenses to various business, including restaurants, small shops, and skilled businesses. Business licenses for some sectors, such as slaughterhouses, ferries, and pawnshops, are available only through auctions, held once per year by the DAO. DAOs also issue construction permits.²³⁴

In rural areas, the DRD has responsibilities in many areas, including local infrastructure projects such as roads, bridges, water supply, electrification, microfinancing, canals and ponds, and community-driven development projects.

Aside from the GAD, DRD and DAOs and Planning Department, the numerous sectoral departments carry out a broad range of functions in service delivery and economic governance.²³⁵ The Department of Forestry, for example, engages with both primary- and secondary-sector businesses dealing with timber and other forest products within their respective areas. These engagements include taxation and licensing, with responsibilities on behalf of both the state/region and the Union. Where licenses are issued, department officials will monitor implementation.

COMMITTEES

A key institutional mechanism of local governance without local government is the system of committees. A large number of committees, which play a role in oversight and coordination among departments, exist at the state/region, district, township, ward, and village-tract levels. Some of the most prominent committees were first introduced and supported by President Thein

Sein and the USDP government. Under the NLD, the committee structure remains largely in place, although the relative prominence of different committees has changed.

At the township level, there may be more than 30 committees, covering a broad range of issues and sectors.²³⁶ As with departments, the relative prominence of committees varies from township to township. Four committees tend to be the most prominent: the Township Management Committee (TMC), the Township Development Affairs Committee (TDAC, also known as the Municipal Committee), the Township Scrutinizing Confiscated Farmlands and Other Lands Committee, and the Township Plan Formulation and Implementation Committee (TPFIC).²³⁷

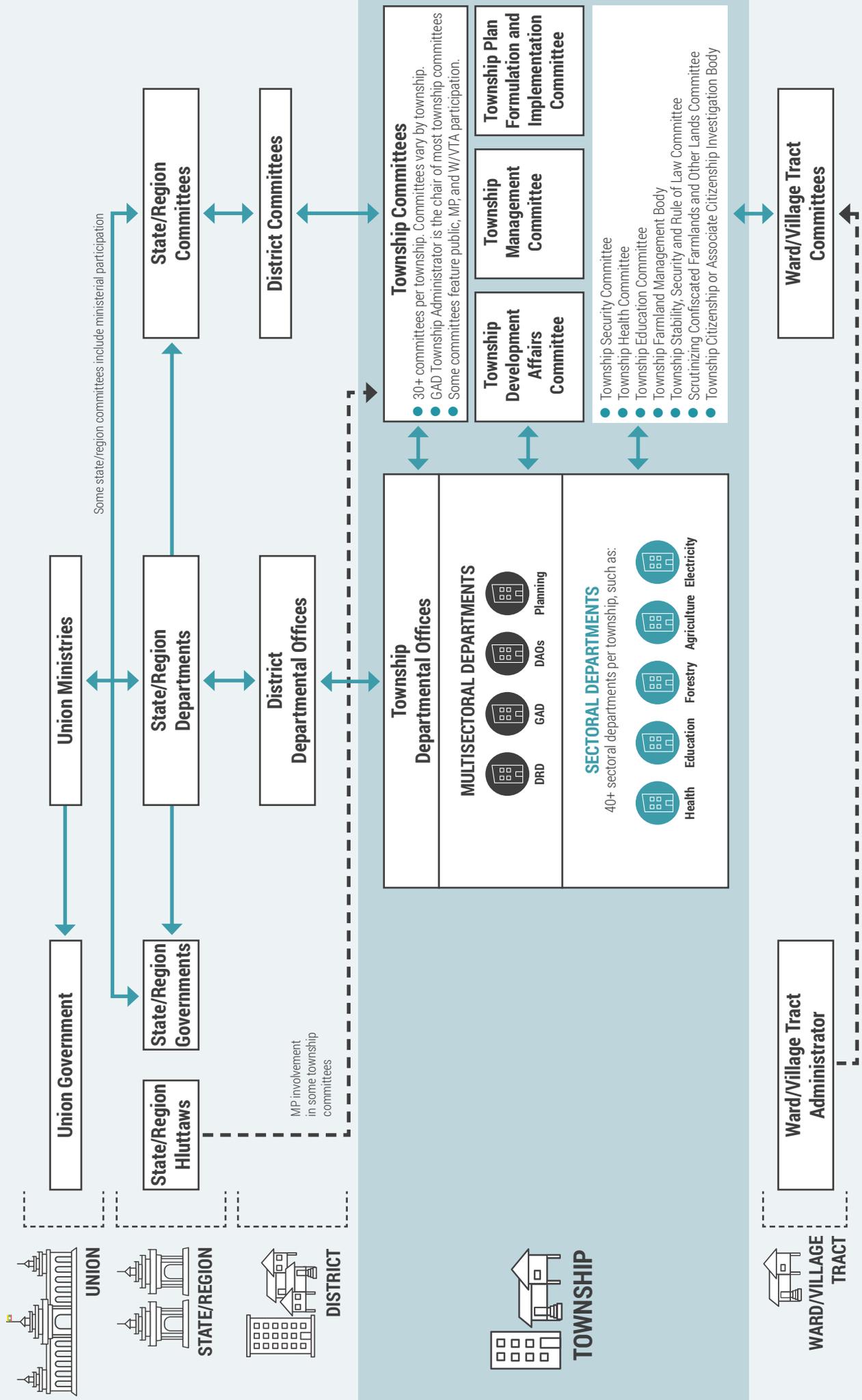
The GAD plays a central role in convening, coordinating, and communicating the activities, decisions, and budget allocations of all committees except the TDAC. The sheer number of committees, however, often impedes the GAD's work.

While DSCs were abolished shortly after the ascension of the NLD,²³⁸ subnational committees remain important under the NLD, with some committees rising in profile, and a significant development is the increasing participation of township MPs in the work of committees (as explored in greater detail in the chapter 3). The increasing inclusion of township MPs in the works of committees is the NLD's key mechanism for ensuring public participation and responsiveness by the subnational administration.

TOWNSHIP MANAGEMENT COMMITTEE. In most townships, the TMC, formed and chaired by the GAD township administrator and consisting of seven to nine other members, is the primary coordinating body at the township level and is considered the most important.²³⁹ Overall, the TMC is responsible for coordinating the assorted government departments functioning at the township level, including the Union ministries' field offices. The TMC reports to the District Management Committee. Most township issues, including safety and security, are raised and discussed in the TMC meetings. The many lower-level township committees are formed by the TMC, to which they report, thereby accentuating the importance of this body. The committee is mandated to combine security and development issues.

TOWNSHIP DEVELOPMENT AFFAIRS COMMITTEE. The TDAC holds a unique position in the township committee structure.²⁴⁰ The general purpose of TDACs is twofold: to reflect public priorities, and to ensure successful project implementation. In collaboration with township DAO offices, TDACs work to set priorities for annual planning and budgeting of township DAO funds. Most (if not all) TDACs tend to meet on a regular, weekly

FIGURE 4.6 Township governance and administration



BOX 0

Does Myanmar need local governments?

The absence of a third tier of government has created a challenge for successive governments in ensuring accountability, public participation, and effective service delivery at the local level. While it is unclear whether creating a new tier of local government requires constitutional change, greater involvement of state/region governments in local governance is a potential solution for the intervening period. State/region governments have a democratic mandate and a legitimate basis for requesting more involvement in local affairs, particularly at the township, village-tract, and ward levels.

The relationship between state/region governments and Union ministry offices at the local level is not always clear. There is arguably a much stronger connection between the Union government and local governance. While the development of some local committees with community representation offers an opportunity for increased participation, the committees maintain their reliance on the Union-led GAD and other departments, many of which are performing schedule 1 functions. W/VTAs, another important institution of local accountability, report to the GAD.

The growing participation of state/region MPs in township-level administration through their involvement in committees is one way of increasing state/region government involvement in local governance. However, it is not clear that this approach is sustainable. MPs have no formal authority within the local committee system, and more evidence is needed to assess whether involvement at the local level is occurring at the expense of representatives' work in the hluttaws.

The great exception is DAOs, under the supervision of the state/region ministers of development affairs. YCDC, MCDC, and DAOs are significant, but focused on urban governance, whereas approximately 70 percent of Myanmar's population is rural. Consideration should be given to how local offices can achieve a degree of accountability and responsiveness to state/region governments similar to that of DAOs.

There are many possible systems of local government that Myanmar could adopt, such as district or township councils with elected heads such as a mayor. Myanmar can also learn from the experience of the 1953 Democratic Local Governance Act. Prior to the law's suspension in 1961, pilot projects were implemented across ten districts.

Ultimately, a decision on whether to create local governments or not, and whether and how to better involve state/region governments in township governance, is political rather than technical. Across Myanmar, as democratization, economic growth, and the peace process continue, there will be increasing demands for the delivery of improved public services, more effective management of fiscal resources, and greater accountability.

basis. Significantly, the TDAC is the only committee with the ability to work with its respective department to construct an independent budget, allowing it to convene meetings, make autonomous decisions, and fund activities decided upon in meetings. As detailed in chapter 3, the majority of TDAC members (four of seven) are from the community. Figure 4.6 provides an overview of township administration and governance, including links between township departments and township committees, and state/region and Union governments.

The de facto role and importance of TDACs (as opposed to executive officers or DAO staff) seems to vary from one township to another, often reflecting the personal authority of either the TDAC chairman or the executive

officer (EO). In some DAOs, the TDAC chairmen are clearly seen (and act) as the highest authority. In others, the TDAC chairman's role is eclipsed by that of the EO. Indeed, there is sometimes a degree of tension between the TDAC's (s)elected members and the EO and the DAO staff.²⁴¹

A significant challenge exists regarding the level of authority the TDACs should exercise over township DAO offices and how to enforce decisions not supported by the DAO. This is compounded by the lack of legal clarity about how to resolve such disagreements. It is particularly challenging when long-term municipal officers, who feel they are the technical experts, disagree with TDAC public members advocating for

the community. These challenges contribute to a level of confusion in some townships as to the exact responsibilities of the TDAC.

Township Plan Formulation and Implementation Committees. TPFICs have risen in prominence under the NLD. Township Plan Formulation and Implementation Committees, with the participation of MPs, are playing a central role in the NLD's efforts to implement a bottom-up approach to planning and budgeting (discussed in greater detail in chapter 5). The prominence and functioning of TPFICs vary significantly among townships.

Township Scrutinizing Confiscated Farmlands and Other Lands Committee. This committee has also risen in prominence under the NLD, with committees from the village tract up to the Union level.²⁴² The committees review complaints of confiscated farmlands and other lands, and may return lands, according to rules and regulations, to their original owners. The committees are said to have been very active since 2016.²⁴³ Township MPs are participating in these committees, helping to investigate and resolve claims. Where claims cannot be resolved at the township level, they are sent up to the district committee, then to the state/region committee, which is headed by the chief minister. Chief ministers were said to be active participants in these committees.

WARD AND VILLAGE TRACT ADMINISTRATION

Below the township level, ward and village-tract administrators play a key role in public administration. Ward and village-tract administration is the lowest level of bureaucracy in Myanmar. This level of administration was reformed by the Ward or Village Tract Administration Law of February 2012 and two subsequent amendments (as explored in greater detail in chapter 2). Reform at this level was, after the committees, the second pillar of President U Thein Sein's "people-centered" development.

While ward and village-tract administrators are both important, village-tract administrators are particularly so, because they act as the interface between the central state and most of Myanmar's population, which is majority rural. Citizens consistently regard their ward and village-tract administrators as the authoritative, and often trusted, voices for dispute resolution and decision-making in their area.^{244,245}

W/VTAs are the anchor of the GAD's vertical administrative structure, and act as an extension of the township administrator, who supervises them.²⁴⁶ W/VTAs continue to play the same varied roles that



BELOW THE TOWNSHIP LEVEL, WARD AND VILLAGE-TRACT ADMINISTRATORS PLAY A KEY ROLE IN PUBLIC ADMINISTRATION. WARD AND VILLAGE-TRACT ADMINISTRATION IS THE LOWEST LEVEL OF BUREAUCRACY IN MYANMAR...

REFORM AT THIS LEVEL WAS, AFTER THE COMMITTEES, THE SECOND PILLAR OF PRESIDENT U THEIN SEIN'S "PEOPLE-CENTERED" DEVELOPMENT.



they have historically, including tax collection, land registration, and reporting on demographics. They also collect various types of data and information for township departments.

Additionally, and in line with the fact that they are elected representatives, W/VTAs also support local development and represent local people to the authorities. Under the USDP, this included an important role in the DSCs. As part of the NLD's bottom-up planning and budgeting approach, W/VTAs play a role in some areas in identifying local priorities.

W/VTAs now receive a small personal 'subsidy' from the GAD, rather than a salary, and are not a government employee.²⁴⁷ As they are not GAD staff, ward and village tract administrators cannot be promoted within the GAD, but they can be dismissed by the GAD's township administrator for abuse of power, incompetence, or corruption.²⁴⁸ Each W/UTA is supported by a clerk, who is a full GAD employee.

While this is not the case in all areas, MPs have reported spending an increasing amount of their time resolving

disputes between ward/village-tract administrators and their constituents.²⁴⁹ In addition, senior GAD officials have bemoaned the inexperience and lack of knowledge of ward/village-tract administrators.²⁵⁰ In other areas, the system of ward/village-tract administration was said to be working well, with ward/village-tract administrators performing their administrative duties effectively and acting as a useful conduit, between local people and the authorities, for determining local development priorities. Despite the ward/village-tract level being the lowest level of formal administration in Myanmar, other positions exist in many areas of Myanmar that sometimes play a prominent role. Foremost among these are the 10-household and 100-household leaders. These leaders, selected by household representatives, play a role in the election of the W/VTAs, support the W/

VTAs in their administrative responsibilities, and provide an information channel between the state and individuals and for local people to voice complaints and concerns. Across Myanmar, the village, rather than the administrative unit of village tract, remains the functional unit that rural residents refer to, as they have historically and traditionally. Larger villages have several 100-household leaders, while in smaller villages, residents refer to the 100-household leader as their village leader.

Many of the committees present at the township level are also present in the ward and village tract. For example, there are committees for scrutinizing confiscated lands, and, prior to their dissolution, there were Development Support Committees.

4.3 WHAT ARE THE EMERGING TRENDS IN ADMINISTRATIVE DECENTRALIZATION?

(1) **THREE DIFFERENT ACCOUNTABILITY STRUCTURES BETWEEN STATE/REGION MINISTERS AND DEPARTMENTS.** Interpretation and implementation of the 2008 Constitution has resulted in three different accountability structures between state/region ministers and the departments they are responsible for:

- (a) **Sole accountability to state/region government.** Departments whose responsibilities fall wholly under schedule 2, which are wholly funded by the state/region government, and which report exclusively to a state/region minister. The Department of Development Affairs, reporting to the state/region minister of development affairs, is the only department that currently meets this criterion.
- (b) **Dual accountability.** Departments that receive at least part of their funding from state/region budgets and some of whose activities are covered by schedule 2. State/region ministers may “manage, guide, supervise, and inspect” their work. The Roads and Agriculture Departments, Electricity Supply Enterprise, and GAD are notable examples.
- (c) **Dual, but limited, accountability.** Departments that are funded solely by the Union and are accountable to a Union ministry, but for which there is a corresponding state/region minister

responsible for supervision, inspection, cooperation, and coordination of the department’s work. The Health, Education, and Rural Development Departments are notable examples.

- (2) **WITHIN THE SYSTEM OF DUAL ACCOUNTABILITY, DEPARTMENTS ARE INCREASINGLY ACCOUNTABLE TO STATE/REGION MINISTERS.** While the majority of departments for which state/region ministers are responsible are part of Union ministries, resulting in a system of ministers without ministries, there has been a clear trend of departments becoming increasingly accountable to state/region ministers. Ways of working have developed that have permitted state/region ministers greater involvement in the work of departments, with ministers able to shape and influence their work. Even for those departments with limited accountability to state/region ministers, there is evidence of state/region ministers playing an increasing role in human-resource decision-making, policymaking, and planning and budgeting.
- (3) **INCREASING ACCOUNTABILITY TO STATE/REGION MINISTERS IS NEITHER UNIVERSAL NOR IRREVERSIBLE.** Despite the progress of states/regions and their departments in developing effective ways of working together, these successes seem, in large part, to be a consequence of the personalities, expertise, and politics of the state/region ministers, including the chief minister,

the state/region department director, and Union ministers. There are still state/region ministers who feel their departments are not responsive to them. Fundamentally, the formal structures of accountability have not changed. Administrative decentralization is limited, as state/region ministers do not have their own ministries, with the exception of Development Affairs. If and when there are competing priorities, aims, and objectives between the states/regions and the Union, it will be unclear whom the departments are ultimately accountable to. Article 257 of the Constitution, which provides for state/region governments to form civil service organizations and appoint the required number of personnel, has yet to be fully explored. One notable exception is the creation of the Hluttaw Office, separate from the GAD, as an independent office working directly for the state/region hluttaws.

- (4) **BELOW THE STATE/REGION LEVEL, THERE IS A SYSTEM OF LOCAL GOVERNANCE WITHOUT LOCAL GOVERNMENTS.** While the Constitution did not create a third level of government, both the USDP and NLD transition governments have sought to strengthen the systems of local governance, primarily through the growing number of committees at different levels of administration. Under the USDP, the primary aim of the committees was to ensure greater public participation and responsiveness to local needs, as shown by the creation of TDACs and DSCs. While the NLD abolished the DSCs, the role of the TPFIC and Farmland Management Committees has grown. Greater participation and responsiveness is being pursued through the increasing inclusion of MPs in the work of the committees. Reforms to the ward/village-tract administrator have sought to strengthen democratic accountability, including elections that are now more direct following amendments in 2016. Below the state/region level, the GAD remains central to the functioning of subnational administration, as the ubiquitous coordinating presence.

CHAPTER 5

THE FISCAL DIMENSION

Fiscal decentralization is the process of handing over central expenditure and revenue-raising authority to lower levels of government. It is key to any decentralized local government system, as it defines how the financial resources needed to respond to citizens' demands are generated and distributed.²⁵¹

The 2008 Constitution introduced significant changes to how fiscal and public expenditure is managed in Myanmar at both national and subnational levels. The Constitution and subsequent reforms opened up a previously highly centralized, top-down, and opaque fiscal system to a range of new actors and institutions.²⁵² Most notably, the new state and region governments were given expenditure and revenue-raising responsibilities and their own budgets.²⁵³

This chapter provides an overview of subnational budgeting and planning processes, for both the state/region and Union budgets and plans and includes analysis of the significant developments in “bottom-up” planning. The chapter then looks more closely at state/region government expenditure and revenue, and concludes with analysis of the emerging trends in fiscal decentralization since the creation of the state/region governments.



5.1. WHAT IS THE SUBNATIONAL PLANNING AND BUDGETING PROCESS?

The ability of state/region governments to make their own budgetary decisions in the provision of public services is key to understanding the extent to which they are empowered.

Each state/region produces annual plans, operationalized through state/region annual budgets, which include the capital²⁵⁴ and current²⁵⁵ budgets for both the plan and other expenditures. An annual Union budget is also produced, which includes the capital and current budgets for expenditure by line ministries on Union functions at the subnational level.

The process to develop these annual plans and budgets, for both state/region and Union budgets, involves governments, hluttaws, and officials at all levels of administration. The process is complex and varies from township to township and from state/region to state/region. In this section we explore this process. By necessity it is idealized at some points. Areas of significant variation have been highlighted.^{256, 257}

The planning and budgeting process has changed significantly in recent years. Under the NLD government, efforts towards implementing a bottom-up planning process have been redoubled. The role of individual MPs and state/region hluttaws is growing in many places. State/region governments appear to have increasing influence, albeit starting from a low base, over the Union budget, and are pursuing efforts to make their own state/region budgets more transparent.

Another significant change to the planning and budgeting process occurred in 2018, when the Union government changed the beginning of the fiscal year from April to October. The change was made to facilitate purchasing and infrastructure budgeting during the dry months of November–May. Under current arrangements, the dry season is cut short by the transition from one budget year to another. An intermediary period from April 1, 2018, to September 30, 2018, was covered by a six-month budget until the beginning of FY 2018–19 in October 2018. Figure 5.1 provides an overview of the current subnational planning and budget preparation calendar.

SUBNATIONAL PLANNING IN MYANMAR

The key actors in the subnational planning process include the Plan Formulation and Implementation Committees (PFIC); individual departments such as Basic Education, Rural Development, and notably

the Planning Department and GAD; and state/region governments and hluttaws (for state/region plans). At the Union level, the National Planning Commission and the Union Finance Commission play leading roles in reviewing plans.

PFICs are present at township, district, and state/region levels.²⁵⁸ The chairs of the committees are the respective GAD administrators at township and district levels and the state/region minister of planning and finance at the state/region level. The respective Planning Department head acts as secretary at all levels. The committees also include department officials from various line departments such as Education, Health, Agriculture, Rural Development, etc.; MPs; and public representatives such as local business people.

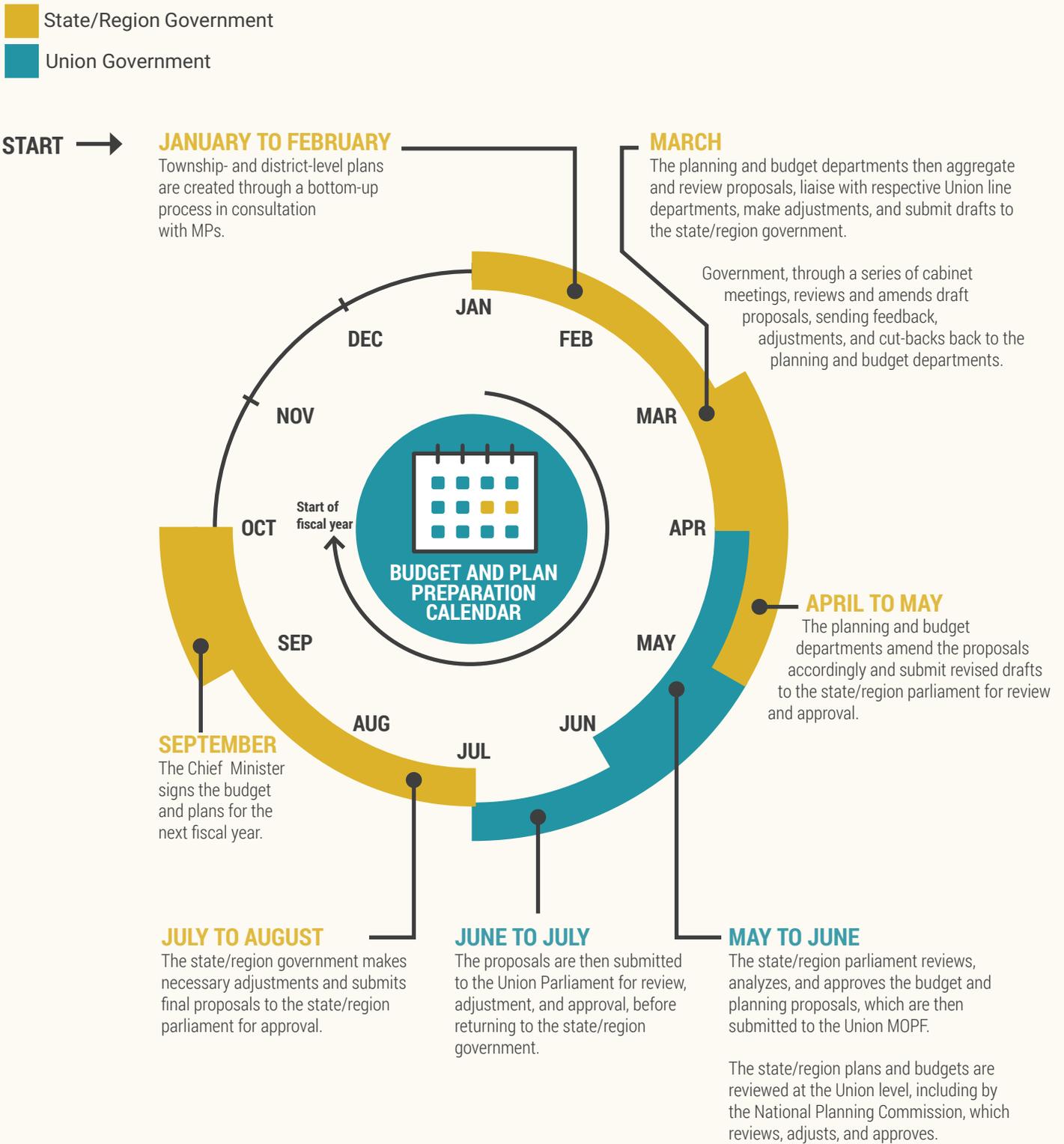
The role of the state/region PFIC is to generate and submit proposals to the state/region Planning Commission. The commissions, established in 2016,²⁵⁹ are responsible for analyzing and agreeing to plans. The commissions are chaired by the chief minister and comprise all state/region ministers and representatives of the private sector. The state/region GAD executive secretary acts as secretary.

At the Union level, as of 2016, the supreme national planning body is now the National Planning Commission (NPC), superseding the Union Finance Commission (UFC).²⁶⁰ The NPC is chaired by the president and comprises all 14 state/region chief ministers and all Union ministers. The UFC, which does not feature all Union ministers, maintains its constitutional role in reviewing proposed budgets.

In addition to the annual planning process, frameworks exist for medium- and long-term planning, including a five-year plan (2016/17–2020/21) and a 20-year National Comprehensive Development Plan (2011–30) prepared under the USDP. However, Planning Department officials stated that these plans are outdated, particularly as they were prepared in a top-down manner, and play little role in determining annual plans.²⁶¹ Nonetheless, the five-year plans may hold greater weight in other sectors. Individual Union ministries, as well as the Union government, have also created long-term plans, such as the MOEE's National Electrification Plan, that shape planning at the subnational level.

The annual planning process begins with state/region Planning Departments reviewing progress against the previous year's annual plan before the Planning Department and line ministries ask township and district offices to formulate plan/budget proposals for the

FIGURE 5.1 Subnational planning and state/region budget preparation calendar



following year. The process culminates in an annual State/Region Plan Law that summarizes the approved plan. The law includes two annexes, one detailing investment projects funded by the state/region budget and the other detailing those projects undertaken within the state/region that are to be funded by the Union budget.

As shown in figure 5.2, which provides an overview of the planning and budgeting process, proposals for projects at the township level are reviewed by Township PFICs (TPFICs). The work of the TPFICs has become increasingly important in recent years as part of efforts to develop a bottom-up planning process.

These efforts began under the USDP government with President Thein Sein's vision of "people-centered development." Success was limited by the provisions of the five-year plans, which were considered the default with little room for flexibility.

Under the NLD, these efforts have been redoubled, with members of the state/region governments, hluttaws, and line ministries stating that there has been a clear attempt during the latest planning process (for the six-month budget) to create a genuinely inclusive process of bottom-up planning.²⁶²

The TPFIC is now responsible for identifying and ranking a number of priority budget proposals for each sector for consideration at higher levels. In many townships, the committee meets monthly, allowing updates for members on the progress of projects and a continuous process of identification and adjustment of township priorities.

The mechanism through which the TPFIC seeks to ensure that its priorities reflect the needs and desires of constituents varies from township to township and state/region to state/region. In some townships, the process of identifying priorities begins at the village, village-tract, or ward level with public consultations with local residents. The identification of ward/village-tract priorities may be led by the ward/village-tract administrator and may involve MPs from the state/region or Union hluttaws.

As with the TPFIC, individual line departments may hold their own consultations at the village, village-tract, or ward level to help identify priorities. The Department of Rural Development, for example, is often active in this area.

Stakeholders from the NLD in the planning/budgeting process state that the linchpin of the bottom-up process is the inclusion of MPs on the committee. As one regional planning and finance minister informed us, "their voice is the people's voice, so we have to

honor their recommendations." In some areas public consultations are not held, and MPs are simply assumed to have a clear insight into the wants and needs of their constituents. Given the size of some townships, with populations over 100,000, consideration should be given to how MPs, W/VTAs, CSOs, and members of the public can collaborate to identify priorities.

Different townships and states/regions are at different stages of implementing the NLD government's vision for bottom-up planning. In some townships, the TPFIC is said to play a marginal role, if any, in the development of sectoral proposals.²⁶³ In some areas, township departments may submit proposals to district level without TPFIC review. TPFICs are said to be most active in areas with ongoing development projects, such as the World Bank's National Community Driven Development Project or those run by the United Nations Development Programme.²⁶⁴

Proposals from the township level are then shared with district-level offices. Although this varies from district to district, district offices, in conjunction with district PFICs, often do little more than aggregate township-level proposals and offer some comment on their relative prioritization for state/region consideration, with limited numbers of new proposals at this level.

State/region line departments review and consolidate proposals, and also add their own. The state/region planning department plays a coordinating role across line departments. At this stage, the state/region budget department becomes a leading actor, and the planning and budget processes for state/region and Union budgets diverge, with the two budgets following different processes.

An important exception to the process outlined above is the planning process that goes on within DAOs and the Department for Development Affairs.²⁶⁷ DAOs are not required to submit their plans to PFICs and instead develop their plans and budgets independently in conjunction with Township Development Affairs Committees (TDACs).

The DAO planning and budgeting process for investments appears to be both bottom-up and driven by technocratic considerations. DAO offices, along with TDACs, clearly make an effort to consult with neighborhoods about priorities. Consultations appear to be largely ad hoc, based on in-depth local knowledge and the personal networks of elected TDAC members. Technocratic considerations supplement any local prioritization and are used by DAO engineers to help decide which roads are most heavily used or which roads serve a more strategic function within the urban transport network.

Annual DAO budgets are formally submitted to, and approved by, their respective TDACs. However, this appears to be something of a formality. The TDAOs submit the budgets and plans to state/region DDAs for comment, consolidation, and approval prior to their submission to the state/region hluttaw. While DAOs undertake much of their annual planning and budgeting semiautonomously, their annual plans and budgets have no official status outside of the approved, composite budget of the state or region DDA. In some areas, state/region hluttaw representatives are now playing a role in the DAO planning and budgeting process. In Sagaing, for example, DAO plans are required to be signed off by their respective township MP before it is submitted to the regional department.

PROPOSALS FOR STATE/REGION PLAN AND BUDGET

The state/region budget director is responsible for managing the development of budget estimates, which include annual revenues (own-source and transfers) and expenditures (current and capital) and are consistent with regulations of the Ministry of Planning and Finance (MOPF) and with overall government policy priorities. The budget estimate, once finalized and approved, is reflected in the annual State/Region Budget Law. As per figure 5.2, once district line departments have submitted proposals, state/region department directors consolidate, consider, amend, and add their own proposals. Proposals are then submitted to the state/

BOX P

Subnational planning—towards a more inclusive and responsive process? ^{265, 266}

Both the USDP- and NLD-led governments have emphasized the need for a more inclusive and responsive planning and budgeting process. Efforts towards this end have the potential to deliver public services and infrastructure that better reflect the needs of local people, and thus achieve one of the main stated aims of decentralization. The NLD's efforts, which center on bottom-up planning and the growing role of TPFICs and MPs in the process, are at an early stage, so evaluating their success is premature. While these efforts provide opportunities for better understanding the needs of local people and the increased involvement of democratically elected actors, their success is not guaranteed.

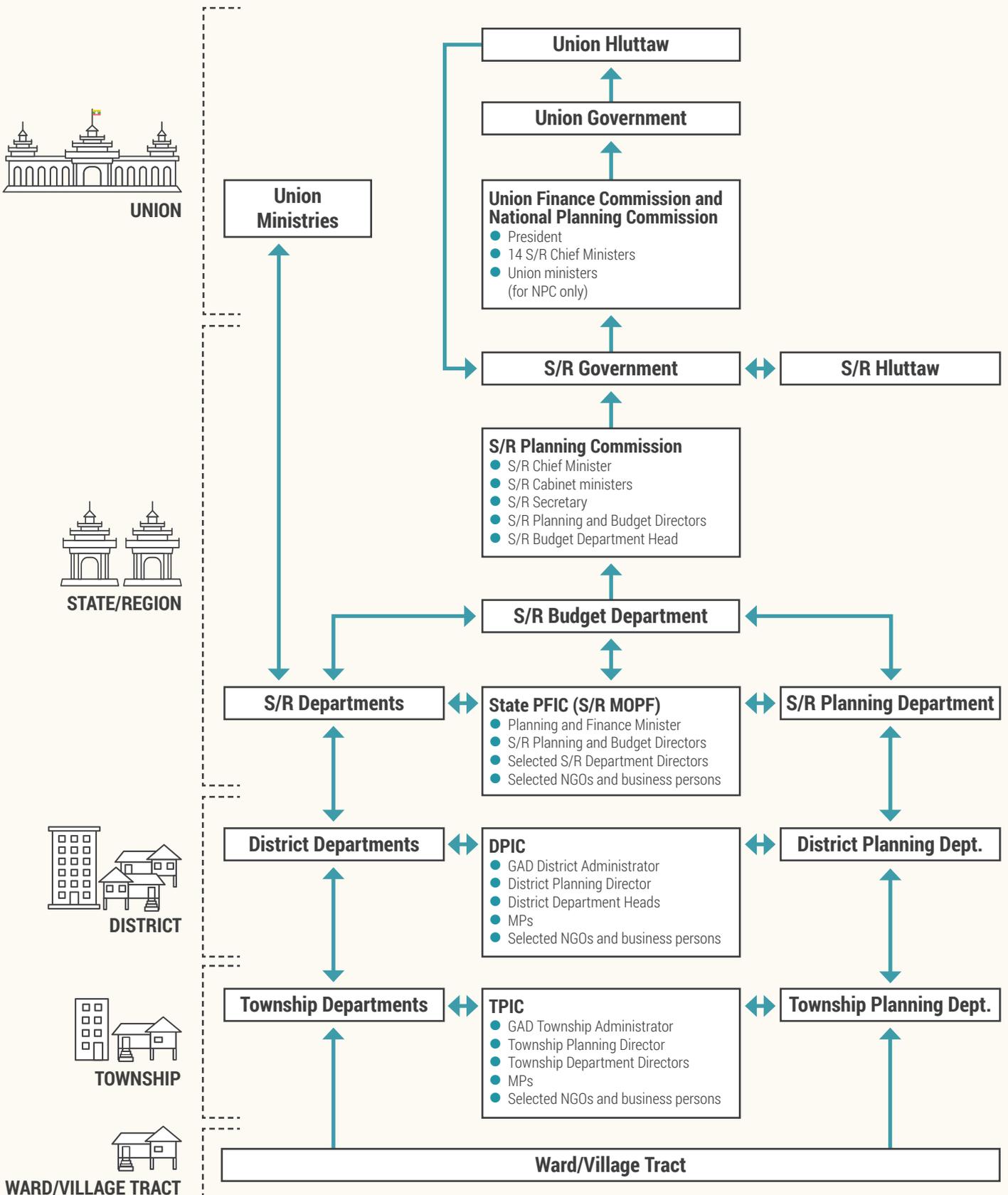
The reliance on MPs can be justified by their understanding of their constituencies and the fact that they can be held to account at the ballot box for the decisions they make. The success of MPs will be determined, in part, by the extent to which they are well informed of the needs of their areas and the level of engagement they have with the planning process. Planning Department officials have stated that the biggest challenge in the process is that MPs are frequently unavailable to attend committee meetings. Further, the process of ceding project decisions to lower levels may create more space for elite capture, particularly where transparency and clear rules are lacking, and reports are already emerging of discontent that MPs may be prioritizing projects for the wrong reasons. The increased role of MPs may be further strengthened by better data to support the decision-making process; by the inclusion of other actors, such as CSOs, W/VTAs, and members of the public; and by greater responsiveness to considerations such as gender or socioeconomic status.

The growing role of PFICs, chaired by township and district GAD administrators, may also increase the influence of unelected actors over the budgeting and planning process. However, planning officials have stated that GAD administrators tend to know the needs of their areas well and take their responsibilities seriously. Tensions have been noted between some department officials and MPs in determining priorities, which has been complicated by the fact that the MPs' role is not enshrined in law, nor are there clear distinctions between the different actors in the process.

The success of the process will also be determined, in part, by the extent to which identified local priorities find their way into the final state/region and Union budgets. Field interviews suggest that this varies. In one state, around three-quarters of first priorities were said to have received funding, whereas less than 50 percent were said to have been funded in another state. MPs interviewed about the process were generally very positive, saying that the priorities they identified at the township level were receiving funding and that they felt the budget now better reflected the actual needs of their constituents.

Further research is needed to better understand and evaluate bottom-up planning in Myanmar.

FIGURE 5.2 Planning and budgeting preparation process for state/region budget



region Planning Department (for the capital budget) and the state/region Budget Department (for the combined capital and current budget), which make queries and adjustments. The state/region PFIC, headed by the state/region minister of planning and finance, reviews and approves the plan before sending it on to the Budget Department. Budget directors assess proposals for consistency, accuracy, and compliance with laws and regulations before combining them for review and approval.

At this stage, budget directors “cut back” proposals in line with their estimates of the total revenue for the state/region. These estimates are largely based on the state/region’s revenue in the prior year. The cutting back of proposals is significant. One regional budget director reported that the total cost of department proposals was twice the expected revenue. As a consequence, the budget director, in consultation with state/region ministers and Planning Departments and line-department officials, cuts back proposals to achieve a balanced budget. The priorities are cut down and then amended again once the grant-transfer amount is announced.

From 2016 to 2017, the Union level began informing states/regions about their grant-transfer amounts earlier in the process, allowing them to make a more realistic estimate of revenue earlier in the process. Previously,

unprioritized budget proposals were sent to the Union level unconstrained by a budget ceiling, at which point an iterative process between the states/regions and the Union began. Now, in theory, a one-time submission to the Union government is made, allowing states and regions to make a proposal that has already undergone prioritization. This should permit more effective consideration of what the genuine priorities for inclusion in the budget are. Anecdotal evidence suggests that there is some limited back and forth between states/regions and the Union after submission.

While the earlier announcement of grant transfers is an important step forward, it has not prevented state/region line departments from developing proposals that far exceed the likely budget for that department, so there can still be a somewhat hurried process of cutting back that may affect the ability of states/regions to carry out a full technical/economic review of the merits of different options.

Plans and budgets are then reviewed by the state/region Planning Commission, headed by the chief minister, before the budget is submitted to state/region government for review and possible changes.

Before submission to the Union government, the plan and budget are reviewed by state/region hluttaws. The relative importance of state/region hluttaws in the

BOX Q

Assessing and appraising proposals for capital expenditure

There continues to be a lack of adequate tools to ensure consistent screening, appraisal, and ranking of competing investment proposals. While the inclusion of hluttaws and MPs in the planning and budgeting process is arguably a positive development, it is not clear that MPs’ involvement is leading to effective evaluation of proposals. There appear to be no criteria for developing cost-benefit rankings, nor to enable geographic targeting of investments to areas that are poor or have potential (despite stated Union policy to focus on deprived areas).

Some individual line departments have their own technical criteria for assigning priorities (e.g., roads are sometimes rated by average daily traffic data, and schools are rated by three criteria—whether the school is currently unsafe, how many pupils attend the school, and the school “image”), but it is not clear how such criteria are used in practice.

In all subnational investments funded by either a state/region government or by Union ministry budgets, there appears to be a clear bias toward spreading investment expenditures thinly across townships rather than focusing on particular areas. In the case of state/region roads, for example, this means fragmented state and region upgrades on 1–2 kilometers of road in each township every year, rather than larger, discrete investments in particular districts or townships. Similarly, the Department of Basic Education appears to spread school investments across all townships, regardless of relative need.

A related issue is that Budget Departments allocate the same amounts for the same items, so that 1km of bridge in Ayeyarwaddy is forecast to cost as much as 1km of bridge in Chin. As a consequence, tenders may receive few bids in areas where construction costs are higher.

budget process is increasing. Previous research found that “generally, [the hluttaws] play a fairly marginal role in the state and region budget process, and none at all in the deconcentrated budget process (i.e., the Union budget).”²⁶⁸ In part, this was a consequence of having insufficient time and opportunity to engage in the process.

In addition to the involvement of state/region MPs in the Township PFIC, the sharing of budgets with state/region hluttaws prior to submission to the Union level is an important development. How each state/region hluttaw reviews and comments on the budget varies. In some states/regions, the process is led and dominated by the Public Accounts Committee (PAC) or the Budget Committee.²⁶⁹ In one state, for example, the committee visited every department in every township to understand their needs and priorities, making their own evaluations to suggest amendments before the budget was sent for Union approval. One state/region PAC carried out fieldwork throughout the year to review implementation of projects and ensure effective oversight. In another region, a six-week process of consultation with the PAC, with as many as three iterations of the budget, ensured their views were reflected in the proposal that was submitted to the Union. In some states/regions, the PAC plays more of a coordinating role, with all MPs reviewing the budget and the proposals for their own individual townships.

Once the budget is accepted by the state/region governments and hluttaws, it is submitted to the Union level. The submission is reviewed and approved by both the UFC and the NPC, which includes chief ministers, before the Union government drafts the Union Budget Law, which contains annexes for the proposed fiscal transfers to the states/regions. Once the Union Budget Law is passed, the state/region governments submit draft State/Region Budget and Plan Laws to the state/region hluttaws, for approval and passage, after which the laws are signed by the chief ministers. At this stage, the hluttaw has little time to provide effective review, given the budget has already been approved by the Union level. Individual MPs have reported that this is less problematic, as they feel they have already had sufficient time to review and influence the budget before this point.²⁷⁰

In recent years, state/region governments have pursued greater budget transparency following the passage of the budget.²⁷¹ In FY 2017–18, six state and region governments (Ayeyarwady, Bago, Kayin, Mon, Kayah, and Tanintharyi) followed the lead of the Union government, which has published Citizen’s Budgets since FY 2015–16, and published their own Citizen’s Budgets. For five decades, government budget information had been treated as a state secret, unavailable to the general public. As a result, the majority of Myanmar’s population,

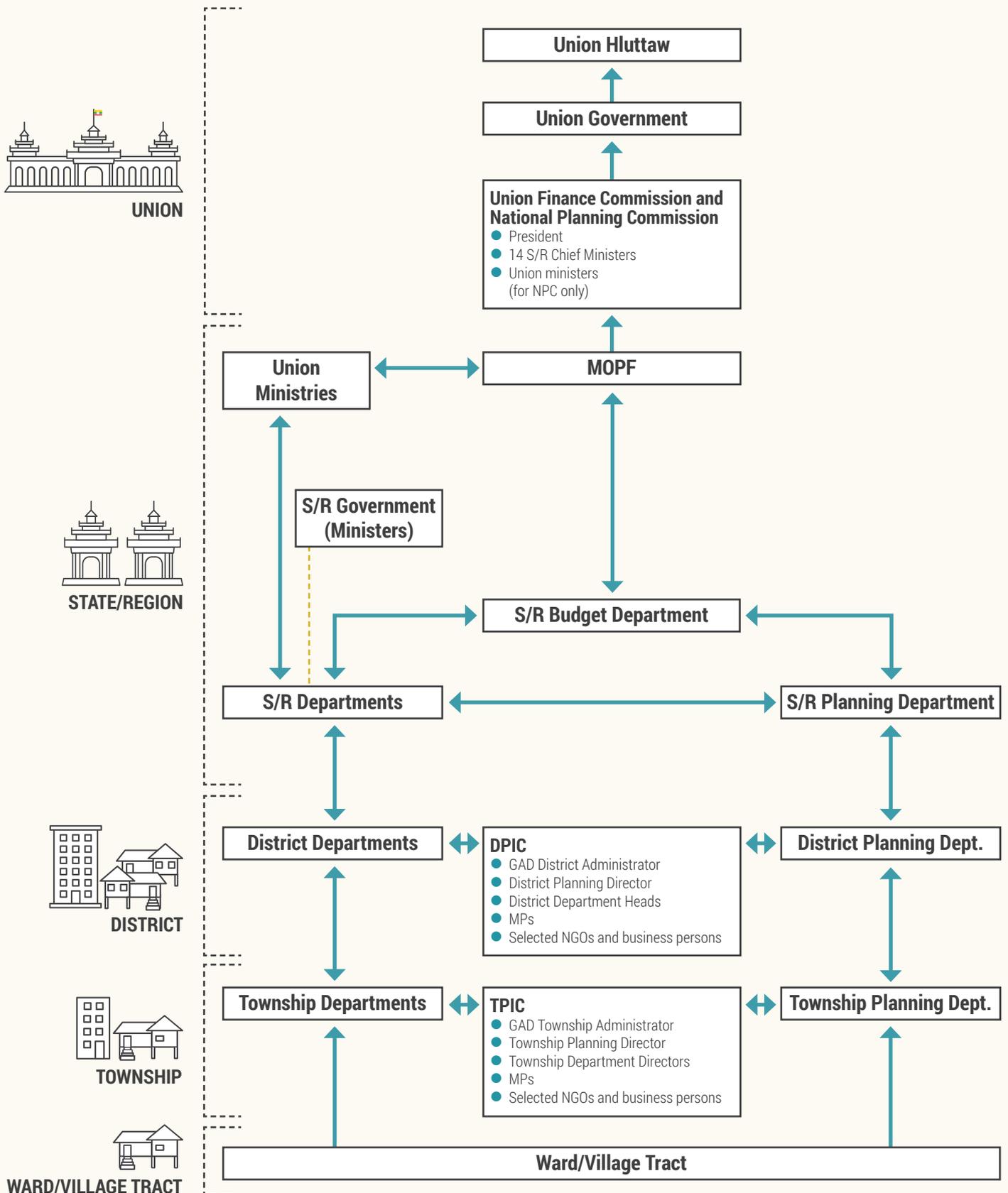
including scholars, professionals, and even government officials, remained unfamiliar with the budget process, how government priorities were decided, and details on expenditure and revenue. Thousands of physical copies of state and region Citizen’s Budgets have now been disseminated across these six states/regions. The Citizen’s Budgets provide an unprecedented opportunity for state and region governments and their citizens to discuss the public budget in an open and transparent manner. Increased budget transparency is being met with greater civil society interest in budgets.

PROPOSALS FOR THE UNION PLAN AND BUDGET

While the early stages of the proposal process for the Union plan and budget are largely the same as the early state/region process (figure 5.3, once submitted and considered by state/region department directors, individual departments submit their proposals directly to their Union line ministries instead of to the state/region PFICs. Prior to submission to the Union level, and depending on the department and state/region concerned, proposals may be shared with the state/region cabinet for comments or input before submission. State/region department directors and state/region ministers identify opportunities to review budgets and make suggestions and amendments. For example, the Departments of Rural Development and Basic Education in Shan and Kayin submit their proposed budgets to the state governments for comment, whereas the Department of Health sends its proposals directly to the Ministry of Health in Nay Pyi Taw.²⁷²

Starting in the next fiscal year, state/region governments will have an opportunity to comment and make recommendations on the proposals that state/region line departments submit to their parent Union ministries. Depending on whether their inputs are valued by the ministries, this change may significantly increase the power of the state/region governments, as they will now be formally involved in the process of the Union budget. Each Union line ministry, according to its own criteria, reviews the proposals it receives from the various state and region line departments and gives final approval—usually after substantially cutting down the original list of proposals. The Union government then submits the proposals to the UFC and the NPC for approval before they are provided to the Union hluttaw. No consultation appears to take place with the state/region government during this process, and state and region line departments say they are simply informed of the outcomes. However, chief ministers, as members of the UFC and NPC, do have an opportunity to comment on the proposals submitted.

FIGURE 5.3 Planning and budgeting preparation process for Union budget



5.2 HOW DO STATE/REGION GOVERNMENTS SPEND THEIR MONEY?

WHAT ARE THE STATE/REGION GOVERNMENTS' EXPENDITURE RESPONSIBILITIES?

State/region government expenditure responsibilities need to be clear so that actors can plan and budget effectively and determine the finances needed. However, there is not yet complete clarity in state and region government expenditure responsibilities. Schedules One and Two of the 2008 Constitution set out the broad basis for expenditure responsibilities but do not provide explicit details. The schedules say little about key sectors such as education or health, for example. Ambiguities over spending responsibilities are not an unusual aspect of legal changes regarding decentralization and can take time to become clear as the different levels of government determine how responsibilities will function in practice.

In practice, how expenditure responsibilities are determined and the level of clarity therein is dependent on the sector of spending. In some sectors, the division of responsibilities is clear cut: municipal services,²⁷³ for example, are funded entirely by the state/region governments; health and education spending, for example, are funded entirely by the Union government.²⁷⁴

In other sectors, expenditure responsibilities are determined by ministry rules and regulations and by precedent. For example, while the Constitution states that the states/regions are responsible for "medium- and small-scale electric power production and distribution...

not having any link with [the] national power grid," state/region sources have told us they can spend money on production and distribution that link to the national power grid if they don't exceed certain thresholds—11 kilowatts for distribution and 33 kilowatts for production. In sectors where both the Union and state/region governments have expenditure responsibilities, it is a rule of thumb that larger projects like major power plants are reserved for the Union budget.

In other sectors, there seems to be some flexibility in determining expenditure responsibilities, and ad hoc financial arrangements may be negotiated in response to local context. For example, in the roads sector, the Constitution suggests that "management" is to be assigned according to a broad distinction between state/region and Union roads,²⁷⁵ but it does not specify the practical responsibilities this entails, leading to opaque financial arrangements.²⁷⁶ As a result, subnational governments negotiate and cofinance a share of national roadwork.²⁷⁷

One consequence of this lack of clarity about expenditure responsibilities is uncertainty in some sectors about the exact functions of state/region governments. While many individuals at the state/region level interviewed for this research said there was little to no uncertainty over areas of responsibility, others involved in the planning and budget process observed that proposals are sometimes put forward for both the state/region and Union budgets simultaneously. The lack of clarity also poses problems for transparency and the ability of those in and out government to engage with the budget process and hold their government

BOX R

What expenditure responsibilities should the state/region governments have?²⁷⁸

A number of functions typically performed by lower levels of government in other countries, such as public health and education, remain centralized in Myanmar. When assessing fiscal decentralization and the ability of state and region governments to respond to the demands of citizens, it is useful to refer to the "subsidiarity principle," which states that functions should be performed by the lowest level of government that can do so efficiently.

A range of expenditures are still under Union line ministry control that might be more efficiently and effectively managed at the state and region level—for example, rural water supply and sanitation, basic education facilities, basic health facilities, etc. Elsewhere in Asia, all of these are typically assigned to local governments, often much smaller and less well staffed than Myanmar's townships, let alone Myanmar's states and regions. In line with the rest of the report, however, fiscal decentralization in these areas would need to be accompanied by political and administrative decentralization to maximize improvements in service delivery.

accountable. In the absence of complete clarity about responsibilities, available budget information provides the best insight into the expenditure trends of state/region governments.

STATE AND REGION GOVERNMENTS' ACTUAL EXPENDITURE

State and region government expenditure has grown significantly since FY 2012/13, the first year states and regions had separate budgets from the Union. As figure 5.4 shows, their expenditure has nearly tripled since their creation, from MMK 864,122 million in 2012–13 to MMK 2,474,942 million in FY 2017/18, an increase in their share of total government spending from around 6 percent in FY 2012/13 to nearly 12 percent in FY 2017/18. Since 2014-15, however, levels of expenditure have remained relatively stable.

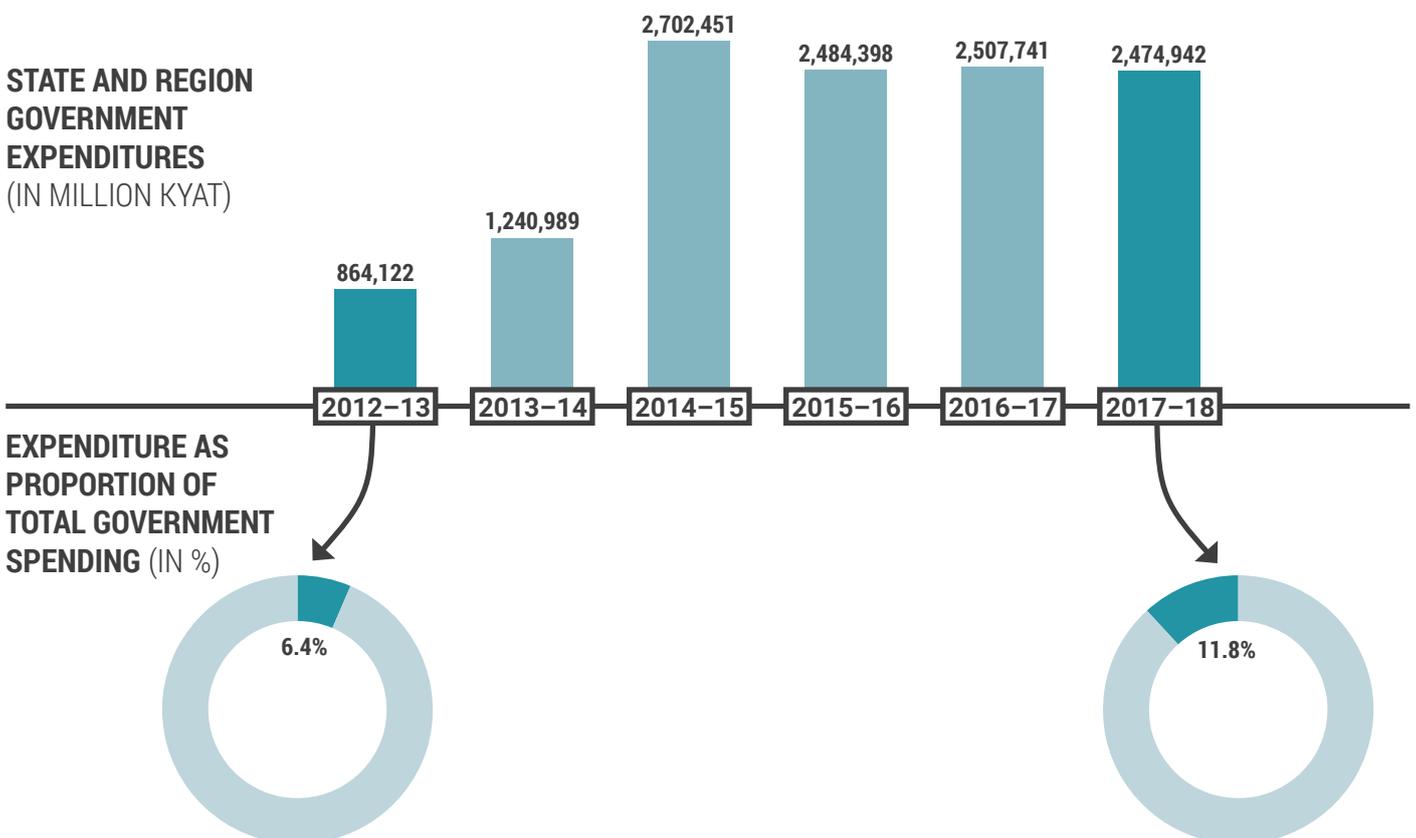
Increases in expenditure at the subnational level, both in absolute terms and as a proportion of total government

spending, provide more opportunities for states and regions to meet the needs of citizens, and thus increase their relative importance.

Despite these increases, spending at the subnational level remains a modest 11.8 percent of total government spending, averaging MMK 50,000 per capita across the 14 states/regions. As figure 5.5 shows, this places the state/regional share of government expenditure significantly below that in many other Asian countries.

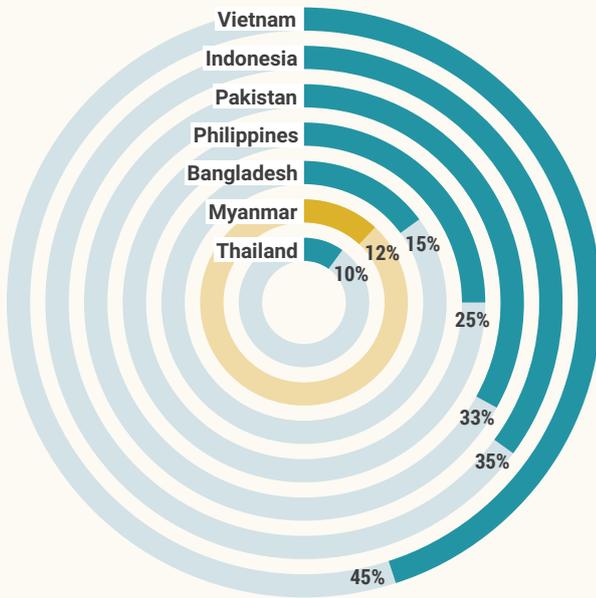
Capital expenditure has grown as a share of state and region government expenditure, from 36 percent in FY 2013/14 to nearly 55 percent in FY 2016/17.²⁷⁹ This may reflect a growing emphasis on infrastructure development.²⁸⁰ The growth in capital expenditure began under the USDP government and has continued under the NLD. In Taunggyi, Shan State, for example, capital expenditure by the DAO has increased from 40 percent in FY 2014/15 to 84 percent in FY 2017/18. The director of the State Department of Development Affairs reported that the removal of a cap on capital expenditure was now "allowing the department to meet its full responsibilities for the first time."²⁸¹

FIGURE 5.4 Expenditure by state/region governments



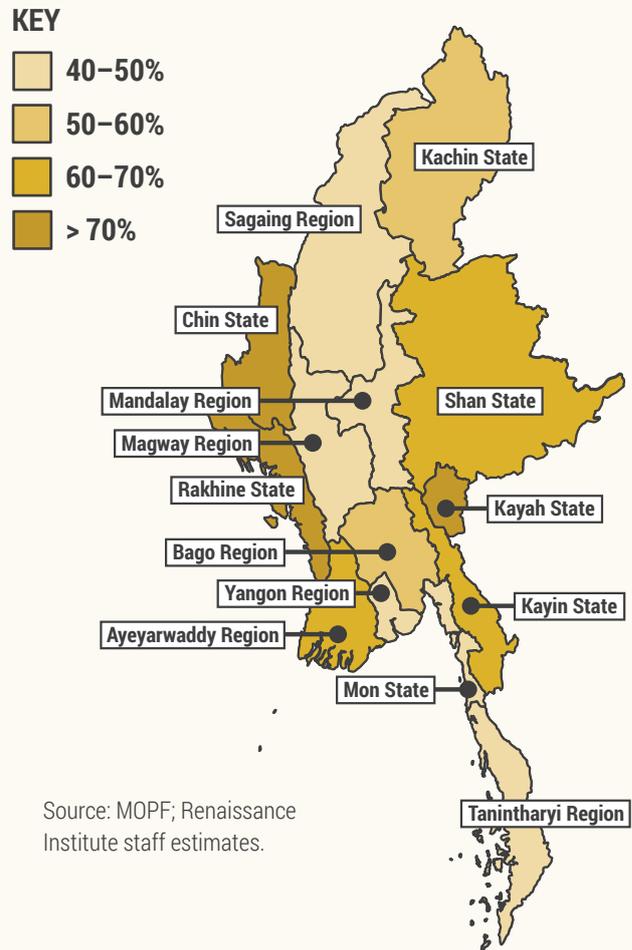
Source: Union Citizen's Budget; MOPF; Renaissance Institute estimates.

FIGURE 5.5 Subnational governments' share of government expenditure



Source: Adapted from Minoletti 2016; International figures (2009) taken from Dickenson-Jones, De, and Smurra 2015, 44; Myanmar figure (2017/18) from Union Citizen's Budget and MOPF data.

FIGURE 5.6 Capital expenditure as a proportion of state/region budget



Source: MOPF; Renaissance Institute staff estimates.

Increases in capital expenditure as a proportion of the budget are more pronounced in Myanmar's states than in the regions (figure 5.6).²⁸² This may reflect the need for greater infrastructure spending, such as on roads and bridges, in the traditionally poorer border areas, including areas that have been affected by conflict.

Roads tend to dominate state/region government expenditure.²⁸³ This can be seen in figure 5.7, with roads spending comprising the majority of Ministry of Construction spending. Most of the rest of state/region budgets is managed by subnational government bodies and municipal agencies (DAOs/CDCs). Some states and regions have invested in electricity. Subnational spending also includes minor expenditures in agriculture, irrigation, forestry, and, more recently, rural roads.²⁸⁴

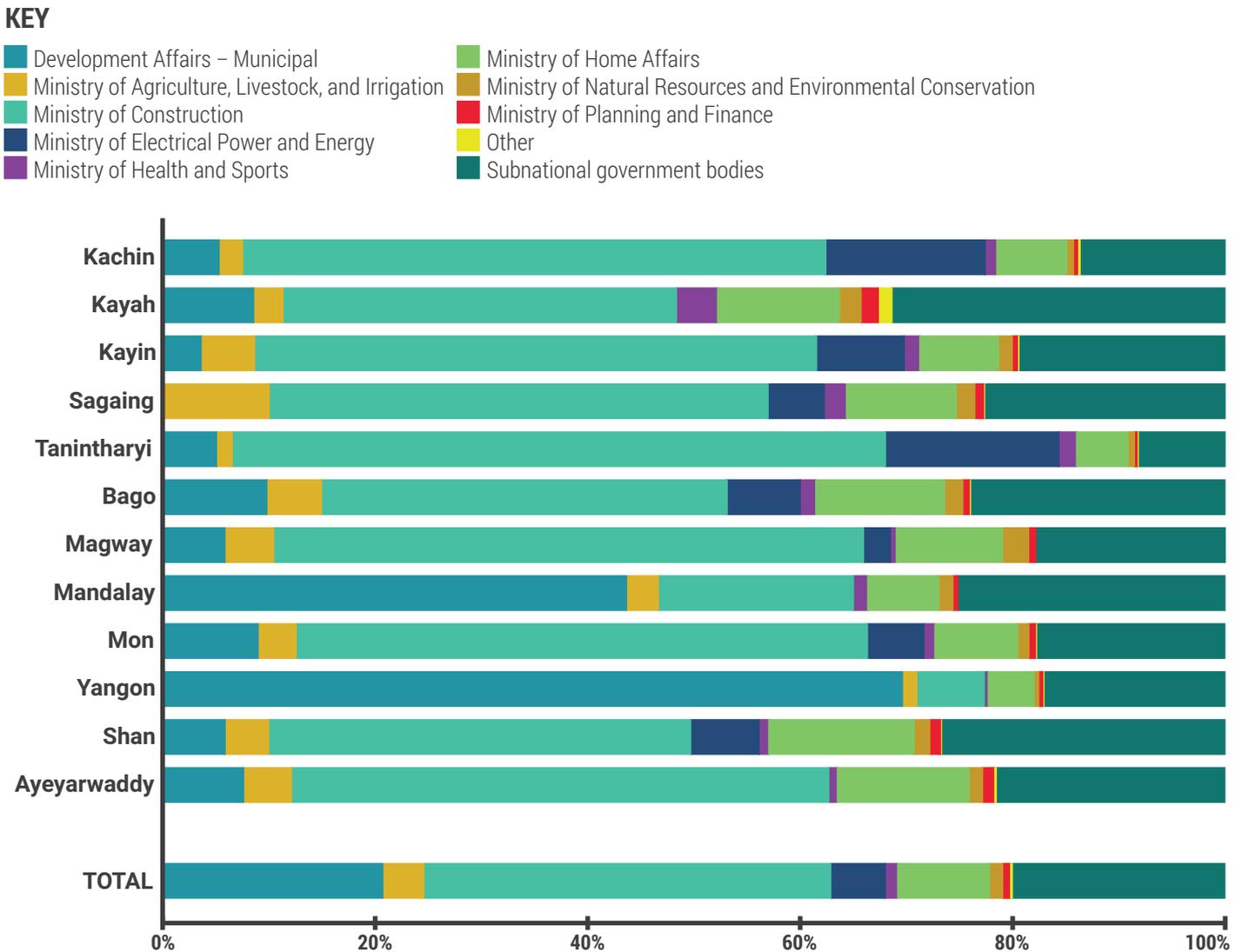
State/region government expenditure is becoming more diverse, with state/region governments now spending

money on a wider range of activities. The proportion of spending by the Ministry of Construction, mostly on trunk roads (highways) and bridges, has fallen from 54 percent of total state/region expenditure in FY 2013/14 to 38 percent in FY 2016/17.²⁸⁵ This percentage has fallen as state/region governments have identified new areas for spending.

First, the share of spending on electricity provision by state/region governments has risen across 12 states/regions, from none in FY 2013/14 to 5 percent in FY 2016/17 and up to 16 percent in Tanintharyi Region.²⁸⁶ Improving electricity provision, particularly through village electrification programs, is one of their government's top priorities.²⁸⁷

Second, spending by state/region government bodies²⁸⁸ has increased from 9 percent of total state/region government expenditure, to over 20 percent in our

FIGURE 5.7 State/region government expenditure by ministry, as share of total (2016–17)



Source: Open Myanmar Initiative; Renaissance Institute staff estimates.

Note: Other includes limited spending by other ministries. Subnational government bodies include: state/region Cabinet Office, state/region Hluttaws, state/region Courts, state/region Attorney General Office and state/region Auditor Office, Development Affairs – Municipal spending includes DAOs and CDCs.

sample of 12 governments. Most of this spending is budgeted under the state/region Cabinet Office and could suggest an increase in discretionary spending of public resources. Through the use of these funds, state and region governments exercise power over a wider range of activities than might be assumed. For example, in Bago, 70 percent of the cabinet’s recurrent budget—or 17 percent of the total region budget—is spent on irrigation, drainage, and agriculture.

Explanations differ for the spending under the state/region Cabinet Office budget line.²⁸⁹ In one state,

expenditure was explained as funding departments that, per existing budgeting norms, sit under the cabinet’s budget, such as the Irrigation Department. In another state, the explanation was that the spending was in areas where the Union government was formally responsible but the state government had been given discretion to set spending priorities—for example, minor spending on school furniture. More recently, as some responsibility for rural roadwork is being shifted to subnational governments, the expenditure appears to be recorded on the cabinet’s budget account.²⁹⁰ While there may be a practical reason, such arrangements

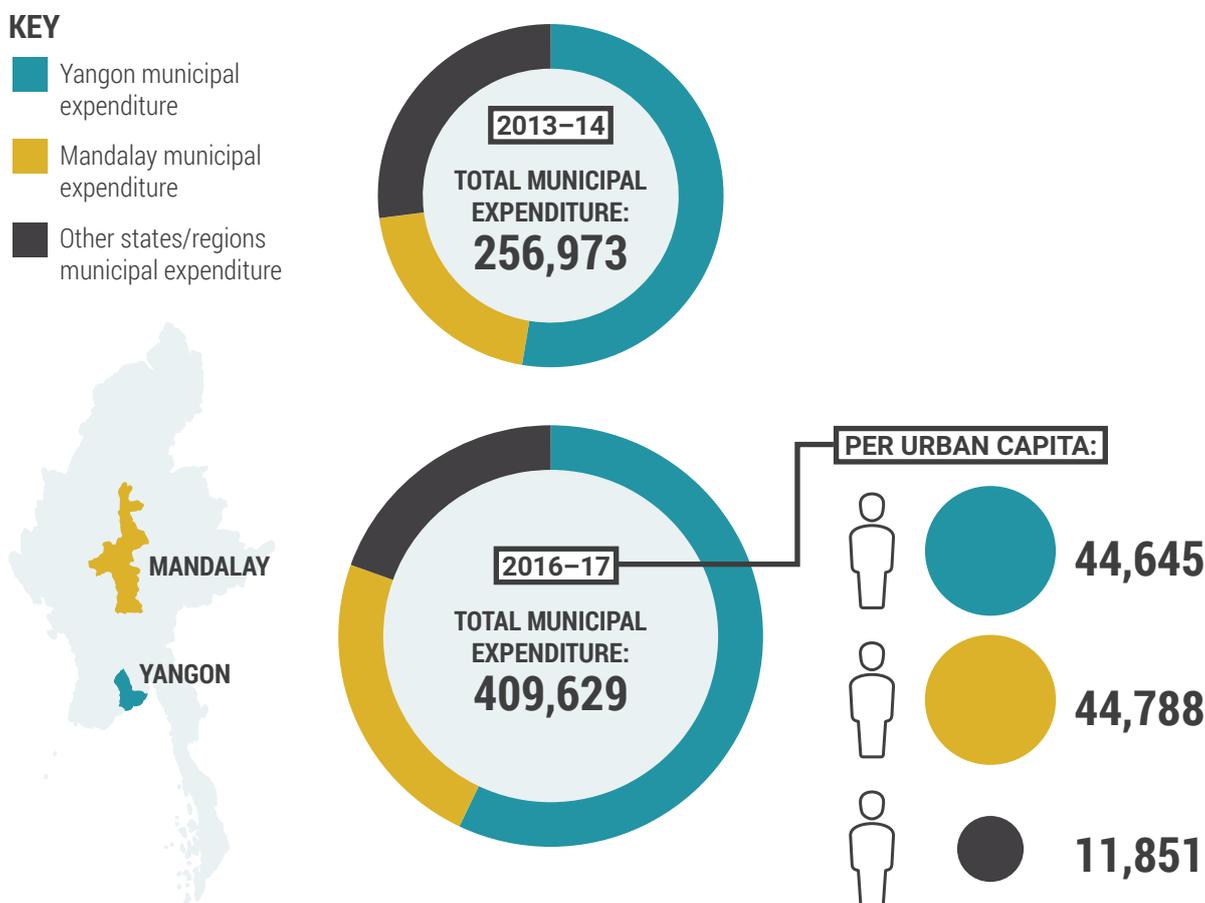
pose a challenge to budget transparency, managerial responsibility, and ultimately, accountability.

In recent years, municipal expenditure has decreased as a share of total expenditure and become increasingly concentrated in the two largest urban centers, Yangon and Mandalay. However, expenditure by municipal agencies has increased in absolute terms, from MMK 256,973 million in 2013–14 to MMK 409,629 million in FY 2016/17 across a sample of 12 states/regions (figure 5.8). Municipal spending has not kept pace with the overall increase in subnational expenditure, however, with nearly all of the growth in municipal spending occurring in Yangon and Mandalay.²⁹¹

The relative decline of municipal expenditure belies the demographic trend that Myanmar’s urban population is growing faster than the total population. There is also a noticeable disproportion in spending between Myanmar as a whole and the cities of Yangon and Mandalay,

which account for just 50.7 percent of urban residents but 80 percent of municipal expenditure. In FY 2016/17, Yangon and Mandalay municipal agencies (CDCs and DAOs) spent around MMK 45,000 per urban resident, compared with under MMK 12,000 per urban resident in a sample of 10 other states/regions.²⁹² This spending may not reflect the growing needs of urban residents across all of the country, and may pose challenges for municipal authorities in delivering utilities such as water and sewage. For example, Myanmar’s secondary cities, such as Hpa-An, Taunggyi, and Mawlamyine, are also growing rapidly; if expenditure does not keep pace with increasing demand, they may struggle with service provision.

FIGURE 5.8 Municipal expenditure across states and regions (2013–14 and 2016–17)



Source: MOPF

5.3 HOW DO STATE/REGION GOVERNMENTS FINANCE THEIR SPENDING?

Increased expenditure at the state/region level has been matched by significant increases in state/region revenues, which grew nearly threefold (273 percent) between FY 2012/13 and FY 2017/18, from MMK 904,180 million to MMK 2,474,942 million.

State and region governments are funded through two main sources: fiscal transfers from the Union government and own-source revenue such as taxes and fees. Recent increases in overall revenues have been largely funded by increasing fiscal transfers. Own-source revenues have grown as well, but these gains have primarily been concentrated in Yangon and Mandalay. Tax revenue, which is mainly collected by municipal authorities (DAOs/CDCs), remains a relatively small source at just 4 percent of total state/region revenue²⁹³

FISCAL TRANSFERS

Fiscal transfers from the Union to state/regional governments take three forms: general grant transfers, tax-revenue sharing, and development funds. Fiscal transfers from central government are not unique to Myanmar. In almost all countries, the volume of

expenditures that can be desirably decentralized to subnational authorities is inevitably much greater than the volume of revenue that is technically or politically feasible to decentralize.

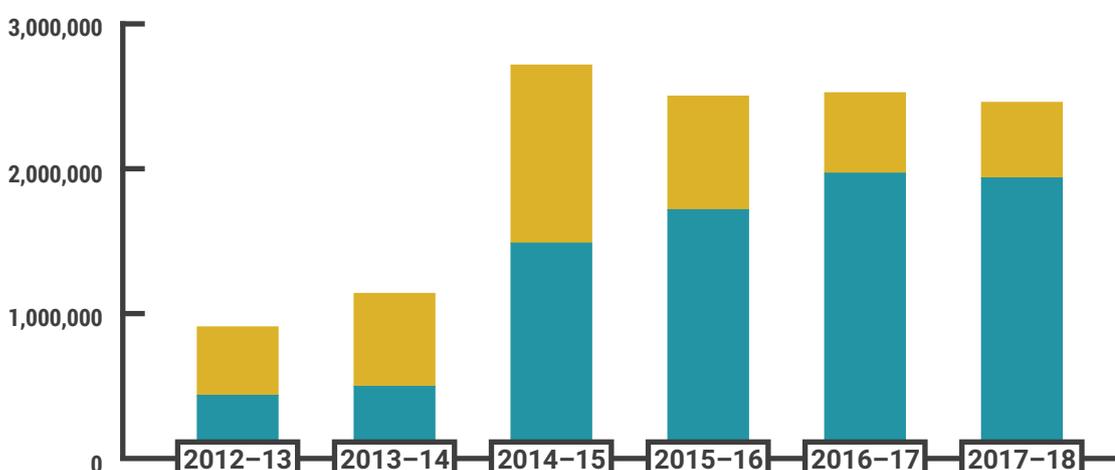
Since their creation, state/region governments have grown increasingly reliant on fiscal transfers from the Union government, with recent revenue increases largely funded by increasing fiscal transfers (figure 5.9). Own-source revenue, as a proportion of state/regional revenue, has decreased significantly. In Kayin State, for example, own-source revenue made up nearly 60 percent of total revenues in FY 2013/14.²⁹⁴ By FY 2017/18, that figure was just 4.8 percent.²⁹⁵

The general grant transfer is the largest transfer from Union to subnational governments (see figure 5.10). It has increased from MMK 437 billion in FY 2012/13 to MMK 1,707 billion in FY 2017/18. In FY 2017/18, general grant transfers constituted 69 percent of total state/regional revenue nationwide. The proportion of state/region revenue funded by the general grant transfer varies greatly across the states and regions, from less than 10 percent in Yangon Region to more than 93 percent in Chin State.

FIGURE 5.9 State/region government revenue sources: fiscal transfers versus own-source revenues (millions of kyat)

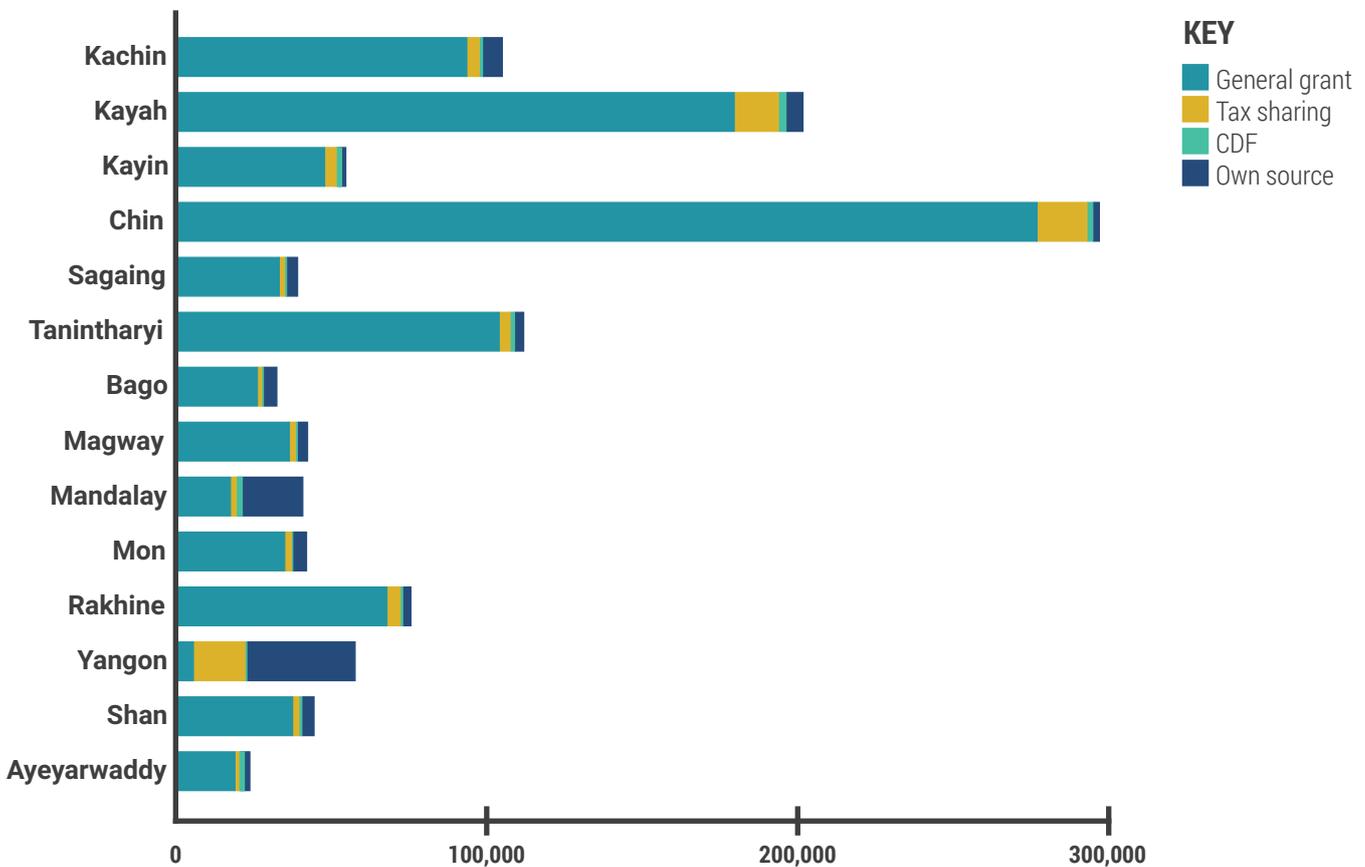
KEY

■ Fiscal transfers ■ Own-source revenue



Source: MOPF; Renaissance Institute staff estimates

FIGURE 5.10 State/region government revenue sources breakdown, per capita (2017-18 BE)



Source: MOPF; Renaissance Institute staff estimates

Notes: BE (Budget Estimate, enacted by legislature)

In FY 2015/16, changes were made to the procedure for creating the grant pool and for calculating how grant funds are allocated.²⁹⁶ The general grant transfer is now distributed according to the size of past transfers and a formula, with six equally weighted indicators, that considers population size, poverty level, per capita GDP, land area, urban population, and per capita tax collection.²⁹⁷ This change towards a “rule-based” financing model helps state/region governments better predict their revenue, enabling more effective planning.

Before FY 2016/17, there were a number of miscellaneous and ad-hoc transfers.²⁹⁸ Traditionally, the largest Union transfer to state and region governments followed the negotiated “deficit grant” model, whereby state and region governments propose budgets with a deficit, and the Union government determines the extent to which these deficits will be covered by a transfer. In the process, the Union often selected specific state and region budget priorities for this additional funding.²⁹⁹ This model has had a number of negative implications, including a trend toward inflated expenditure proposals

and weak incentives to collect own-source revenue. It also generates budgetary disparities across states/regions and encourages center-local patronage.

By total amount, the second-largest type of fiscal transfer is tax-revenue sharing, whereby a portion of taxes is returned to the constituency where they were collected. As of FY 2017/18, tax-revenue sharing made up 8.8 percent of total state/regional revenue. Since FY 2016/17, the Internal Revenue Department (IRD) has shared 15 percent of nonimport commercial and special goods tax revenues with state/regional governments, based on area of collection. They also shared 5 percent of income tax revenues and 2 percent of stamp duty. Of the estimated total MMK 213.4 billion “shareable pool” for FY 2016/17, MMK 192.8 billion was returned to Yangon.

In addition to the USDP-led government’s efforts towards bottom-up planning, the government also created a number of local development funds (LDFs), the third type of fiscal transfer, with the aim of providing development

BOX S

How well do fiscal transfers address inequities across the states/regions? ³⁰⁰

Fiscal transfers give the Union government an opportunity to address the different levels of need across states/regions in Myanmar. To date, it is not clear whether fiscal transfers have been effective in addressing inequities.

Tax-revenue sharing transfers are not structured to address inequities, as they are simply based on origin, and thus the majority of the available pool has been returned to Yangon. The CDF, with the same amount allocated to each township in Myanmar, disproportionately benefits less populated townships, with per capita allocations ranging from a meagre MMK 250 in highly populated townships to MMK 50,000 in less populated townships. As less densely populated townships tend to be in the less-developed, border areas, the CDF may disproportionately benefit areas with the greatest infrastructure needs. However, the small size of the CDF limits its ability to systematically address inequities.

The general grant transfer, as the largest source of funds, and with a formula that comprises a number of proxies for need, offers the best opportunity for addressing the differing needs of states/regions. The formula addresses inequality in revenues by giving less to regions such as Mandalay and Yangon, which are more developed and have more own-source revenue. However, equity considerations in the application of the current formula have been raised. Under the formula, Chin State, for example, received MMK 296,808 per capita, whereas Ayeyarwady received just MMK 23,791 per capita. While differing needs and costs of service delivery mean that allocations per capita do need to vary, with less developed and less densely populated states like Chin requiring greater funds, the ratio of 12.5:1 in per capita funding between Chin and Ayeyarwady seems arbitrary.

Further research and technical support are required to enable the MOPF to ensure the formula is optimally designed and applied to address inequities across states/regions. At a minimum, the formula needs to better weight indices such as poverty by relative population of the respective states/regions.

funding that was more responsive to local needs directly to local communities.³⁰¹ Foremost among these were the Poverty Reduction Fund (PRF), the Rural Development Fund (RDF) and the Constituency Development Fund (CDF).³⁰²

The PRF, CDF, and RDF, largely used for small infrastructure projects, were the only funds present in all townships in Myanmar. For the CDF and RDF, township and village-tract administrators and committees played an important role in needs identification and project implementation. In general, W/VTAs, together with ward/village tract DSCs, submitted proposals to the township-level GAD, before the GAD, through different committees such as the TMC and TDSC, assessed and approved proposals in conjunction with MPs. Funds were distributed by the GAD in instalments based on project implementation.

The rapid pace of reform in creating the LDFs and the institutions that managed them meant, in general, a lack of formal procedures for fund management, monitoring, and especially community participation.

With the exception of the CDF, funding for the LDFs ceased in 2017. The CDF is managed by the Union

Hluttaw, but it is channeled through the state/region hluttaws, where state/region MPs have discretion to allocate the funds. The CDF is designed to provide grants for small infrastructure projects³⁰³ and other investments. Projects are selected through a planning process managed by various township committees, including the TPFIC, TMC, and TDAC, and with MP involvement. The CDF constitutes only a small proportion of fiscal transfers. The most recent CDF amounted to just MMK 33 billion, which is about 1 percent of all fiscal transfers. Grants of MMK 100 million are allocated to each township equally.

OWN-SOURCE REVENUES

Own-source revenues comprise tax and nontax sources that are collected directly by departments such as GAD or DAOs. Schedule 5 of the Constitution (annex C) and the 2015 constitutional amendment (annex D), which supplements schedule 5, outline the taxes state/region governments are permitted to collect. As figure 5.11 shows, these include taxes on land, property, electricity use, dams, motor vehicles, and extractives and on consumption in the form of excise taxes. Critically,

FIGURE 5.11 State and region government revenues under Schedule 5

FINANCIAL AND BUSINESS

- Excise revenue and custom duties *
- Profits from state/region investment
- Income taxes *
- Tax on investment and insurance *
- Commercial taxes and tax on industrial activities *



MUNICIPAL

- Revenue from Development Affairs Organizations



TRANSPORT

- Toll fees from using roads and bridges managed by state/region
- Taxes collected in vehicles on road transport and vessels on inland waterway transport
- Tax on shipbuilding, repair, and maintenance*
- Tax on air transport *



FISHERIES AND FORESTS

- Tax on all woods except teak and other restricted hardwoods
- Tax on fresh water fisheries
- Tax on coastal fisheries*



LAND AND WATER

- Land revenue
- Water tax and embankment tax



MINING AND EXTRACTIVE INDUSTRIES

- Tax on minerals and mining*
- Tax on oil and gas*
- Salt tax



HOTELS AND TOURISM

- Tax on hotels and lodging houses *
- Tax on tourism *



SOCIAL

- Tax on private schools and training *
- Tax on private hospitals and clinics *
- Tax on housing and buildings *
- Tax on arts, music, cinema *



COURTS

- Fines imposed by courts
- Taxes collected on service provision



UNION GOVERNMENT

- Revenue received from the Union Fund account



OTHER

- Treasure trove
- Unclaimed cash and property



STATE AND REGION REVENUES UNDER SCHEDULE FIVE



many of the revenue sources identified in schedule 5 (denoted by an asterisk in the visual), are subject to Union law delineating how resources are to be divided between the Union and state/region levels. Many of these revenue sources currently go wholly to Union government. However, the visual demonstrates the great potential for further decentralization to state/region governments. Many ethnic groups, for example, have called for resource sharing, particularly in relation to the extractive industries.³⁰⁴ As it currently stands, the Union government could pass laws giving taxes from minerals, mining, oil, and gas to the states/regions without constitutional change.

Although state/region governments are legally permitted to collect a broad array of taxes, tax revenues account for a small share of overall state/region revenue. Taxes only account for 15 percent of total own-source revenue, and aside from Yangon and Mandalay, tax revenue has not increased significantly in recent years (figure 5.12).

While the wheel tax, property tax, and excise tax

represent the largest portion of state/region tax revenue, there is variation in the composition of tax revenues across states/regions (figure 5.13). For example, Ayeyarwady mostly relies on taxes on fisheries, while Kayah relies more heavily on property tax. Taxes are collected by a number of different subnational bodies, most notably the GAD, which is responsible for the collection of excise tax, and the DAOs/CDCs, which are responsible for the collection of wheel tax and property tax.³⁰⁵

In addition to taxes, state/region governments can also collect nontax revenue through the sale of capital assets, business license fees, fines, tolls, user fees, issuing or taking loans, and state-owned economic enterprises (SEEs). Nontax revenue accounts for the majority of own-source revenue for state/region governments. Inconsistent budget formats and changing accounting classifications make it difficult to estimate nontax revenue over time³⁰⁶; however, nontax revenue has consistently made up the largest share of subnational own-source revenue.³⁰⁷ The most important of these

BOX T **Increasing state/region governments' tax revenues**

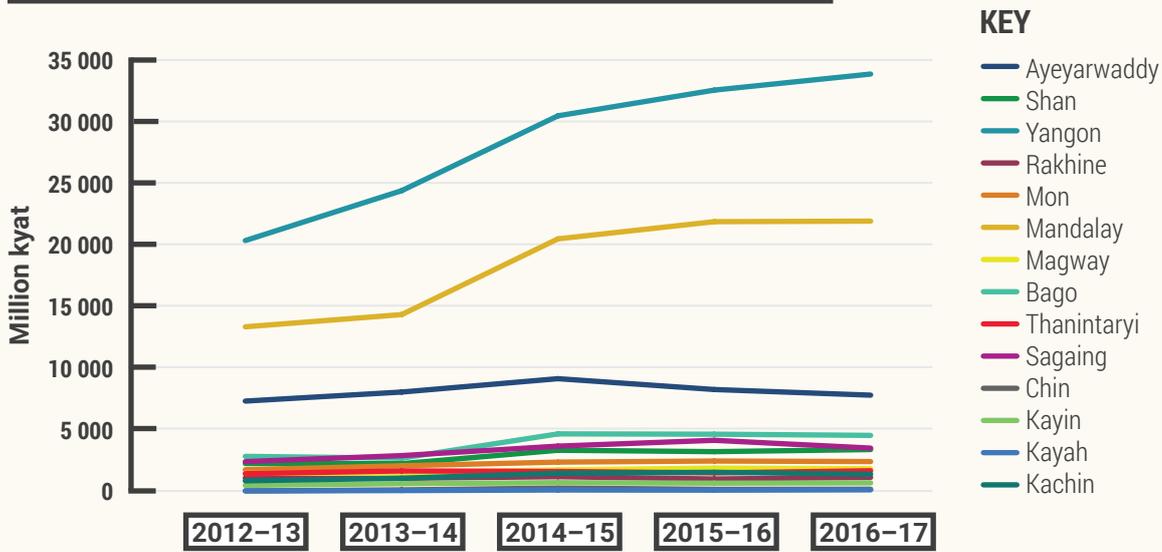
State/region governments' increasing reliance on fiscal transfers is above the average for low income countries. Schedule 5, and the significant number of taxes it contains, provides an opportunity for state/region governments to become more fiscally independent. Despite this, taxes have persistently provided state/region governments with just a small part, around 3 percent, of all state/region revenue and just 15 percent of own-source revenue.

There are a number of factors that contribute to the low tax revenue of state/region governments, not the least being the lack of a taxpaying tradition in Myanmar. More practically, tax administration faces some significant challenges. Currently, more than 20 state/region departments are engaged in revenue collection, with only DAOs/CDCs accountable directly to the state/region governments. The fragmented nature of tax collection contributes to the high costs of tax administration and means that state/region governments have imprecise tools to manage tax policy and expand the tax base.

Additionally, legal authority and tax autonomy are ambiguous. State/region governments' power to set and change tax rates and the tax base (for the constitutionally assigned subnational tax items; e.g., land tax) appears limited, partly by outdated Union laws and partly by institutional unfamiliarity with exercising subnational tax autonomy. Anecdotal evidence suggests that constitutional authority over subnational taxes has been interpreted by state/region governments as a right to funds rather than a right to administer or set policy.

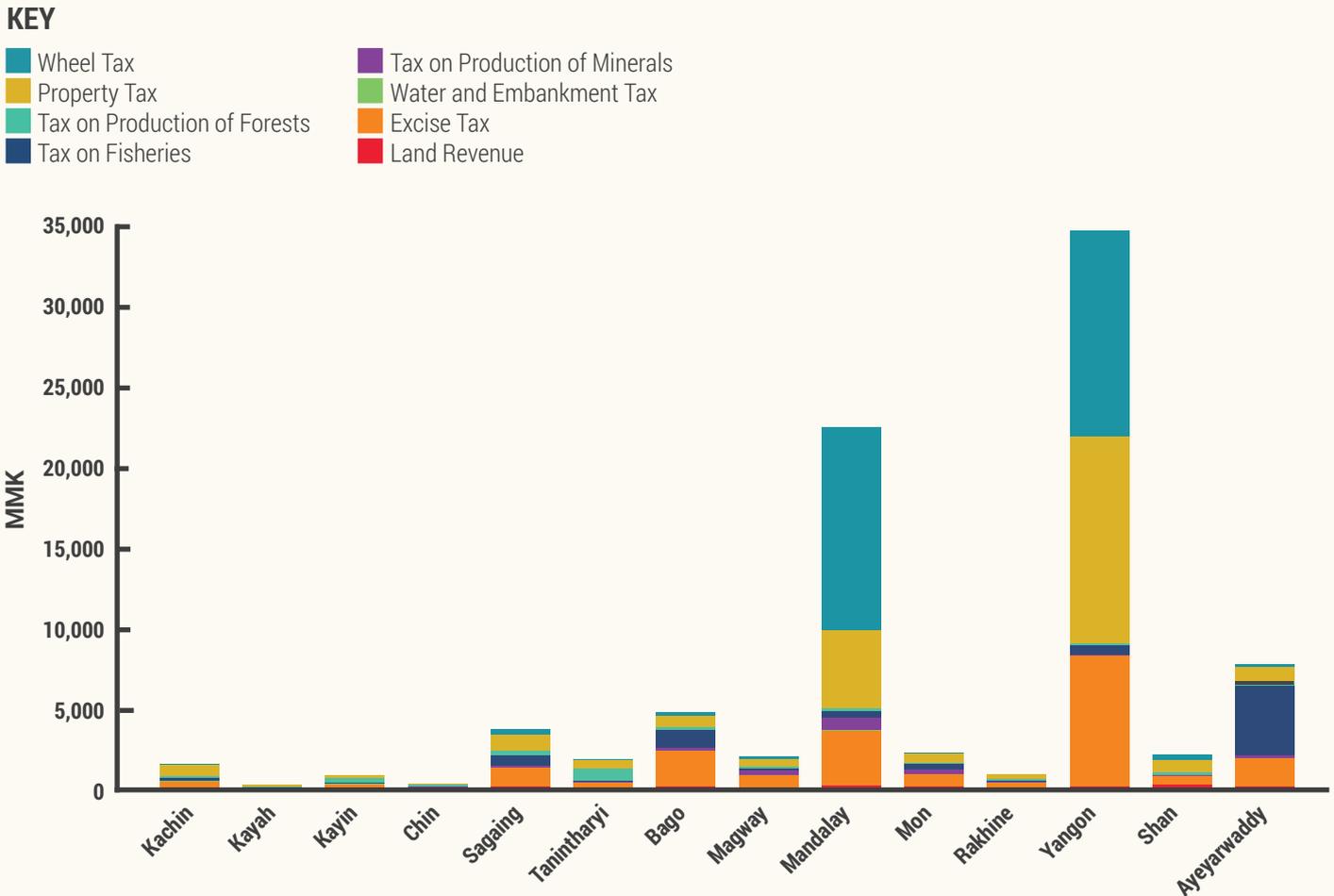
Despite the challenges, state/region governments have significant opportunities to increase their revenue base. Property tax, collected by DAOs/CDCs, provides a unique degree of discretion, with its administration and legal powers to set rates and define the tax base resting entirely in the hands of state/region governments. While property taxes make up a large share of some state/region government tax collection (for example, 64 percent in Kayah and over 40 percent in Shan and Kachin), overall they stood at only 0.03 percent of GDP in FY 2016/17, considerably lower than regional comparisons (McDonald and Hein 2017). Catching up with the property-tax collection levels of neighboring Thailand and LAO PDR (0.2 percent of GDP) would generate a nearly seven-fold increase. Reforms to strengthen the property tax are crucial as Myanmar rapidly urbanizes, and increased collection could help ensure the sustainability of essential municipal services.

FIGURE 5.12 State/region government tax revenue



Source: MOPF; Renaissance Institute staff estimates

FIGURE 5.13 State/region government tax collection per capita (2016-17 BE)



Source: MOPF; Renaissance Institute staff estimates

nontax revenue sources are those managed by DAOs, and of those, revenues from various license auctions (markets, slaughterhouses, ferries, etc.) constitute a significant proportion.

There are significant variations in own-source revenues among the states and regions (figure 5.14). Mandalay and Yangon raise roughly 75 percent of all state/region own-source revenue, 85 percent of municipal tax revenue, and nearly 50 percent of all subnational tax revenue. The two regions raise more than three times as much revenue per capita as the next highest, Kachin State, and more than ten times as much as the state/region that collects the least, Chin State.

The disparity between Yangon and Mandalay and the rest of the country is partly explained by the fact that no state/region other than Yangon and Mandalay collects significant revenues from issuing loans and capital, which account for an increasingly large proportion of the two regions' revenue (figure 5.15). Capital revenue grew from MMK 17,765 million in FY 2012/13 to MMK 115,331 million in FY 2016/17. In FY 2016/17, it made up around 15 percent of all own-source revenue nationwide, but 27 percent and 34 percent in Yangon and Mandalay, respectively. While it makes up a significant share of income, capital income primarily stems from the one-off

sale of assets and does not provide a sustainable source of revenue.

Beyond these sources of revenue, state/region governments could pursue a variety of alternative revenue sources, including taking out loans and using other financial instruments. Increased local government borrowing and debt is an indicator of fiscal decentralization, as it demonstrates the ability of subnational government to address budgetary shortfalls without having to rely on approvals from higher government bodies.³⁰⁸ In China, for example, a significant proportion of spending by subnational bodies has been funded by credit and debt instruments.³⁰⁹ Irresponsible borrowing, on the other hand, can threaten local government solvency, so borrowing requires effective oversight from central authorities.³¹⁰

The 2016 Public Debt Law permits state/region government to borrow from both Myanmar and international lenders, subject to approval from the Ministry of Planning and Finance and the Union Hluttaw.³¹¹ However, to date, state/region government borrowing has been very limited. It is not clear whether this has been a consequence of a lack of appetite from ministers, a lack of clarity over possible options for borrowing, or limited interest from financial institutions. There is certainly limited knowledge of

BOX U

Liberalizing local economic governance – the license-auction system

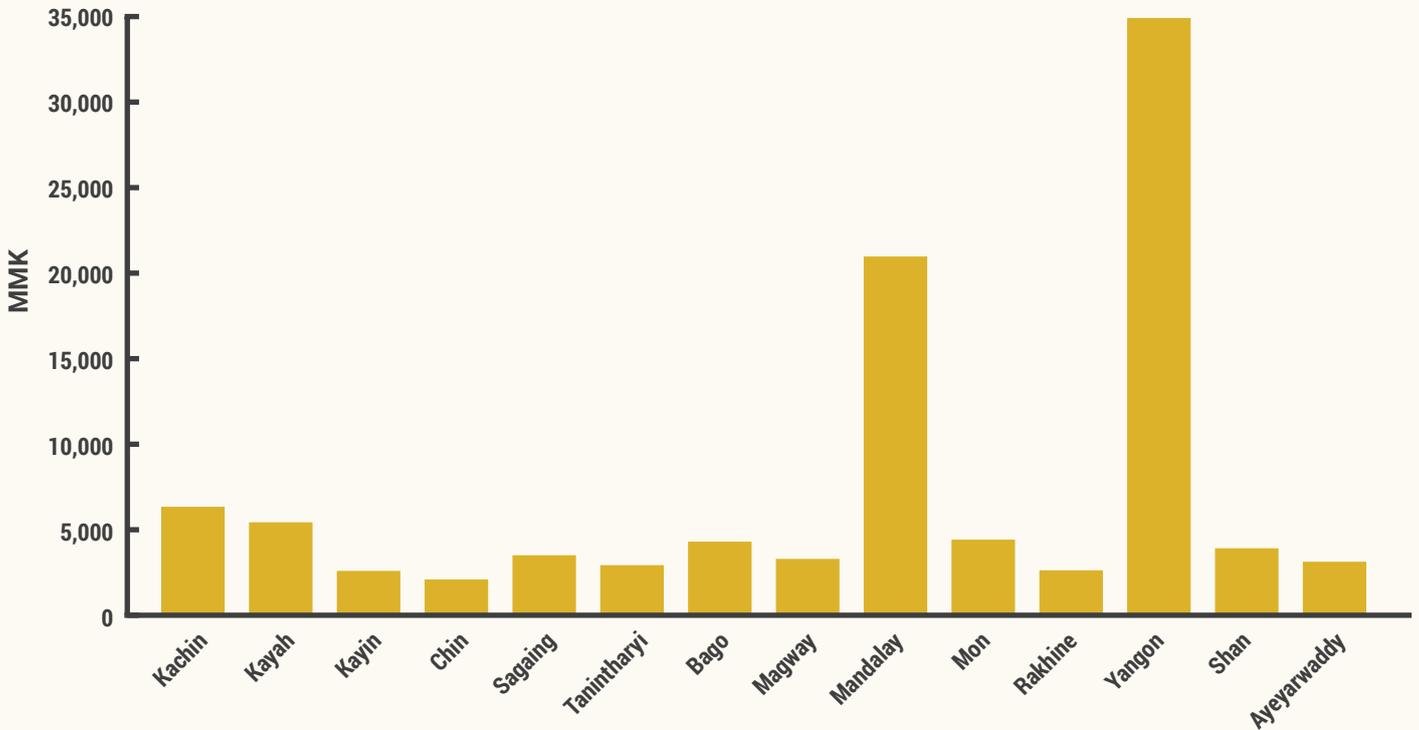
At the township level, a significant proportion of revenue comes through payments in advance that are a prerequisite to engaging in economic activity. One example of these is the slaughterhouse license-auctioning system, operated by DAOs. For many DAOs, fees such as these constitute the majority of their income, with slaughterhouse licenses the largest single source of revenue in some areas. This system of advance payments helps circumvent issues of poor compliance and ineffective tax collection.

The existing system creates a number of problems. As a tax on consumption or economic activity, it is relatively regressive. As the licenses are typically awarded for just one year, they deter investment. For most auctioned licenses, the fee must be paid in advance before any income is earned, so the system poses a challenge for many small businesses that can lead to reduced competition for licenses. The system has a particularly disadvantageous effect on women, who typically have less access to capital. In one township in Tanintharyi, for example, only 15 percent of licenses were issued to women.

As detailed above, development affairs is a sector with significant subnational autonomy and where state/region governments and DAOs are free to develop and test their own solutions to problems. In 2013, in response to concerns over elevated meat prices, the Shan State government issued a directive to implement reform. DAO executive officers from across the state submitted proposed solutions, and in Taunggyi, auctioned licenses were abolished in FY2013/14, and the system was liberalized.

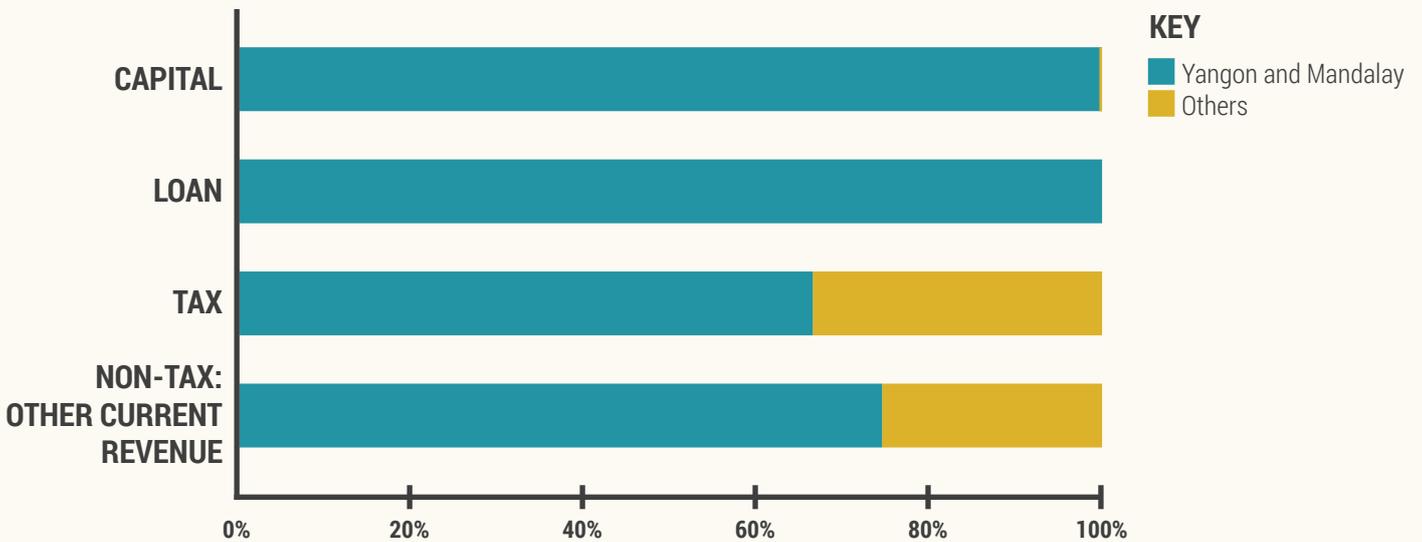
The example of slaughterhouse licenses shows ability of state/region governments to both liberalize economic governance and pursue policies with the potential to empower women. Regardless of the policies pursued, the immediate challenge will be maintaining a significant revenue stream for DAOs. In Taunggyi, the policy response has led to less revenue, due to the fact that a share of inflated profits is no longer being captured.

FIGURE 5.14 Own-source revenue per capita (2017-18 BE)



Source: Open Myanmar Initiative

FIGURE 5.15 Yangon and Mandalay Regions' revenue sources compared with other states and regions (2016-17 BE)



Source: MOPF; Renaissance Institute staff estimates

what financial products are available, and what state/region governments are legally permitted to do. Some departmental officials have stated that it is simply not possible for state/region governments to borrow money.³¹²

Public-Private Partnerships (PPPs) are alternative sources of revenue that have recently been discussed across Myanmar. In Yangon, for example, the regional government has proposed PPPs in a variety of

areas, including in the transport sector.³¹³ The Union Government and Union Ministries are also entering into PPPs to generate revenue for subnational government bodies. The International Finance Corporation and the Ministry of Construction have, for example, signed an agreement to build a USD 400 million elevated toll road in Yangon that will operate as a PPP.³¹⁴

BOX V

The critical role of municipal authorities in raising revenue

Overall, a large share of state/region own-source revenue comes from DAOs and CDCs. A sample of 11 state/region governments in 2016/17 reveals that revenue from municipal offices made up 77 percent of all state/region own-source revenue and 60 percent of all tax revenue. In fact, DAOs/CDCs generate nearly as much revenue as expenditure. In 2017, for example, DAOs collected almost MMK 395 billion in revenue and spent MMK 409 billion.

Most municipal revenue comes through nontax sources and the sale of capital assets. The largest share of nontax revenue is fees from business licensing, including monopoly licensing that is done through auctions. Through these auctions, municipal governments issue monopoly licenses for services such as ferry crossings and slaughterhouses. Some states/regions receive revenue from other sources. Shan State, for example, receives revenue from public-private partnerships and other enterprises. Larger municipalities tend to generate more revenue and receive sizable tax-revenue transfers from IRD, creating disparities between municipalities. The state/region DAO offices reallocate own-source revenue from surplus-generating municipal DAO offices to deficit-generating municipal DAOs.

Given their important revenue-raising powers and broad range of expenditure responsibilities, it is vital that DAOs/CDCs be given the right incentive to raise revenues effectively and efficiently. While municipal revenues have almost doubled since 2013/14, much of the increase has been limited to Yangon and Mandalay. In tax collection, for example, while municipal tax collection has grown by 27 percent since 2012/13, it has not kept pace with inflation, and actually shrank by 2.7 percent. At the same time, municipal tax collection in Yangon and Mandalay has grown 40 percent in real terms over that period.

5.4 WHAT ARE THE EMERGING TRENDS IN FISCAL DECENTRALIZATION?

Assessing fiscal decentralization requires the analysis of expenditure assignments; revenues, including own-source; fiscal transfers from the Union and borrowing; and the nature of subnational planning and budgeting. Since the creation of the state/region governments, a number of important trends have emerged among these elements.

- (1) **SIGNIFICANT INCREASES IN STATE/REGION GOVERNMENT EXPENDITURE.** Since the creation of state/region budgets, a significant step in decentralization in and of itself, state/region government expenditure has almost tripled, and it now comprises almost 12 percent of total government expenditure. While these

numbers are still small, and budgets have not grown since 2014-15, they are evidence of further fiscal decentralization. Over the past fiscal year (2017/18), state/region governments were responsible for expenditure totaling over USD 1.8 billion (MMK 2,474,942 million), an amount guaranteed to have impact and influence.

(2) STATE/REGION GOVERNMENTS LARGELY PRIORITIZE SPENDING ON ROADS, BUT EXPENDITURE IS BECOMING MORE DIVERSE.

State/region government expenditure has largely prioritized spending on roads, but expenditure is becoming more diverse, with a lesser proportion of expenditure spent on roads, and spending in some novel areas, such as electricity supply, providing evidence that state/region governments are broadening their responsibilities. There remain areas where the expenditure responsibilities of state/region governments are not yet wholly clear.

(3) SIGNIFICANT INCREASES IN REVENUE, FUNDED LARGELY BY INCREASES IN FISCAL TRANSFERS FROM UNION GOVERNMENT.

In line with rising state/region government expenditures, state/region government revenues have increased significantly. The vast majority of this increase has been funded by fiscal transfers, however, rather than own-source revenues. Whereas states/regions once received the majority of their money from their own sources, the majority of their revenue now comes from the Union government. This may have important implications for state/region fiscal autonomy, as they are increasingly reliant on the Union government to fund their spending. On the other hand, the majority of fiscal transfers come in the form of a grant transfer, over which the states/regions have full spending discretion (with the exception of the limits identified in the planning and budgeting process).

(4) LIMITED GROWTH IN OWN-SOURCE REVENUE.

It is notable that state/region own-source revenues have not grown significantly over the past five years. This raises questions of whether the states/regions are being sufficiently empowered and incentivized to increase their own revenues. No state/region has incurred significant debts through borrowing. While it is legally possible, there currently appears to be little appetite in the states/regions for borrowing, although the Yangon Region government is increasingly interested in exploring different financing options. Where borrowing does occur, it is likely that the Union-level MOPF will play an important role.

(5) BOTH THE USDP AND THE NLD GOVERNMENTS HAVE ATTEMPTED TO MAKE THE PLANNING AND BUDGET PROCESS MORE RESPONSIVE AND ACCOUNTABLE.

Since the creation of the state/region governments, there have been sustained efforts to increase responsiveness, participation, and accountability in the planning and budgeting process. Local development funds and the growing role of local committees in the planning process defined these efforts under the USDP government. Under the NLD, even greater emphasis has been placed on budgets that reflect the bottom-up planning process, with MPs playing an increasing role in identifying local needs and priorities. The accountability of state/region governments has been further strengthened by the budget oversight of increasingly vocal and active state/region hluuttaws. The proliferation of Citizen's Budgets among the state/region governments represents further attempts to increase accountability through increased transparency. While promising, these efforts have started from a low base and are yet to be formalized in legal or other regulatory processes.

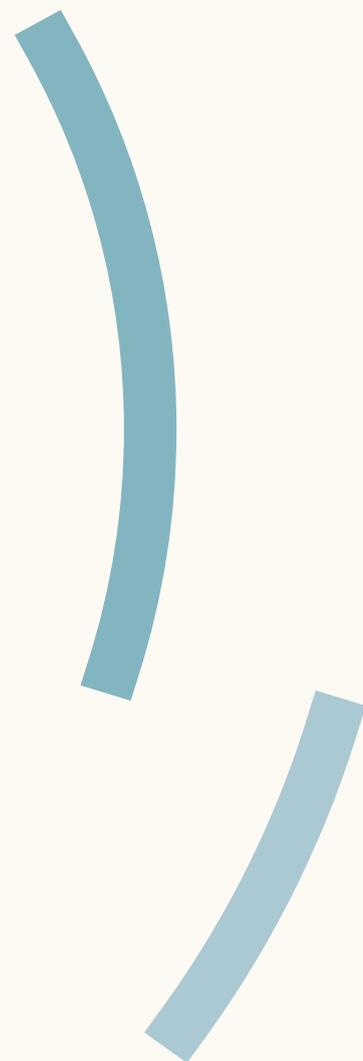
(6) BOTH UNION-LEVEL ACTORS AND SUBNATIONAL ACTORS PLAY CRITICAL ROLES IN THE PLANNING AND BUDGETING PROCESSES.

State/region budgeting and planning continue to involve a number of Union-level actors, including the Union government and Union ministries, both in setting policies for departments and in reviewing the budgets/plans before they are finalized. Concurrently, subnational actors are playing an increasing role in the development of Union budgets, both through the increasing emphasis on bottom-up planning and the involvement of state/region governments in the Union budget. As of next year, this involvement will be institutionalized, with state/region governments able to comment on and make recommendations for the proposals that state/region line departments submit to their Union ministries.

CHAPTER 6

CONCLUSION

This concluding chapter builds on the evidence of the preceding chapters to assess decentralization in Myanmar, including consideration of how the situation has developed in the five years since the 2013 baseline assessment. The chapter subsequently considers the ongoing and critical relationship between the peace process and decentralization, then offers recommendations for policymakers and officials to maximize the benefits of decentralization in Myanmar.



6.1 ASSESSING DECENTRALIZATION IN MYANMAR

POLITICAL

The formation of state and region governments with legislative and administrative responsibilities was the most significant step towards political decentralization in the 2008 Constitution.

The role of state/region executives is growing as they become increasingly assertive in expanding their responsibilities. As the Constitution becomes established in the nation's politics, state/region governments are becoming critical actors in shaping and leading regional development and implementing the policies of the Union government. Despite this progress, a significant limitation on the political autonomy of the executive branch of the state/region governments is the centralized appointment of the chief minister, who is ultimately accountable to the Union president. Centralized appointments and accountability have created a tendency in the Union government to lead the framing and prioritization of the work of the state/region governments.

While the formal responsibilities of the state/region hluttaws haven't changed since their creation, the growing authority and influence of these institutions and their representatives are evidence of further political decentralization. The historic 2015 election and the peaceful transition from USDP- to NLD-dominated hluttaws have helped to institutionalize the nascent electoral and political party systems, with state hluttaws continuing to act as a place for the significant representation and participation of different political parties. Legislative oversight of state/region executives has grown significantly, and state/region representatives have become increasingly assertive in representing their constituents, through both the work of the hluttaw and their growing involvement in township governance. The state/region hluttaws' legislative function remains underdeveloped, however, with few laws passed, of which a significant proportion are routine.

Decentralization to the state/region governments continues to be limited by the constitutionally enshrined role of the Tatmadaw. Twenty-five percent of state/region MPs are appointed by the commander in chief, and the state/region minister for border and security affairs is also a serving military officer nominated by the commander in chief.

Another important limitation on political decentralization exists below the state/region level, where accountability and participation are limited by the absence of a third tier of elected government. At the township level, both USDP and NLD transition governments have pursued

efforts to make local governance more participatory and responsive to local needs.

In summary, while the formal institutions, structures, and responsibilities of the state/region governments have not changed significantly since the baseline assessment of 2013, the increasing role of state/region executives and the growing assertiveness of state/region hluttaws in their oversight role and in representing their constituencies provide evidence of some increase in political decentralization.

ADMINISTRATIVE

The creation of state/region governments produced limited administrative decentralization. While the administrative role of the state/region governments was guided by schedule 2, their creation was not accompanied by the systematic creation of state/region ministries and departments or a state/region civil service. With the exception of state/region Development Affairs Departments, a situation of ministers without ministries was put in place in which a complex, ambiguous, and shifting relationship between state/region ministers and their departments emerged under a system of dual accountability.

There has been no major reworking of this system of dual accountability, and the continued accountability of state/region departments to the Union level is a significant impediment to administrative decentralization. Despite this, ways of working have developed that give the state/region governments greater oversight and authority over the work of the departments. This is true of both schedule 2 functions, for which departments are constitutionally accountable to the state/region governments, and schedule 1 functions, where the accountability of departments to the state/region governments is more limited. The accountability of departments to state/region ministers is also a function of the personalities, expertise, and politics of the state/region ministers, the chief minister, the state/region department director, and Union ministers.

While there has been no significant formal devolution of powers below the state/region level, there has been some limited deconcentration of power to the township level, albeit from a low base, particularly in the increased role of township committees.

The growing accountability of departments to state/region governments is a notable step towards administrative decentralization. It enables state/region

governments to play a greater role in shaping the work of departments. While new ways of working have increased accountability, they vary from minister to minister and department to department, and are not irreversible. As a consequence, administrative decentralization as a whole is still limited by the continued role of Union ministries in subnational administration.

FISCAL

A degree of fiscal decentralization was assured by the creation of state/region budgets, which comprise the expenditures and revenues that correspond to schedules 2 and 5 of the Constitution, respectively.

Expenditure by state/region governments has almost tripled since their creation and now comprises almost 12 percent of the total for all of government. While these numbers are still small, they represent further fiscal decentralization, as does the growing diversity of state/region expenditure.

State/region government revenues have risen in line with expenditure, with the majority of increases funded by fiscal transfers from the Union. As the vast majority of this money comes in the form of grant transfers, it has not necessarily altered the fiscal discretion of the state/region governments.

The continued, significant involvement of Union-level actors in the planning and budgeting process means that state/region governments do not have complete discretion over expenditure in their budgets. Union-level actors such as Union ministries continue to set departmental priorities and review plans and budgets, and the Union government still oversees state/region plans and budgets through the Union Finance Commission and the National Planning Commission. Planning and budgeting for subnational expenditures in the Union budget remains a highly centralized process.

Despite this, subnational actors are increasing their involvement in the planning and budgeting process. The emphasis on achieving a bottom-up planning process has increased the role of TPFICs, and state/region hluttaws are playing a more active role in the state/region budget process. In many areas, state/region hluttaw representatives are also playing an important role in the TPFICs. Finally, there is evidence that state/region executives are getting increasingly involved in the Union budget process. After next year, this involvement will be formalized.

The growing involvement of subnational actors in the planning and budgeting process, combined with growing state/region budgets and increasingly diverse expenditure, is evidence of increased fiscal decentralization. However, fiscal decentralization

continues to be limited by the fact that a high proportion of subnational expenditure remains in the Union budget, and the state/region budget is still subject to significant Union influence.

ASSESSING DECENTRALIZATION IN MYANMAR

Assessing the emerging trends in each of the dimensions of decentralization yields a number of key findings about decentralization in Myanmar:

- Since 2013, there has been further decentralization across all three dimensions.
- Overall, decentralization is still limited.
- There is an imbalance among the different dimensions of decentralization.
- The degree of decentralization varies from state/region to state/region and sector to sector.

Since the 2013 baseline assessment of decentralization, the implementation of the Constitution has resulted in further, albeit limited, decentralization across all three dimensions. Decentralization is being driven by some overarching trends:

1. State/region governments are increasingly involved in a broader range of activities within their respective areas.
2. State/region departments are increasingly accountable to the state/region governments.
3. State/region hluttaws are increasingly assertive in holding the executive to account and representing their constituents.
4. A township governance system, starting from a low base, is being steadily encouraged to respond to the needs of local populations, though further progress is needed.

State and region governments matter. They increasingly shape the role of the Myanmar state in their jurisdictions, lead policy implementation there, and are responsible for a growing proportion of government expenditure. Last year (FY 2017/18), state/region governments were responsible for expenditure totaling over USD 1.8 billion (MMK 2.5 trillion). State/region hluttaws are becoming critical fora for the representation of citizens and the oversight of political leaders.

Fundamentally, however, the underlying institutions, systems, and laws governing the framework for decentralization in Myanmar have not been radically altered in the past five years. There has been no further comprehensive devolution. As a consequence, while the above trends have led to increased decentralization, decentralization as a whole remains limited and imbalanced in Myanmar. As shown in figure 6.1, which ranks political, fiscal, and administrative decentralization on a ten-point scale, there has been some limited

increase in decentralization in Myanmar.³¹⁵

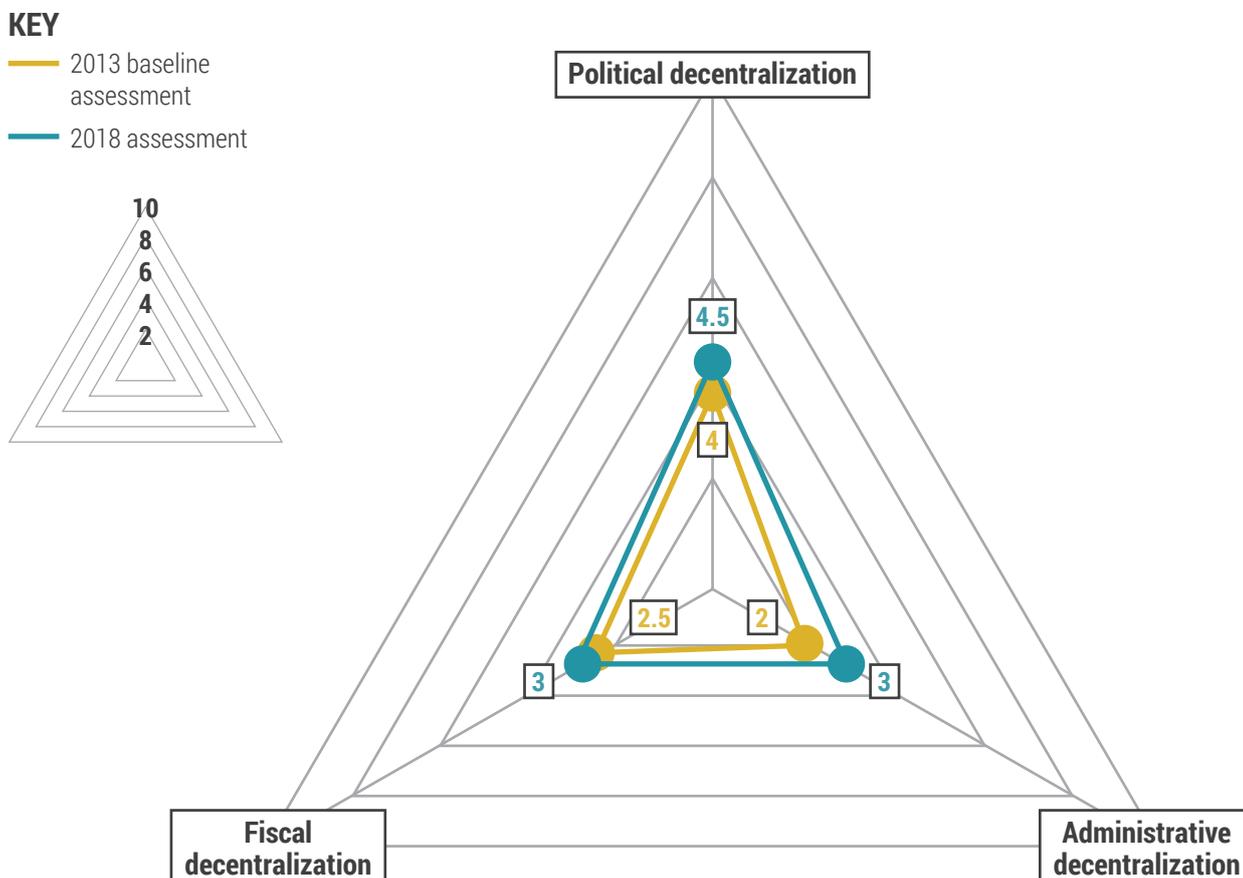
As figure 6.1 shows, decentralization in Myanmar continues to be imbalanced, with administrative and fiscal decentralization lagging behind political. Fiscal decentralization is now effectively limited by administrative decentralization and the degree to which state/region governments are able to direct departments and make decisions autonomously regarding the planning and budgeting of their work. The system of dual accountability guarantees a degree of Union oversight, influence, and involvement in the work of the state/region governments and thus limits their autonomy.

While political decentralization is ahead of the other two dimensions, the ambitions of the state/region governments may be hampered by the lack of complete administrative control over the work of departments (for example, in issuing instructions) or a lack of fiscal control (for example, over the funding for projects or own-source revenues). This imbalance risks disempowering state/region governments, which may

hurt public confidence in the system, with potentially important effects on the peace process.

One key exception to the above imbalances is in municipal governance, where there is a higher degree of decentralization and all three dimensions align. In the provision of municipal services, state/region governments have a level of autonomy, accountability, fiscal discretion, and oversight that is allowing them to be more responsive to local needs and experiment with service provision. Success or failure in this sector may well serve as a model for years to come. There are still key differences among the states/regions in the pace and form of decentralization. In some areas, hluttaws have been more active in holding the executive to account. In some areas, state/region governments have pursued a broader range of activities. More fundamentally, there is significant variation among the states/regions in the accountability relationship between ministers and their departments, with important implications for decentralization in any given sector.

FIGURE 6.1 Assessment of decentralization in Myanmar



6.2. DECENTRALIZATION AND THE PEACE PROCESS

The political process of decentralization detailed in this report, as well as the broader political process of democratization, is inextricably linked to the peace process aimed at solving Myanmar's multiple, protracted armed conflicts.

Due to Myanmar's long history of internal conflict there are areas today where the state has not had a presence since 1948, and others that have never been under centralized state control. In some areas, the same EAO has served as an alternative government for decades,³¹⁶ and parallel systems of governance and service provision by ethnic community-based groups and EAOs exist throughout Myanmar.

In southeastern Myanmar, for example, the KNU is a deeply embedded governance actor that performs a broad range of functions. The KNU collects formally registered taxes; provides a basic justice system with a police force; regulates land ownership, including agricultural land and forests; and provides basic social services like education and primary health care.³¹⁷ The KNU's influence extends to an estimated population of at least 800,000.³¹⁸ Its administrative system often exists in parallel with the GAD.

Actors like the KNU will continue to exist for the foreseeable future, whether in conflict or cooperation with the state. The peace process must therefore develop systems of governance that end competition.³¹⁹ How these alternative governmental institutions complement and are gradually integrated into a future political system will be part of negotiations and should be considered in approaches to decentralization.³²⁰

At the center of Myanmar's peace negotiations among the NLD, political parties, the military, and EAOs is the issue of federalism. The NCA, signed by many but not all parties to the conflict, calls for a future state based on principles of "democracy and federalism."³²¹ As State Counsellor Aung San Suu Kyi stated:

*We will need to continue our dialogue on the division of power, allocation of resources, and revenue between the Union, states, and regions, and the powers as described in the additional tables to the Constitution. These are about how we will divide our state powers in our future Federal Union. If we are able to conclude the discussion on fundamental principles during the upcoming sessions of the Peace Conference, we would have a strong foundation for the Federal Union.*³²²

The NCA laid out a comprehensive "roadmap" for the peace process, consisting of seven steps: (1) sign the NCA, (2) draft and adopt a Framework for Political

Dialogue, (3) conduct a national political dialogue based on the Framework, (4) hold a Union Peace Conference, (5) sign the Pyidaungsu (Union) Accord, (6) submit the accord to the Pyidaungsu Hluttaw (Union parliament), and (7) implement all provisions of the Pyidaungsu Accord.

Seven hundred participants attended the USDP government's first Union Peace Conference, in January 2016. Since the NLD came to power, the conference, now designated the "Union Peace Conference – 21st Century Panglong," has reconvened three times, despite an initial plan to hold sessions twice a year. Two more EAOs, the New Mon State Party and the Lahu Democratic Union, have become NCA signatories, and nonsignatories have been allowed to attend. Attendees agreed to 37 basic principles at the second Panglong Conference, and another 14 at the third, in July 2018.³²³ Despite agreeing on these 51 principles, however, ethnic leaders and negotiators still maintain that the government and the Tatmadaw are preventing discussion of key political, economic, and security issues.³²⁴

The varying momentum of the peace process is not surprising given the multitude of EAOs, with different interests, histories, geographic influence, and armed capacity. Achieving peace is made even more complex by the fact that some of the most militarily influential armed groups remain outside of the NCA process and nonsignatory EAOs comprise the majority of EAO armed strength. Conflict continues in a number of areas. The pace of and approach to the peace process also depend greatly on the two power centers of the government—the NLD and the military—their relationship, and the nature of power-sharing under the hybrid governance system.

Meanwhile, any agreement on constitutional reform reached through the peace process could radically alter the roles and responsibilities, actors, and institutions of Myanmar's subnational governance. In this way, decentralization and the pursuit of federalism both involve negotiating and developing a multi-order governance system that is more accountable, responsive, representative, and participatory. The key question is thus: *to what degree can decentralization pave the way for a future federal system and address the objectives of stakeholders in the peace process?*

Many of those involved in the peace process, particularly EAOs, are clear that decentralization to states and regions within the current constitutional constraints cannot provide the political autonomy, security, or share of national wealth that they require for a sustainable peace.³²⁵

"When we have federalism, we will have peace," is not

an uncommon statement by conflict parties, particularly EAOs engaged in peace negotiations. Federalism is widely viewed as a panacea for the political ills driving conflict in Myanmar, including the contest between military and civilian rule, the pursuit of equal rights for ethnic nationalities, and the division of roles and responsibilities between the central and subnational levels of the state. Yet there is little agreement on the forms, structures, roles, and responsibilities of different actors under federalism.

EAO discourses on federalism often focus on equality, rights, self-determination, and resource sharing. Agreements will require negotiations, perhaps difficult and protracted, on the sharing of powers between different levels and actors. EAOs desire the right to draft their own state constitutions,³²⁶ with agreements reached on security arrangements, the social sector, including education and health services, justice, land management, and resource sharing and taxation.

The idea that there is a perfect federal model to create peace, and thereby to resolve Myanmar's multiple and distinct subnational conflicts, elevates "federalism" to an almost mystical status. There is no one federal system that will perfectly suit Myanmar's specific needs and complexities. Even existing, long-established federal

democracies still face challenges and contentious political issues. Finding the best ways for elected federal, state, and local government officials to serve the public and work cooperatively in a multi-order government is an endless project. Federal democracies develop through decades, and indeed centuries, of reforms as power is contested, controlled, centralized, redistributed, and shared.

What idealized discussions of federalism sometimes overlook are the core building blocks of a federal structure, such as assigning functions and creating new responsibilities at subnational levels, underpinned by the intergovernmental fiscal arrangements necessary to fund services. While this kind of practical decentralization under the current constitutional arrangements will not be a complete solution to achieving peace, the process of decentralization—with its fiscal, administrative, and political dimensions—can help to ground federalism debates in practical solutions. Decentralization can help to provide the building blocks for a future federal structure, and provide subnational actors with the experience and capacity to govern. The two processes—decentralization, and debates on federalism—aren't mutually exclusive. Both can address issues central to peace negotiations and the causes of armed conflict.

6.3 POLICY RECOMMENDATIONS AND AVENUES FOR REFORM

The research presented in this report identifies a number of broad areas where changes could be made to improve subnational governance and the effectiveness of decentralization. A summary of recommendations can be found in table A. Some of these recommendations can be implemented in the short term as part of general reforms, whereas others are more substantive, potentially requiring constitutional changes and political agreement through the peace process.

While prospects for significant constitutional reform may not appear imminent, there are several avenues for significant decentralization consistent with the existing 2008 Constitution: Union legislation, Union government and Union ministry policymaking, and state/region legislation.

- **Union legislation.** The role of state/region governments, including the legislative and executive branches, is often described as "in accordance with Union law," and many subnational actors interpret

this to mean that they do not have a role until Union legislation establishes one.³²⁷ Laws may clarify the exact responsibilities of the state/region and Union levels and, in doing so, may devolve responsibilities to the states/regions. The Myanmar Mines Law of 2018, for example, has created new responsibilities for state/region governments in the management of small- and medium-scale mines. A similar law on the role of states/regions in women's welfare, for example, could create further responsibilities and give the state/regions a central role in empowering women.

- **Union government policymaking.** As demonstrated by Presidential Instruction 1/2018, the Union government is well placed to interpret the relationship between the levels of government under the Constitution. A similar instruction, interpreting the Constitution to give chief ministers more autonomy over subnational policymaking, for example, could dramatically affect the direction of decentralization in Myanmar. Likewise, Union

ministry instructions can make clear the division of responsibilities between different levels of administration, including deconcentrating responsibilities to subnational actors.

- **State/region legislation.** State/region huttaws may pass laws that help to define and expand the remit of state/region governments. For example, in the development affairs sector, state/region huttaws have the legislative authority to define the scope of the government's municipal governance activities. Laws such as the recently passed YCDC law, discussed in chapter 3, are essential in defining the roles of the state/region governments.

POLICY RECOMMENDATIONS:

CLARIFY AND BROADEN THE SCOPE OF STATE/REGION GOVERNMENT RESPONSIBILITIES. As detailed in chapter 2, schedules 2 and 5 identify a broad range of responsibilities for state/region governments that have not yet been fully operationalized. For example, the schedules identify several areas of state/region responsibility in the social sector, including schools, hospitals, and women's welfare, where state/region activity remains limited. While it may be appropriate for the Union to develop national standards for universal and comprehensive services, building and operation of hospitals and schools could be carried out by state/region governments. Significant further devolution in these areas could be achieved through a combination of Union ministry instructions and policies, Union legislation, and state/region legislation without a constitutional amendment.

Beyond the existing provisions in schedules 2 and 5, constitutional amendment could permit further devolution, but it would be a complex and sensitive process. Any discussion of further devolution of responsibilities should be inclusive, involving stakeholders in the peace process and the state/region governments themselves, and should be informed by best practice, following principles such as subsidiarity, whereby functions should be performed by the lowest level of government that can do so efficiently. As state/region governments continue to take on more responsibilities, there is a continuing need for basic functional support to help build capacity within the executive and legislative branches of government. Levels of governmental capacity and the need for support vary among state/regions, sectors and functions. The current capacity and development needs of the state/region governments should be properly assessed and understood, and a program of support designed and implemented that helps to ensure that state/region governments are able to sustainably execute their responsibilities so that the positive effects of decentralization are maximized.

RATIONALIZE STATE AND REGION GOVERNMENT ADMINISTRATION AND HUMAN RESOURCES. As discussed in chapter 4, the system of dual accountability of state/region ministers and the departments they are responsible for can create tensions and limit the responsiveness of these departments to state-level leadership. While there has been progress in establishing accountability to the state/region governments, administrative decentralization continues to lag, limiting state/region autonomy. Consideration should be given to how best to strengthen and institutionalize this accountability. In some sectors, consideration should be given to separating state/region departments from Union ministry structures or creating separate state/region civil services, as is already the case with development affairs. Reforms to the civil service should take into account the ethnic, cultural, and linguistic diversity of the populations being served, and include increased representation of women.

STRENGTHEN TOWNSHIP-LEVEL GOVERNANCE. Chapters 3 and 4 both detail the efforts made by the USDP and NLD transition governments to increase public participation and responsiveness to local needs in the subnational governance system, particularly at the township level. These efforts have had mixed results among townships. Consideration should be given to the best means of achieving participation and responsiveness within the existing system of governance, including, but not limited to, township committees. This could include mandating public involvement in the planning and budget processes or creating a more systematized approach to evidence collection or analysis. In the longer term, more substantial reforms to the subnational governance system may be needed, such as the creation of a third tier of local government. A three-tier system could feature local government with elected officials in top leadership positions, and could report directly to the states/regions.

DEEPEN THE DECONCENTRATION PROCESS WITHIN UNION MINISTRIES. Regardless of the progress of devolution, many important services will likely remain centralized for years to come. Many departments, however, could continue the process of deconcentration by pushing some responsibilities downward to the state/region offices or below. This process can improve the efficiency of service delivery and develop service-delivery capacity at lower levels of government, which is an important step in creating the right conditions for further decentralization. Education and Health are two departments where further deconcentration may be possible.

STRENGTHEN PUBLIC-EXPENDITURE MANAGEMENT, BUDGETING, AND RESOURCE ALLOCATION.

Effective public financial management can ensure that government expenditure is effectively and efficiently deployed where it is most needed. A wide range of steps need to be taken to strengthen public financial management in Myanmar:

- Ensure that all stakeholders in the process have the capacity to appraise and select budget priorities on the basis of good evidence, including at the township level.
- Ensure accountable and responsive decision-making through increased state/region hluttaw oversight of the state/region planning and budgeting processes and increased involvement of the state/region governments in the Union planning and budgeting processes.
- Ensure better intersectoral coordination at all levels through the planning and budgeting processes.
- Ensure gender-responsive planning and budgeting. Specific-purpose grants are options in areas of significant gender disparities, such as in education levels.
- Ensure efficient and equitable intergovernmental fiscal transfers to enable states/regions to provide reasonably comparable levels of public services.

STRENGTHEN STATE/REGION GOVERNMENT

OWN-SOURCE REVENUE RAISING. Increasing fiscal revenues will be critical for the sustainable delivery of public services in the face of increasing demand.³²⁸

Despite this, state/region own-source revenues have, on the whole, grown at a slow pace. Subnational tax administration should be made more efficient, and tax reform to increase revenues should be considered.

BETTER CONNECT DECENTRALIZATION AGENDAS TO FEDERALISM DEBATES IN THE PEACE PROCESS.

These agendas are intrinsically interlinked but are often treated as separate projects. To strengthen alignment:

- Share knowledge of the decentralization process with peace-process stakeholders, including fiscal, administrative, and political arrangements.
- Involve peace-process stakeholders in dialogue on decentralization, and increase the engagement of EAOs with state/region.

TABLE A
Summary of recommendations

RECOMMENDATIONS
Clarify and broaden the scope of state/region government responsibilities
<ul style="list-style-type: none"> • Clarify the role of the state/region governments in a range of sectors through instructions issued by Union ministries. • Consider areas of schedules 2 and 5 where, through the passage of Union and state/region laws, the role of state/region governments can be strengthened and clarified, such as in the social sector (including schools, hospitals, and welfare). • Consider other sectors where additional responsibilities could be added to schedules 2 and 5 through constitutional amendment. • Ensure state/region governments receive sufficient capacity-building support to meet their current and future responsibilities. • Establish effective mechanisms for state/region and Union-level actors to coordinate, discuss and address challenges and opportunities posed by decentralization.
Rationalize state/region government administration and human resources
<ul style="list-style-type: none"> • Further clarify the roles and responsibilities of state/region departments, and consider how to strengthen and institutionalize their accountability to state/region governments. • Consider, where appropriate, separating state/region departments from Union ministry structures (for example, using the Development Affairs model). • Consider creating state/region civil service organizations. • Ensure that the civil service is diverse and represents the populations it serves.
Strengthen township-level governance
<ul style="list-style-type: none"> • Strengthen mechanisms for public participation and responsiveness inside and outside of township committees. • Consider reforming, through both legal or constitutional reform, township governance to permit greater democratic accountability.
Deepen the deconcentration process within Union ministries
<ul style="list-style-type: none"> • Create a policy framework for line ministries to further deconcentrate responsibilities across administrative levels. • Provide capacity support to line ministries as they deconcentrate, and to state/region department offices as they take on new tasks. • Ensure Union ministry offices engage in participation and outreach with state/region governments and hluttaws, civil society, and communities.
Strengthen public expenditure management, budgeting, and resource allocation
<ul style="list-style-type: none"> • Consider necessary support to subnational actors to ensure evidence-based priority selection. • Ensure clarity in state/region expenditure assignments. • Clarify the budget process and ensure sufficient time for development and review. • Strengthen the efficiency and equity of intergovernmental fiscal transfers. • Strengthen intersectoral coordination at all levels. • Elevate gender considerations in the planning and budgeting processes. • Strengthen the role of state/region government in developing the Union budget. • Improve state/region hluttaw's monitoring and oversight of the planning, budgeting and budget implementation processes, including ensuring that the budget calendar permits sufficient time for hluttaw review. • Encourage and improve the use of evidence in the planning and budgeting processes.
Strengthen state/region government own-source revenue raising
<ul style="list-style-type: none"> • Strengthen tax policy and administration at the state/region level. • Consider ways of increasing own-source revenues, through reform of taxes such as the property tax. • Consider reform to the license-auction system to liberalize economic governance and increase revenue. • Incentivize revenue collection by giving state/region governments more control over own-source revenues.
Better connect decentralization agendas to federalism debates in the peace process
<ul style="list-style-type: none"> • Share knowledge of decentralization, including fiscal, administrative, and political arrangements, with peace-process stakeholders. • Involve peace-process stakeholders in dialogue on decentralization, and increase the engagement of EAOs with state/region governments.



ANNEXES

- ANNEX A: Interviews conducted in support of the report**
- ANNEX B: Region or State Legislative List (schedule 2)**
- ANNEX C: Schedule 5 of the 2008 Constitution**
- ANNEX D: Law Amending the Constitution of the Republic of the Union of Myanmar**
- ANNEX E: Laws passed in state/region hluttaws under second term.**
- ANNEX F: State/region hluttaw committees (as of 24/04/18)**
- ANNEX G: List of state/region chief ministers**
- ANNEX H: Example region government structure**
- ANNEX I: Example list of departments at township level**
- ANNEX J: Example list of committees at township level**
- ANNEX K: GAD's dual role**
- ANNEX L: Example Township General Administration Office**
- ANNEX M: Example Hluttaw Office structure**

ANNEX A

Interviews conducted in support of the report

Region/State	When Visited	Interviews/ Focus Groups	Number of Individuals met					
			State/ Region Government	State/ Region Hluttaw members	Officials	CSOs	Parties	Others*
Tanintharyi	February 2018	9	4	8	3	1		
Yangon	March – July 2018	4	1	3			2	5
Bago	March 2018	5	1	1	6			
Kayin	March 2018	19	7	1	16	3	3	
Mon	March 2018	14	4	4	6	1	2	
Shan	May and June 2018	6	2	6		2	5	
Nay Pyi Taw	June 2018	3			2			1
Totals		100 stakeholders interviewed	19	23	33	7	12	6

ANNEX B

Region or State Legislative List (schedule 2)

1. FINANCE AND PLANNING SECTOR

- (a) The Region or State budget;
- (b) The Region or State fund;
- (c) Land revenue;
- (d) Excise duty (not including narcotic drugs and psychotropic substances);
- (e) Municipal taxes such as taxes on buildings and lands, water, street lightings and wheels;
- (f) Services of the Region or State;
- (g) Sale, lease and other means of execution of property of the Region or State;
- (h) Disbursement of loans in the country from the Region or State funds;
- (i) Investment in the country from the Region or State funds;
- (j) Local plan; and
- (k) Small loans business.

2. ECONOMIC SECTOR

- (a) Economic matters undertaken in the Region or State in accord with law enacted by the Union;
- (b) Commercial matters undertaken in the Region or State in accord with law enacted by the Union; and
- (c) Co-operative matters undertaken in the Region or State in accord with law enacted by the Union.

3. AGRICULTURE AND LIVESTOCK BREEDING SECTOR

- (a) Agriculture;
- (b) Protection against and control of plants and crop pests and diseases;
- (c) Systematic use of chemical fertilizers and systematic production and use of natural fertilizers;
- (d) Agricultural loans and savings;
- (e) Dams, embankments, lakes, drains and irrigation works having the right to be managed by the Region or State;
- (f) Fresh water fisheries; and
- (g) Livestock breeding and systematic herding in accord with the law enacted by the Union.

4. ENERGY, ELECTRICITY, MINING AND FORESTRY SECTOR

- (a) Medium and small scale electric power production and distribution that have the right to be managed by the Region or State not having any link with national power grid, except large scale electric power production and distribution having the right to be managed by the Union;
- (b) Salt and salt products;
- (c) Cutting and polishing of gemstones within the Region or State;
- (d) Village firewood plantation; and
- (e) Recreation centres, zoological garden and botanical garden.

5. INDUSTRIAL SECTOR

- (a) Industries other than those prescribed to be undertaken by the Union level; and
- (b) Cottage industries.

6. TRANSPORT, COMMUNICATION AND CONSTRUCTION SECTOR

- (a) Ports, jetties and pontoons having the right to be managed by the Region or State;
- (b) Roads and bridges having the right to be managed by the Region or State; and
- (c) Systematic running of private vehicles within the Region or State.

7. SOCIAL SECTOR

- (a) Matters on traditional medicine not contrary to traditional medicine policies prescribed by the Union;
- (b) Social welfare works within the Region or State;
- (c) Preventive and precautionary measures against fire and natural disasters;
- (d) Stevedoring;
- (e) Having the right of management by the Region or State, the following: (i) preservation of cultural heritage; (ii) museums and libraries.
- (f) Theatres, cinemas and video houses; and
- (g) Exhibitions such as photographs, paintings and sculptures.

8. MANAGEMENT SECTOR

- (a) Development matters;
- (b) Town and housing development; and(c) Honorary certificates and awards.

ANNEX C

Taxes collected by regions or states (schedule 5)

1. Land revenue.
2. Excise revenue.
3. Water tax and embankment tax based on dams and reservoirs managed by the Region or State and tax on use of electricity generated by such facilities managed by the Region or State.
4. Toll fees from using roads and bridges managed by the Region or State.
5. (a) Royalty collected on fresh water fisheries; (b) Royalty collected on marine fisheries within the permitted range of territorial water.
6. Taxes collected on vehicles on road transport and vessels on inland waterway transport, in accord with law, in a Region or a State.
7. Proceeds, rent fees and other profits from those properties owned by a Region or a State.
8. Fees, taxes and other revenues collected on services enterprises by a Region or a State.
9. Fines imposed by judicial courts in a Region or a State including Region Taya Hluttaw or State Taya Hluttaw and taxes collected on service provision and other revenues.
10. Interests from disbursed by a Region or State.
11. Profits returned from investment of a Region or State.
12. Taxes collected on extraction of the following items from the forests in a Region or a State:
(a) Taxes collected on all other woods except teak and other restricted hardwoods; (b) Taxes collected on firewood, charcoal, rattan, bamboo, birdnests, cutch, thanetkha, turpentine, eaglewood and honey-based products.
13. Registration fees.
14. Taxes on entrainments.
15. Salt tax.
16. Revenue received from the Union Fund Account.
17. Contributions by development affairs organizations in a Region or State concerned.
18. Unclaimed cash and property.
19. Treasure trove.

ANNEX D

Law Amending the Constitution of the Republic of the Union of Myanmar ³²⁹

THE PYIDAUNGSU HLUTTAW LAW NO. 45/2015

(22nd July, 2015)

The Pyidaungsu Hluttaw hereby enacts this law, with the approval of more than 75 percent of the supporting votes of all Pyidaungsu Hluttaw representatives, on July 8, 2015, in accordance with subsection (b) of section 436 of the Constitution of the Republic of the Union of Myanmar (2008).

1. This Law shall be called the Law Amending the Constitution of the Republic of the Union of Myanmar.
2. At the Region or State Legislative List, schedule 2 of the Constitution:
 - (A) After subarticle (k) contained in item 1, Financial and Planning Sector, shall be inserted subarticles (l), (m), (n), (o), (p), (q), and (r) as follows:
 - (l) Capital that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - (m) Insurance that is entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (n) Income tax that is entitled to be carried out by the region or state in accordance with the law enacted by the Union

- (o) Commercial tax that is entitled to be carried out by the region or state in accordance with the law enacted by the Union;
 - (p) Local or overseas loans which is entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (q) Acquisition of property that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - (r) Receiving overseas financial assistance and aid that is entitled to be carried out for the region or state in accordance with the law enacted by the Union
- (B) After subarticle (c) contained in clause 2, Economic Sector, shall be inserted subarticles (d) and (e) as follows:
- (d) Hotel and lodging houses that are entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (e) Tourism that is entitled to be carried out by the region or state in accordance with the law enacted by the Union
- (C) After subarticle (g) contained in article 3, Agricultural and Livestock Breeding Sector, shall be inserted subarticles (h), (i), (j), (k), and (l) as follows:
- (h) Reclaiming vacant, fallow, and virgin lands that is entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (i) Registration of documents that is entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (j) Agricultural research that is entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (k) Coastal fisheries that are entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (l) Agriculture and meteorology that is entitled to be carried out by the region or state in accordance with the law enacted by the Union
- (D) After subarticle (e) contained in article 4, Energy, Mining, and Forestry Sector, shall be inserted subarticles (f), (g), (h), (i), (j), and (k) as follows:
- (f) Prescribing the proportion of its produced resources that is entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (g) Small-scale mines that are entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (h) Safety of mine workers, environmental conservation, and restoration that is entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (i) Small-scale gem works that are entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (j) Other woods except teak and group (1) including Thityar, Ingyin, Pyinkado, Padauk, Thingan-net, and Tamalan that are entitled to be carried out by the region or state in accordance with the law enacted by the Union
 - (k) Environmental protection and conservation, including wildlife, natural plants, and natural areas, that is entitled to be managed by the region or state in accordance with the law enacted by the Union
- (E) After subarticle (b) contained in article 5, Industrial Sector, shall be inserted subarticle (c) as follows:
- (c) Industrial zones that are entitled to be carried out within the region or state in accordance with the law enacted by the Union
- (F) After subarticle (c) contained in article 6, Transport, Communication, and Construction Sector, shall be inserted subarticles (d), (e), (f), (g), and (h) as follows:
- (d) Maintenance of waterways that are entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - (e) Development of water resources, rivers, and streams that are entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - (f) Shipbuilding and repairing and maintenance of motored boats and small ships that is entitled to be carried out by the region or state government except what is managed by the Union
 - (g) Air transport that is entitled to be carried out within the region or state in accordance with the law enacted by the Union

- (h) Housing and buildings that are entitled to be carried out within the region or state in accordance with the law enacted by the Union
- (G) After subarticle (g) contained in article 7: Social Sector, shall be inserted subarticles (h), (i), (j), (k), (l), and (m) as follows:
- (h) Administration of basic-education schools that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - (i) Charitable hospitals and clinics, private hospitals, and clinics that are entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - (j) Prevention from adulteration and manufacture and sale of foodstuffs, drugs, medicines, and cosmetics that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - (k) Welfare of children, youths, women, the disabled, the aged, and the homeless that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - (l) Relief and rehabilitation that are entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - (m) Literature, dramatic arts, music, traditional arts and crafts, cinematographic films, and videos that are entitled to be carried out within the region or state in accordance with the law enacted by the Union
- (H) After subarticle (c) contained in article 8: Management Sector, shall be inserted subarticles (d) and (e) as follows:
- (d) Excise management that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - (e) Border-area and rural development that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
3. After article 19 contained in schedule 5 of the Constitution: Legislative List of Revenues and Fees That Shall Be Levied by the Region or State, shall be inserted articles 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39 as follows:
- 20. Tax on investment that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 21. Tax on insurance that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 22. Income taxes that are entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 23. Commercial taxes that are entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 24. Customs duties that are entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 25. Tax on hotels and lodging houses that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 26. Tax on tourism that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 27. Tax on registration of documents that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 28. Tax on coastal fisheries that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 29. Tax on oil and gas that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 30. Tax on Minerals and Mining that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 31. Tax on jewelry that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 32. Tax on other woods except Teak and group (1) including Thityar, Ingyin, Pyinkado, Padauk, Thingan-net, and Tamalan that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 - 33. Tax on industrial activities that is entitled to be carried out within the region or state in accordance with the law enacted by the Union.
 - 34. Tax on shipbuilding, repair, and maintenance that is entitled to be carried out within the region or state in

- accordance with the law enacted by the Union
35. Tax on Air transport that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 36. Tax on housing and buildings that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 37. Tax on private schools and training that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 38. Tax on private hospitals and clinics that is entitled to be carried out within the region or state in accordance with the law enacted by the Union
 39. Tax on Literature, dramatic arts, music, traditional arts and crafts, cinematographic films, and videos that is entitled to be carried out within the region or state in accordance with the law enacted by the Union

ANNEX E

Laws passed in state/region hluttaws – second term (February 2, 2016, to April 24, 2018)

State/Region	Year		
	2016	2017	2018
Kachin	<ol style="list-style-type: none"> 1. Amendment Law on Kachin State Budget Law (4/2016) 	<ol style="list-style-type: none"> 1. 2016–2017 Kachin State Additional Budget Allocation Law (1/2017) 2. Second Time Amendment Law on Kachin State Village Firewood Law (2/2017) 3. 2017–2018 Kachin State Regional Planning Law (3/2017) 4. 2017 Kachin State Budget Law (4/2017) 5. Kachin State Aging People Law (5/2017) 6. Kachin State Service Business Law (6/2017) 7. Amendment Law on Kachin State Municipal Law (7/2017) 8. 2017–2018 Kachin State Additional Budget Allocation Law (8/2017) 	<ol style="list-style-type: none"> 1. Amendment Law on Kachin State Fresh Water Fishing Law (1/2018) 2. 2018 April–September, Six-Month Kachin State Regional Planning Law (2/2018) 3. 2018 Kachin State Budget Law (3/2018) 4. Amendment Law on 2018 April–September, Six-Month Kachin State Regional Planning Law (4/2018) 5. Kachin State Land Tax Law (5/2018)

State/Region	Year		
	2016	2017	2018
Kayah	<ol style="list-style-type: none"> 1. Amendment Law on 2016 Kayah State Budget Law (1) 2. 2016–2017 Kayah State Additional Budget Allocation Law (2) 	<ol style="list-style-type: none"> 1. 2017–2018 Regional Planning Law (3) 2. 2017 Kayah State Budget Law (4) 3. Kayah State Museum and Library Law (5) 4. Kayah State Honorarium Certification Law (6) 5. 2017–2018 Kayah State Additional Budget Allocation Law (7) 6. Kayah State Land Tax Law (8) 7. Kayah State Private Motor Car Business Systemic Running By-Law 8. Kayah State Honorarium Certification By-Law 	<ol style="list-style-type: none"> 1. Kayah State 2018 April–September, Six-Month Regional Planning Law (9) 2. 2018 Kayah State Budget law (10)
Kayin	<ol style="list-style-type: none"> 1. Kayin State Natural Fertilizer Systemic Production and Usage Law (3/2016) 2. Addition Law on Kayin State Fresh Water Law (4/2016) 3. Amendment Law on Kayin State Budget Law (5/2016) 4. Kayin State Domestic Business Development Law (6/2016) 5. Kayin State Loan Business Law (7/2016) 6. Kayin State Museum and Library Supervision Law (8/2016) 7. 2016–2017 Kayin State Additional Budget Allocation Law (9/2016) 	<ol style="list-style-type: none"> 1. 2017–18 Kayin State Regional Planning Law (1/2017) 2. 2017 Kayin State Budget Law (2/2017) 3. Kayin State Land Tax Law (3/2017) 4. 2017–18 Fiscal Year, Kayin State Budget Allocation Law (4/2017) 5. Kayin State Recreation Center, Zoo, and Botanical Garden Law (5/2017) 	<ol style="list-style-type: none"> 1. Kayin State Regional Planning Law for April–September, 2018 (1/2018) 2. 2018 Kayin State Budget Law (2/2018) 3. Amendment Law on Kayin State Land Tax Law (3/2018)
Chin	<ol style="list-style-type: none"> 1. 2016–2017 Chin State Regional Planning Law (1/2016) 2. 2016–2017 Chin State Budget Law (2/2016) 3. Amendment Law on Loan Business Law (3/2016) 4. Amendment Law on Municipal Law (4/2016) 5. Amendment Law on 2016 Chin State Budget Law (5/2016) 6. 2016-2017 Chin State Additional Budget Allocation Law (6/2016) 	<ol style="list-style-type: none"> 1. 2017–2018 Chin State Budget Law (1/2017) 2. 2017–2018 Chin State Regional Planning Law (2/2017) 3. Domestic Industrial and Other Business Law (3/2017) 4. Amendment Law on Loan Business Law (4/2017) 5. 2017–2018 Chin State Additional Budget Allocation Law (5/2017) 	<ol style="list-style-type: none"> 1. 2018 April–September, Six-Month Regional Planning Law (1/2018) 2. 2018 Chin State Budget Law (2/2018)

State/Region	Year		
	2016	2017	2018
Mon	<ol style="list-style-type: none"> 1. Amendment Law on 2016 Mon State Budget Law (3/2016) 2. Mon State Private Medium- and Small-Scale Electric Power Generation and Electricity Distribution Law (4/2016) 	<ol style="list-style-type: none"> 1. 2016–17 Fiscal Year-Mon State Additional Budget Allocation Law (1/2017) 2. 2017–18 Fiscal Year- Mon State Regional Planning Law - (2/2017) 3. 2017 Fiscal Year- Mon State Budget Law (3/2017) 4. Mon State Municipal Law (4/2017) 5. 2017–18 Fiscal Year-Mon State Budget Allocation Law (5/2017) 6. Mon State Municipal Tax and Duty Law (6/2017) 	<ol style="list-style-type: none"> 1. Amendment Law on Mon State Fishing Law (1/2018) 2. Mon State Regional Planning Law for April–September 2018 (2/2018) 3. 2018 Fiscal Year Mon State Budget Law (3/2018)
Rakhine	<ol style="list-style-type: none"> 1. Amendment Law on 2016 Rakhine State Budget Law (3/2016) 2. 2016–2017 Financial Year Rakhine State Additional Budget Allocation Law (4/2016) 	<ol style="list-style-type: none"> 1. 2017–2018 Financial Year Rakhine State Regional Planning Law (1/2017) 2. 2017 Rakhine State Budget Law (2/2017) 3. 2017–2018 Financial Year Rakhine State Additional Budget Allocation Law (3/2017) 	<ol style="list-style-type: none"> 1. Rakhine State Opera House, Cinema, and Video Business Law (1/2018) 2. Rakhine State Museum and Library Law (2/2018) 3. 2018 April–September Rakhine State Regional Planning Law (3/2018) 4. 2018 Rakhine State Budget Law (4/2018)
Shan	<ol style="list-style-type: none"> 1. Shan State Salt and Salt-Related Products Law (4/2016) 2. Amendment Law on 2016 Shan State Budget Law (5/2016) 3. Shan State Domestic (Small) Industrial Business Law (6/2016) 	<ol style="list-style-type: none"> 1. Shan State 2016–17 Supplementary Budget Allocation Law (1/2017) 2. Shan State Alcohol Tax Collection Law (2/2017) 3. 2017–18 Shan State Regional Planning Law (3/2017) 4. 2017 Shan State Budget Law (4/2017) 5. Shan State Gem Stones and Jewelleries Cutting Law (5/2017) 6. 2017–18 Shan State Supplementary Budget Law (6/2017) 	<ol style="list-style-type: none"> 1. 2018 Shan State Budget Law (1/2018) 2. 2018 April–September Shan State Six-Month Regional Planning Law (2/2018)

State/Region	Year		
	2016	2017	2018
Yangon	<ol style="list-style-type: none"> 1. 2016–2017 Yangon Region Regional Planning Law (1/2016) 2. 2016 Yangon Region Budget Law (2/2016) 3. Amendment Law on Yangon Region Drug Tax Law (3/2016) 4. Amendment Law on 2016 Yangon Region Budget Law (4/2016) 5. 2016–2017 Fiscal Year Yangon Region Additional Budget Allocation Law (5/2016) 	<ol style="list-style-type: none"> 1. 2017–2018 Yangon Region Planning Law (1/2017) 2. 2017 Yangon Region Budget Law (2/2017) 3. 2017 Yangon Region Tax Law (3/2017) 4. 2017–2018 Yangon Region Additional Budget Allocation Law (4/2017) 5. Yangon Region Fire and other Natural Disaster Prevention Law (5/2017) 	<ol style="list-style-type: none"> 1. 2018 April–September Yangon Region Six-Month Regional Planning Law (1/2018) 2. 2018 Yangon Region Budget Law (2/2018) 3. 2018 Yangon Region Tax Law (3/2018) 4. Second time Amendment Law on Yangon Region Drug Tax Law (4/2018)
Mandalay	<ol style="list-style-type: none"> 1. Amendment Law on 2014 Mandalay Municipal Law (1/2016) 2. Amendment Law on 2016 Mandalay Region Budget Law (2/2016) 	<ol style="list-style-type: none"> 1. 2016–2017 Fiscal Year, Mandalay Region Additional Budget Allocation Law (1/2017) 2. 2017 Mandalay Region Budget Law (2/2017) 3. 2017–2018 Mandalay Region Regional Planning Law (3/2017) 4. 2017–2018 Fiscal Year, Mandalay Region Additional Budget Allocation Law (4/2017) 	<ol style="list-style-type: none"> 1. 2018 April–September Mandalay Region Six-Month Regional Planning Law (1/2018) 2. 2018 Mandalay Region Budget Law (2/2018)
Sagaing	<ol style="list-style-type: none"> 1. Amendment Law on 2016 Sagaing Region Budget Law (4/2016) 2. Amendment Law on Sagaing Region Fresh Water Fishing Law (5/2016) 	<ol style="list-style-type: none"> 1. 2016–2017 Fiscal Year, Sagaing Region Additional Budget Allocation Law (1/2017) 2. Amendment Law on Sagaing Region Small Loan Business Law (2/2017) 3. 2017 Sagaing Region Budget Law (3/2017) 4. 2017–2018 Fiscal Year Sagaing Region Regional Planning Law (4/2017) 5. Sagaing Region Private Water Taxi Systemic Running Law (5/2017) 6. 2017–2018 Fiscal Year Sagaing Region Additional Budget Allocation Law (6/2017) 7. Sagaing Region Library Law (7/2017) 	<ol style="list-style-type: none"> 1. Sagaing Region Museum Law (1/2018) 2. 2018 Sagaing Region Budget Law (2/2018) 3. 2018 April–September Sagaing Region Six-Month Regional Planning Law (3/2018)

State/Region	Year		
	2016	2017	2018
Magway	<ol style="list-style-type: none"> 2016 Magway Region Budget Law (2/2016) 2016-2017 Fiscal Year Magway Region Regional Planning Law- (3/2016) Amendment Law on 2016 Magway Budget Law (4/2016) Amendment Law on Systematic Running of Magway Region Private Motor Business (5/2016) Magway Region Development Affairs Organizations Road and Bridge by Law Magway Region Development Affairs Organizations Building by Law 	<ol style="list-style-type: none"> 2016–2017 Financial Year Magway Region Additional Budget Allocation Law (1/2017) 2017 Magway Region Budget Law (2/2017) 2017–2018 Fiscal Year Magway Regional Planning Law (3/2017) Systematic Production and Use of Natural and Chemical Fertilizer Law (4/2017) Magway Region Domestic Business Development Law (5/2017) 2017–2018 Fiscal Year Magway Region Additional Budget Allocation Law (6/2017) Magway Region Private Water Boats Systematic Running by Law Magway Region Harbor, Port, and Jetty By-Law 	<ol style="list-style-type: none"> 2018 April–September Magway Region Six-Month Regional Planning Law (1/2018) 2018 Magway Region Budget Law (2/2018) Fresh Water by Law
Bago	<ol style="list-style-type: none"> Amendment Law on 2016 Bago Region Budget Law (3/2016) Bago Region Municipal Law- (4/2016) 	<ol style="list-style-type: none"> 2016–2017 Budget Year Additional Budget, Revised Budget, and 2016–2017 Bago Region Additional Budget Allocation Law (1/2017) 2017–18 Bago Region Regional Planning Law (2/2017) 2017–2018 Bago Region Budget and 2017 Bago Region Budget Law (3/2017) 2017–2018 Bago Region Additional Budget Allocation Law (4/2017) 	<ol style="list-style-type: none"> Bago Region Fresh-Water Fishing Law (1/2018) 2018 April–September Six-Month Bago Region Planning Law- (2/2018) 2018 April–September Bago Region Six-Month Budget and 2018 Budget Law (3/2018)
Ayeyarwady	<ol style="list-style-type: none"> Amendment Law on 2016 Ayeyarwady Region Budget Law (3/2016) Amendment Law (Second Time) on Ayeyarwady Region Municipal Law (4/2016) 	<ol style="list-style-type: none"> 2016–2017 Fiscal Year, Ayeyarwady Region Additional Budget Law (1/2017) 2017 Ayeyarwady Region Budget Law (2/2017) 2017–2018 Fiscal Year Ayeyarwady Region Regional Planning Law (3/2017) 2017–2018 Ayeyarwady Region Additional Budget Allocation Law (4/2017) 	<ol style="list-style-type: none"> 2018 April–September Ayeyarwady Region Six-Month Regional Planning Law (1/2018) 2018 Ayeyarwady Region Budget Law (2/2018) Ayeyarwady Region Museum and Libraries Law (3/2018) 2018 Ayeyarwady Region Fresh-Water Law (4/2018) Amendment By-Law on Ayeyarwady Region Systemic Running of Private Business Motor Car By-Law

State/Region	Year		
	2016	2017	2018
Tanintharyi	1. Amendment Law on 2016 Tanintharyi Region Budget Law	1. 2016–2017 Fiscal Year Tanintharyi Region Additional Budget Allocation Law 2. 2017–2018 Fiscal Year Tanintharyi Region Regional Planning Law 3. 2017 Tanintharyi Region Budget Law 4. Tanintharyi Region Drugs and Liquor Tax Law 5. Tanintharyi Region Municipal Law 6. Tanintharyi Region Honorarium Certification Law 7. Tanintharyi Region Museum and Library Law 8. 2017–2018 Fiscal Year Tanintharyi Region Additional Budget Allocation Law	1. Tanintharyi Region Fresh Water Law 2. 2018 April–September Tanintharyi Region Six-Month Regional Planning Law (2018) 3. 2018 Tanintharyi Region Budget Law

ANNEX F

State/region hluttaw committees (as of 04/24/18)

	Kachin	Kayah	Kayin	Chin	Mon	Rakhine	Shan
1	Billing Coordination Committee	Public Finance Monitoring Committee	Kayin State Hluttaw Bill Analysis Committee	Chin State Hluttaw MP Scrutiny Committee	MP Scrutiny Committee	MP Scrutiny Committee	Legislative Committee
2	Kachin State MP Scrutiny Committee	Legislation Committee	State Hluttaw Legislation Committee	Chin State Hluttaw Legislative Committee	Legislative Committee	Legislative Committee	Ethnic Affairs Committee
3	Government Guarantees, Pledges, Accountabilities, Administration, Judiciary, and Boarder Affairs Committee	Law Analysis and Advisory Committee	Kayin State Hluttaw Ethnic Affairs Committee	Chin State Hluttaw Ethnic Affairs Group	Ethnic Affairs Committee	Ethnic Affairs Committee	State MP Scrutiny Committee

	Kachin	Kayah	Kayin	Chin	Mon	Rakhine	Shan
4	Planning, Finance, and Public Accounts Committee	Ethnic Affairs Committee	Scrutiny of Kayin State Government's Guarantees, Pledges, and Complaints and Appeals Letter Committee	Chin State Hluttaw Government's Guarantees, Pledges, Accountabilities, and Complaints and Appeals Letter Vetting Committee	Scrutiny of Complaints, Appeals, Other Letters, and General Affairs Committee	Rakhine State Public Affairs Committee	Regional Planning and Budget Analysis Committee
5	Economics and Social Development Committee	Scrutiny on Government's Guarantees, Pledges, and Accountabilities Committee	Kayin State Hluttaw Budget Analysis Committee	Chin State Hluttaw Environmental Conservation, Agriculture, Transportation, and Energy Group	Budget, Planning, and Economic Affairs Analysis Committee	Education, Health, Sports, and Social Development Group	Examination of Complaint Letters Committee
6	Ethnic Affairs Committee	Complaint Letters (Formal and Informal) Screening Group	Kayin Hluttaw Municipal, Rural Development, and Economics Committee	Chin State Hluttaw Public Finance Group	Environmental Conservation Committee	Citizens' Rights and Special Case Hearing Group	Shan State Government's Guarantees, Pledges, and Accountabilities Vetting Committee
7	Law Analysis and Advisory Group		MP Scrutiny Committee	Chin State Hluttaw Regional Planning, Budget, and Finance Group	State Government's Guarantees, Pledges, and Undertakings Vetting Committee	Agriculture, Fishing, Livestock, Forest, and Irrigation Group	Education, Health, and Women and Children Development Committee
8				Chin State Hluttaw Education and Health Group	Women and Child Rights Committee	Construction, Transportation, Communication, Electricity, and Industrial Committee	Law Enforcement and Peace Committee
9						Security, Management, and Law-Enforcement Working Group	Farmer, Labor, and Youth Affairs Committee

	Kachin	Kayah	Kayin	Chin	Mon	Rakhine	Shan
10						Municipal, Rural Development, and Economics Working Group	Natural Resources, Environmental Conservation, and Electricity Committee
11						Advisory Group for Law and Other Issues	
12						State Government's Guarantees, Pledges, and Accountabilities Vetting Committee	

	Yangon	Mandalay	Sagaing	Magway	Bago	Ayeyarwaddy	Tanintharyi
1	Judiciary, Law Enforcement, and Complaint Letters and Appeal Letters Committee	Legislative Committee	Legislative Committee	Scrutiny of MPs and Vetting of Government's Guarantees, Pledges, and Accountabilities Committee	Rule of Law and Legislative Committee	Legislative Committee	Legislative Committee
2	Social Affairs and Management Committee	Ethnic Affairs Committee	Ethnic Affairs Committee	Legislative Committee	Ethnic Affairs Committee	Ethnic Affairs Committee	Ethnic Affairs Committee
3	Agriculture, Livestock, Energy, Electricity, Mining, and Forest Affairs Committee	MP Scrutiny Committee	MP Scrutiny Committee and Hluttaw Rights Committee	Ethnic Affairs Committee	Scrutiny of MPs and Rights of Hluttaw Committee	MP Scrutiny Committee	MP Scrutiny Committee and Hluttaw Rights Committee
4	Transportation, Communication, Construction, and Industrial Committee	Regional Planning, Budget, and Financial Committee	Budget, Public Accounts, Regional Planning, and Finance Committee	Public Accounts Committee	Agriculture, Livestock, Irrigation, and Land Issue Committee	Citizen's General Letters, Complaint Letters, and Appeal Letters Committee	Budget, Public Account, Regional Planning, and Finance Committee

	Yangon	Mandalay	Sagaing	Magway	Bago	Ayeyarwaddy	Tanintharyi
5	Ethnic Affairs Committee	Public and Social Affairs Committee	Law Enforcement, Judiciary, and Legal Affairs Committee	Examination of Judiciary, Law, Complain Letters, and Appeal Letters Committee	Government's Guarantees, Pledges, and Undertakings Vetting Committee	Judiciary, Legal System Development, and Government Guarantees, Pledges and Accountabilities Committee	Law Enforcement, Judiciary, and Legal Affairs Committee
6	Legislation Committee	Economics and Trading Committee	Government's Guarantees, Pledges, and Accountabilities Vetting Committee	Planning, Finance, and Municipal Affairs Committee	Development Affairs Committee	Law Analysis Committee	Government's Guarantees, Pledges, and Accountabilities Vetting Committee
7	MP Scrutiny Committee	Public Account Committee	Agriculture, Livestock, Natural Resources, and Environmental Conservation Committee	Agriculture, Livestock, and Irrigation Development Committee	Education, Health, Social, and Labor Affairs Committee	Public Accounts, Planning and Finance, Economics, and Trade Development Committee	Agriculture, Livestock, Natural Resources, and Environmental Conservation Committee
8	Public Accounts Committee	Agriculture and Livestock Committee	Industrial, Energy, and Electricity Committee	Construction and Transportation Committee	Industrial, Electricity, and Transportation Committee	Agriculture, Livestock, Irrigation, and Natural Resource Affairs Committee	Industrial, Energy, and Electricity Committee
9	Financial, Planning, and Economics Committee	Transportation, Communication, and Construction Committee	Economics, Trade, and Municipal Affairs Committee	Natural Resources, Environment, Electricity, and Energy Affairs Committee	Natural Resources, Forests, and Environmental Conservation Committee	Energy, Communication, Industrial, and Construction Committee	Economics, Trade, and Municipal Affairs Committee
10	Government's Guarantee, Pledges, and Hluttaw Rights Committee	Natural Resources and Environmental Conservation Committee	Transportation, Communication, and Construction Affairs Committee	Labor, Immigration, and Population Committee	Planning, Finance, and Public Accounts Committee	Religious Affairs, Municipal, and Public Relations Committee	Transportation, Communication, and Construction Affairs Committee
11		Security, Management, and Municipal Affairs Committee	Education, Health, Sports, and Cultural Affairs Committee	Education, Health, and Social Development Committee		Social, Education, Health Affairs, and Natural Disaster Prevention Committee	Education, Health, Sports, and Cultural Affairs Committee
12		Religious and Culture Affairs Committee	Legislative Committee	Examination of Man Shwe Set Taw Pagoda Festival Affairs			

	Yangon	Mandalay	Sagaing	Magway	Bago	Ayeyarwaddy	Tanintharyi
13		Mechanical and Electricity Committee					
14		Government's Guarantees, Pledges, and Accountabilities Vetting Committee					

ANNEX G

List of state/region chief ministers, to date

State/Region	Name	From–To	Party	Background
Kachin	La John Ngan Hsai	30 March 2011 to 30 March 2016	USDP	Businessman.
	Dr. Khet Aung	30 March 2016 to present	NLD	Dentist.
Kayah	Khin Maung Oo	30 March 2011 to 30 March 2016	USDP	He resigned from chair of USDP, Kayah State, on 28 June 2015.
	L Paung Sho	30 March 2016 to present	NLD	Former education department official.
Kayin	Zaw Min	30 March 2011 to 30 March 2016	USDP	Active military while serving as chief minister. Brigadier and chair of SPDC, Kayin State
	Nan Khin Htwe Myint	30 March 2016 to present	NLD	First elected in 1990 and again in 2012 by-election. Former civil servant of Internal Revenue Department.
Chin	Hong Ngai	30 March 2011 to 30 March 2016	USDP	Former brigadier and chair of SPDC, Chin State.
	Salai Lian Luai	30 March 2016 to present	NLD	Former district attorney.
Mon	Ohn Myint	30 March 2011 to 30 March 2016	USDP	Former brigadier general. Former Union minister of mining.
	Dr. Aye Zan	1 March 2017 to present	NLD	First elected in 1990.
	Min Min Oo	30 March 2016 to	NLD	Student leader during 1988 uprising. Former businessman.
Rakhine	Hla Maung Tin	30 March 2011 to 30 March 2016	USDP	Former colonel.
	Nyi Pu	30 March 2016 to present	NLD	First elected in 1990.
Shan	Sao Aung Myat	30 March 2011 to 30 March 2016	USDP	Former second colonel. Now deputy speaker of Shan State Hluttaw.
	Dr. Lin Htut	30 March 2016 to present	NLD	Dentist.

State/Region	Name	From-To	Party	Background
Yangon	Myint Swe	30 March 2011 to 30 March 2016	USDP	First vice president of Myanmar in NLD term. Served as temporary president 21–30 March 2018 after U Htin Kyaw resigned and before U Win Myint took on position. Former lieutenant general.
	Phyo Min Thein	30 March 2016 to present	NLD	He served as a Pyithu Hluttaw MP for NLD after the 2012 by-election.
Mandalay	Ye Myint	30 March 2011 to 30 March 2016	USDP	Former lieutenant general and chief of military security affairs.
	Dr. Zaw Myint Maung	30 March 2016 to present	NLD	Involved in the 1988 uprising. First elected in 1990. Elected in 2012 by-elections and 2015.
Sagaing	Thar Aye	30 March 2011 to 30 March 2016	USDP	Former lieutenant general and member of SPDC. Served as head of special military operations until August 2010.
	Dr. Myint Naing	30 March 2016 to present	NLD	Elected first in 1990. Elected in 2012 by-election and 2015.
Magway	Phone Maw Shwe	30 March 2011 to 30 March 2016	USDP	Former brigadier general and chair of Magway SPDC.
	Dr. Aung Moe Nyo	30 March 2016 to present	NLD	Medical doctor. Elected in both 2012 by-election and 2015.
Bago	Nyan Win	30 March 2011 to 30 March 2016	USDP	Former deputy chief of military training before becoming a member of the SPDC. Served as commandant of Command and General Staff College. 18 th minister of foreign affairs of Myanmar.
	Win Thein	30 March 2016 to present	NLD	Former farmer.
Ayeyarwaddy	Thein Aung	30 March 2011 to 30 March 2016	USDP	Former brigadier general, minister of forestry and member of SPDC.
	Man Jonny	30 March 2016 to 9 January 2018	NLD	Former schoolteacher. First elected in 1990. Won 2012 by-election as MP of Myaung Mya Township, Pyithu Hluttaw.
	Hla Moe Aung	18 January 2018 to present	NLD	Member of the NLD since 1990.
Tanintharyi	Khin Zaw	30 March 2011 to 6 January 2012	USDP	Former lieutenant general and commander of No.6 Bureau of Special Operations.
	Myat Ko	27 January 2012 to 30 March 2016	USDP	Former minister of finance.
	Dr. Lae Lae Maw	30 March 2016 to present	NLD	Medical doctor.

ANNEX H

Example region government structure – Bago Region Government ministers, their departments and respective Union ministries

State Minister	Corresponding Departments	Union Ministry
Security and Border Affairs	1. Myanmar Police Force 2. Bureau of Special Investigation 3. Prison Department 4. Fire Service Department	Ministry of Home Affairs
	5. Immigration and Population Department	Ministry of Labor, Immigration and Population
Planning and Finance	1. Planning Department 2. Budget Department 3. Myanmar Economics Bank 4. Internal Revenue Department 5. Central Statistical Organization 6. Financial Regulatory Department 7. Myanmar Insurance 8. Pension Department 9. Customs Department 10. MIC	Ministry of Planning and Finance
	11. Consumer Affairs	Ministry of Commerce
	12. Hotels and Tourism Department	Ministry of Hotels and Tourism
	13. Labor Department 14. Labor Relations Department 15. Factory and General Labor Laws Inspection Department	Ministry of Labor, Immigration and Population
	16. Social Security Board	Ministry of Social Welfare, Relief and Resettlement
	17. Stevedoring Oversight Committee Office	
	Agriculture, livestock and Irrigation	1. Agriculture Department 2. Agriculture, Land Management and Statistics Department 3. Agricultural Mechanization Department 4. Myanmar Agricultural Development Bank 5. Livestock Breeding and Veterinary Department 6. Irrigation and Water Utilization Management Department 7. Fishery Department 8. Rural Development Department 9. Cooperatives Department 10. Bee breeding Department 11. Small Scale Industries Department

State Minister	Corresponding Departments	Union Ministry
Development Affairs and Social Welfare	1. Religious Affairs Department 2. Department of Archaeology, national museum and library	Ministry of Religious Affairs and Culture
	3. Department of Information and Public Relations	Ministry of Information
	4. Development Affairs Organization	
	5. Department of Education 6. Higher Education Department	Ministry of Education
	7. Social Welfare Department	Ministry of Social Welfare, Relief and Resettlement
	8. Department of Public Health 9. Department of Rehabilitation 10. Department of Medical Services 11. Sports and Physical Education Department 12. Department of Traditional Medicine	Ministry of Health and Sports
Industry, Electricity and Transport	1. Industrial Supervision & Inspection Department	Ministry of Industry
	2. Electricity Supply Enterprise	Ministry of Electricity and Energy
	3. Road Management Department 4. Myanmar Post & Telecommunication 5. Road Transport Administration Department 6. License & Transport Coordination 7. Directorate of Water Resources & Improvement of Water Systems 8. Department of Urban & Housing Development 9. Department of Meteorology & Hydrology 10. Myanmar Railway (Region) 11. Department of Civil Aviation 12. Department of Marine Administration 13. Department of Marine Administration 14. Department of Inland Water Transport 15. Myanmar Post Office	Ministry of Transport and Communication
Natural Resources, Forestry and Environmental Conservation	1. Forestry Department 2. Myanmar Timber Enterprise 3. Environmental Conservation Department	Ministry of Natural Resources and Environmental Conservation
	4. Myanmar Petroleum Product Enterprise	Ministry of Electricity and Energy
Ethnic Affairs	1. Department of Ethnic Affairs	Ministry of Ethnic Affairs

ANNEX I

List of common departments at township level³³⁰

General Administration Department	Police Department
Housing Department	Fire Department
Cooperative Department	Immigration
Department of Rural Development	Department of Agriculture
Internal Revenue Department	Department of Irrigation
Planning Department	Department of Industrial Crops
Uphill Farmland Department	Development Affairs
Livestock, Breeding, and Veterinary	Social Welfare
Traditional Medicine	Education Office
Agricultural Mechanization Department	Health Office
Department of Agricultural Land Management and Statistics	Sports
Audit Department	Road Transportation
Information and Public Relations	Public Works
Myanmar Posts and Telecommunications	Electricity
Labor Department	Religious Affairs
Myanmar Economic Bank	Law Department
Department of Fisheries	Township Court
Freight Handling Department	Customs
Trade Promotion and Consumer Affairs	Border Affairs
Department of Highways	Forest Department
Water Resources	Township Election Commission

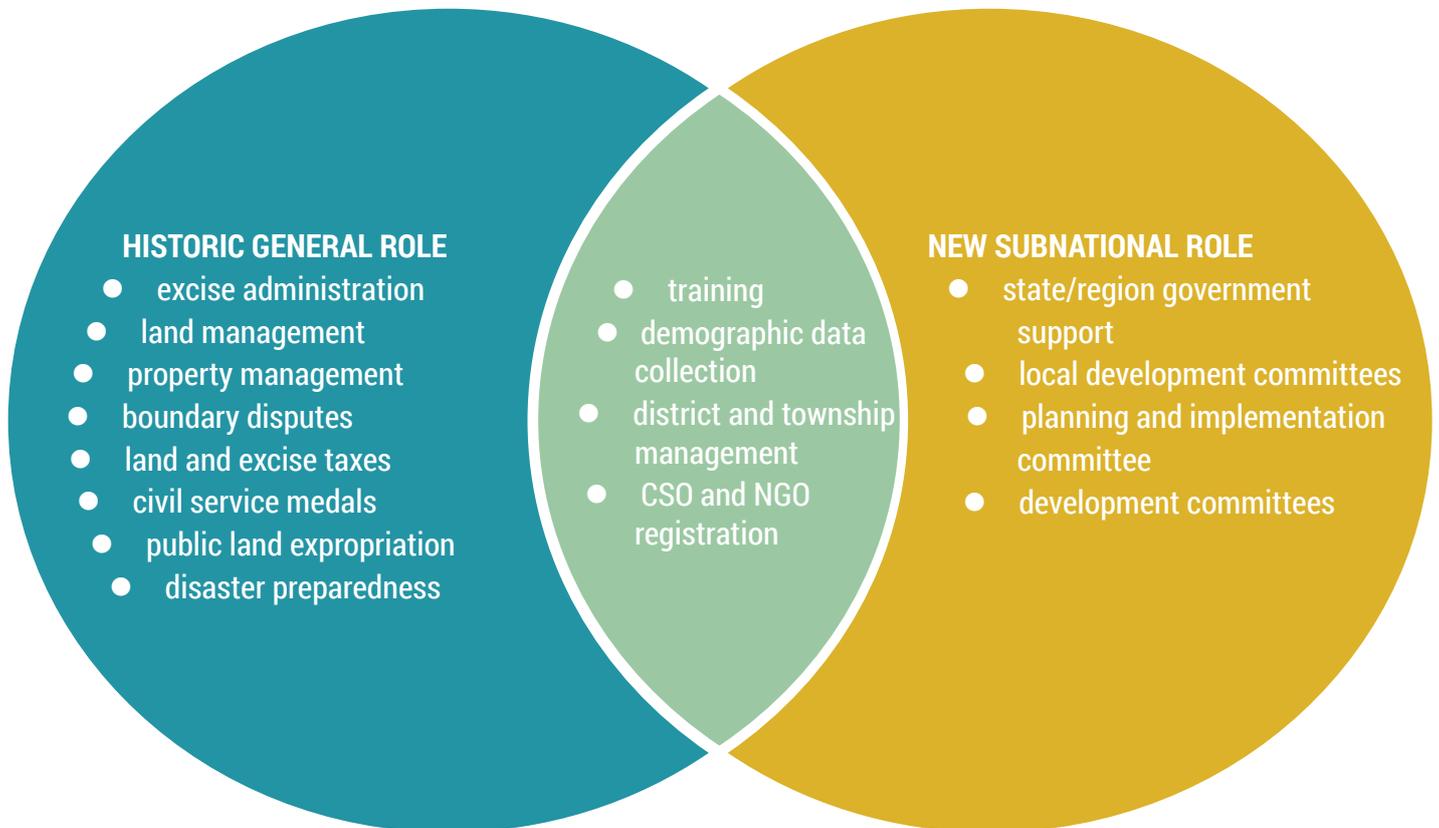
ANNEX J

Example list of committees at township level

- (1) Township Management Committee
- (2) Township Association Registration Body
- (3) Township Stability, Security and Rule of Law Committee
- (4) Township Planning and Implementation Committee
- (5) Township Drug Control and Prevention Body
- (6) Township Security Committee
- (7) Township Citizenship (or) Associate Citizenship Investigation Body
- (8) Township Investigation Committee for Villages that have Green Emerald Fund Loans
- (9) Green Emerald Fund Project Fishery Sector Implementation body
- (10) Supervisory Body for Issuing Household Registration or Verification Documents to Migrants and Laborers
- (11) Township Committee for Prevention of Import/Export of Domestic Animals and Their Products
- (12) Township Body for Formation of Decentralized Body
- (13) Township Committee for Management of Ownerless Properties
- (14) Township Farmland Management Body
- (15) Township Confiscated Farmlands and Other Lands Scrutinizing Committee
- (16) Township Hospital Support Body
- (17) Township Human Trafficking Prevention Support Body
- (18) Township Child Rights Committee
- (19) Township Health Committee
- (20) Township Education Committee
- (21) Township Sport and Physical Education Support Committee

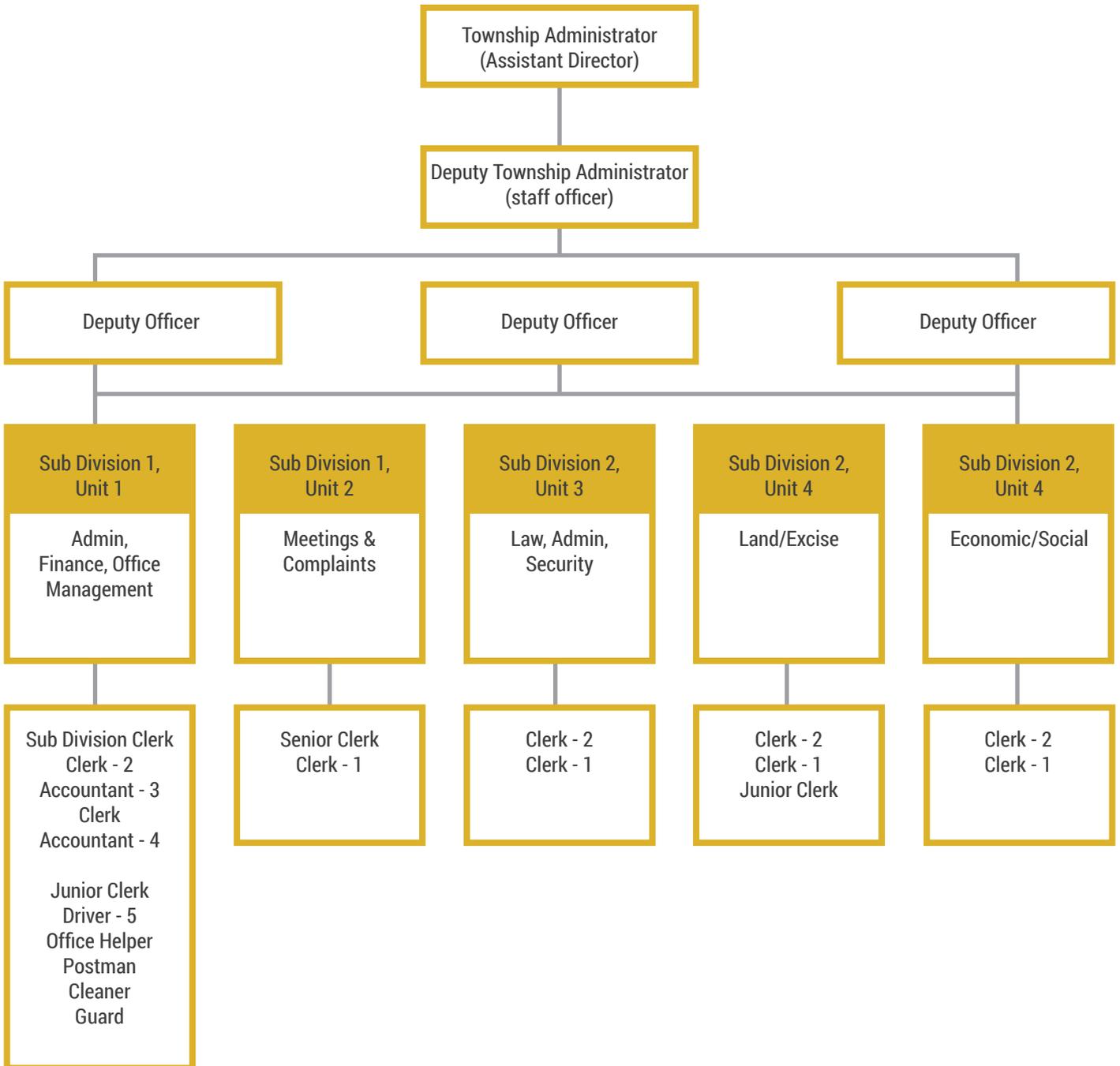
ANNEX K

GAD's dual role



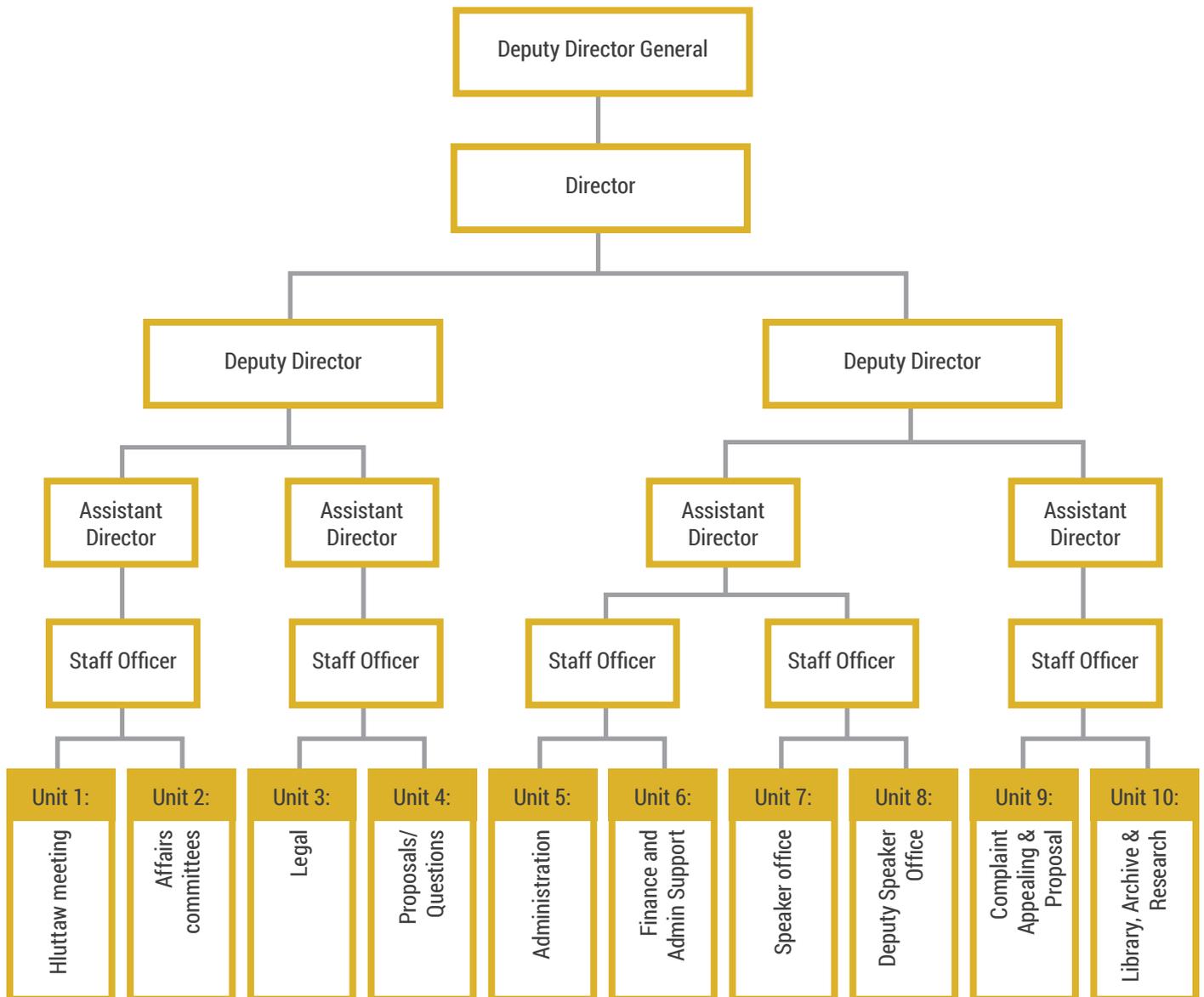
ANNEX L

Example Township General Administration Office



ANNEX M

Example Hluttaw Office Structure



Gazetted Officer - 7
 Deputy Director General - 1
 Director - 1
 Deputy Director - 2
 Staff Officers - 4
 Non-Gazetted Officer - 38

ENDNOTES

1. Myanmar's subnational conflicts affect more than one-third of the country's 330 townships. Many of the conflicts have persisted for over six decades. Thousands have been killed, hundreds of thousands displaced, and many more adversely affected. Burke et al. 2017, 9.
2. The 2008 Constitution remains controversial, in part, because it was drafted predominantly by the Tatmadaw and ensures a continuing, strong role for the military within the State of Myanmar.
3. Burke et al. 2017, 19.
4. The Irrawaddy 2018.
5. World Bank (n.d.).
6. Litwack and Seddon 1999, 2.
7. Boex and Yilmaz 2010.
8. Romeo 2012.
9. Eaton and Schroeder 2010.
10. This research utilizes and adapts the frameworks and methodologies of Boex and Yilmaz 2010 and Boex 2012.
11. Burke et al. 2017, 18–19.
12. Nixon et al. 2013.
13. Ibid.
14. A complete catalogue of The Asia Foundation's reports on subnational governance in Myanmar can be found at <https://asiafoundation.org/tag/myanmar-governance-discussion-paper-series/>.
15. Ibid.
16. Burke et al. 2017.
17. Jolliffe 2015.
18. A complete catalogue of The Asia Foundation's reports on conflict in Myanmar can be found at <https://asiafoundation.org/tag/peace-conflict-in-myanmar>
19. As per Schedule Two, Constitution of the Republic of the Union of Myanmar (2008), the sectors are: Finance and Planning; Economy; Agriculture and Livestock Breeding; Energy, Electricity, Mining, and Forestry; Industry; Transport, Communication and Construction; Social Sector; and Management.
20. For discussion of the role of the military in the 2008 Constitution, see Steinberg 2012, 233.
21. Chapter XI, Constitution of the Republic of the Union of Myanmar (2008).
22. State Peace and Development Council Law No.16/2010.
23. Pyidaungsu Hluttaw Law no. 22/2013.
24. State Peace and Development Council Law No.14/2010.
25. Nixon et al. 2013.
26. The Myanmar Times 2016a.
27. Action Committee for Democracy Development and Progressive Voice (n.d.)
28. The six self-administered areas are the Self-Administered Zones of Naga, in Sagaing Region, Danu, Pa-O, Palaung, and Kokaung, and the Self-Administered Division of Wa (all in Shan State).
29. Articles 49–51, Constitution of the Republic of the Union of Myanmar (2008). This structure parallels that adopted in the highly centralized 1974 Constitution.
30. 2014 census data, Ministry of Immigration and Population, 2014.
31. In 2017, an attempt to propose an amended township administration law was paused.
32. Article 288 states, "Administration of district and township level shall be assigned to the Civil Services personnel." Article 289 states, "Administration of ward or village tract shall be assigned in accord with the law to a person whose integrity is respected by the community."
33. Article 232, Constitution of the Republic of the Union of Myanmar (2008).
34. Article 161, Constitution of the Republic of the Union of Myanmar (2008).
35. For a similar analysis of national institutions, see Brand 2012, 20–21.
36. Article 7(a), State Peace and Development Council Law No.16/2010.
37. Article 248 (c), Constitution of the Republic of the Union of Myanmar (2008).
38. Article 8 (g), State Peace and Development Council Law No.16/2010.
39. Article 262, Constitution of the Republic of the Union of Myanmar (2008).

40. Article 262 (a), Constitution of the Republic of the Union of Myanmar (2008).
41. Article 249, Constitution of the Republic of the Union of Myanmar (2008).
42. Article 31 (a), State Peace and Development Council Law No.16/2010.
43. Articles 308, 310, 311, Constitution of the Republic of the Union of Myanmar (2008).
44. Kyaw Hla Win (Ahmed) and Karim 2013.
45. Republic of the Union of Myanmar, the Supreme Court of the Union (n.d.).
46. Kyaw Hla Win (Ahmed) and Karim 2013.
47. Republic of the Union of Myanmar, the Supreme Court of the Union (n.d.).
48. Ibid.
49. Kyaw Hla Win (Ahmed) and Karim 2013.
50. The Republic of the Union of Myanmar, The Supreme Court of the Union (n.d.).
51. Article 295 (a) ii, Constitution of the Republic of the Union of Myanmar (2008).
52. Articles 322–4, Constitution of the Republic of the Union of Myanmar (2008).
53. Crouch 2018a.
54. Ibid.
55. The Republic of the Union of Myanmar, The Supreme Court of the Union 2018.
56. Article 15 (a), State Peace and Development Council Law No.16/2010.
57. Crouch 2018b.
58. Access is limited to the president and chief ministers, the speakers of the Union and state/region hluttaws, and the chief justice of the Supreme Court. The Pyithu and Amyotha Hluttaws can make a submission if at least 10 percent of all representatives provide support.
59. Crouch 2018b.
60. Crouch 2018a.
61. Enlightened Myanmar Research Foundation 2017a.
62. Interviews with state/region hluttaw representatives and with government ministers.
63. Republic of the Union of Myanmar 2012.
64. Republic of the Union of Myanmar, Office of the President (Notification 34/2014).
65. National League for Democracy 2015.
66. Ministry of Planning and Finance 2016.
67. Interviews with state/region government ministers.
68. Republic of the Union of Myanmar, Ministry of Planning and Finance 2018.
69. Global New Light of Myanmar 2018a.
70. Republic of the Union of Myanmar, Office of the President (Instruction 1/2018).
71. Annex G contains a complete list of chief ministers appointed since the creation of the state/region governments.
72. Kayin chief minister Zaw Min was a serving brigadier general.
73. One chief minister was replaced during the USDP government in Tanintharyi.
74. Myanmar Times 2016b.
75. Two chief ministers were replaced between 2016 and June 2018, during a February 2018 reshuffle. In Ayeyarwaddy, Mahn Johnny was replaced by Hla Moe Aung. In Mon State, Min Min Oo was replaced by Dr. Aye Zan. While the former was said to be related to health issues, no reason was given for the latter. Ye Mon 2017.
76. The NUP was the proxy party of the military and the Burma Socialist Programme Party and was the primary challenger to the NLD in the 1990 elections. Irrawaddy (n.d.).
77. Data is correct as of June 2018. Ministry of Information (n.d.); MyPILAR 2017.
78. The position of Shan Ethnic Affairs Minister in the Mandalay Region Government has been vacant since January 16 2018. Maung Zaw 2018.
79. Nixon et al. 2013.
80. For example, the Planning and Finance Ministers in Yangon and Ayeyarwady Regions, and the Energy Minister in Kayin State.
81. The ten ministerial portfolios were chief minister, security and border affairs, finance and revenue, agriculture and livestock breeding, transport, forestry and mines, planning and economics, electric power and industry, development affairs, social affairs, and ethnic affairs (where present).
82. This figure for Shan State includes five Chairpersons of Self-Administered Divisions or Areas, who are ministers in the State Government by virtue of their position on their respective Leading Bodies.
83. President Office Order Notification No. 1/2016. For example, the Ministry of Electricity and the Ministry of Energy were merged to form the Ministry of Electricity and Energy, and the Ministry of National Planning and Economic Development and the Ministry of Finance were merged to become the Ministry of Planning and Finance.

84. In some areas, such as Shan State, despite the merging of the planning and finance ministries, there remains a minister of planning and economics and a minister of finance.
85. Article 31 (a), State Peace and Development Council Law No. 16/2010.
86. Article 31 (b), State Peace and Development Council Law No. 16/2010.
87. New Light of Myanmar 2013a.
88. Global New Light of Myanmar 2014.
89. Interviews with state/region government ministers.
90. Interview with state/region minister of agriculture.
91. New Light of Myanmar 2013b.
92. Figure 3.4 provides an overview of state/region government priorities.
93. Global New Light of Myanmar 2018b.
94. Republic of the Union of Myanmar, Office of the President 2018a.
95. Republic of the Union of Myanmar, Office of the President 2018b.
96. Chan Tha 2018.
97. Global New Light of Myanmar 2018c.
98. Article 12, State Peace and Development Council Law No.16/2010.
99. Republic of the Union of Myanmar, Office of the President (Instruction 1/2018).
100. Nixon et al. 2015.
101. Ibid.
102. Ibid.
103. Ibid.
104. Interviews with state/region government ministers.
105. Interviews with state/region department directors.
106. Nixon et al. 2015.
107. Interviews with state/region government ethnic affairs ministers.
108. Article 175, Constitution of the Republic of the Union of Myanmar (2008).
109. The 2010 elections were overshadowed by a widespread boycott and allegations of fraud, and there were concerns that the 2015 elections were not wholly free and fair (Human Rights Watch 2015) but the latter marked the first openly contested elections since 1990, when the results were annulled.
110. The Rakhine Nationalities Development Party was the largest party in the Rakhine State Hluttaw. The USDP did not have a majority in Chin, Kayin, Shan, Mon, Kachin, or Rakhine State.
111. In Rakhine State, the speaker is from the ANP. In Shan State, the speaker is from the USDP.
112. The USDP held 56 percent of all seats in the state/region hluttaws.
113. Excludes NLD, USDP, DPM, NUP, and independent representatives.
114. Interviews with regional and ethnic parties.
115. Hein Ko Soe 2018a.
116. The Kayah, Chin, and Rakhine state hluttaws have no women representatives.
117. Shwe Shwe Sein Latt et al. 2017.
118. Interview with NLD party officials.
119. Enlightened Myanmar Research Foundation 2017a.
120. Data from all 14 state/regions hluttaws. Data covers February 8, 2016 to April 24, 2018.
121. With regard to numbers of sessions, a sample of eight hluttaws found that there were an average of just under 20 sessions per parliament from 2010 to 2015. Since the 2015 elections and over a period of under half that length of time, the average number of sessions stands at over 13 across all 14 state/region hluttaws.
122. Nixon et al. 2013.
123. Ibid.
124. Interviews with state/region hluttaw representatives.
125. Enlightened Myanmar Research Foundation 2017a, 26.
126. Enlightened Myanmar Research Foundation 2017a.
127. Ibid.
128. Data for state/region hluttaws covers the period up to April 24, 2018.
129. Interview with Kachin State Hluttaw representative.
130. Nyein Thiri Swe and Zaw Min Oo 2018.
131. Interviews with state/region hluttaw representatives.

132. Enlightened Myanmar Research Foundation 2017b.
133. Interview with state/region hluttaw representative.
134. Egreteau 2017.
135. Enlightened Myanmar Research Foundation 2017a.
136. Analysis combines data from Enlightened Myanmar Research Foundation 2017a and responses to data requests from state/region hluttaws.
137. Data for motions and questions is for the period from the creation of state/region hluttaws until April 24, 2018, unless otherwise stated.
138. Enlightened Myanmar Research Foundation 2016a.
139. Interviews with state/region hluttaw representatives.
140. Enlightened Myanmar Research Foundation 2017a.
141. Enlightened Myanmar Research Foundation 2017a.
142. Interview with state hluttaw committee chair.
143. San Yamin Aung 2018a.
144. San Yamin Aung 2018b.
145. Enlightened Myanmar Research Foundation 2017c.
146. Enlightened Myanmar Research Foundation 2018a.
147. Enlightened Myanmar Research Foundation 2018b.
148. Moe Myint 2017.
149. Interview with regional hluttaw representatives.
150. Nyan Linn Aung 2018; Enlightened Myanmar Research Foundation 2018c.
151. Ei Ei Toe Lwin 2018a.
152. Enlightened Myanmar Research Foundation 2018d.
153. Interviews with state/region hluttaw representatives.
154. Ibid.
155. Ibid.
156. Interview with region hluttaw representative.
157. Enlightened Myanmar Research Foundation 2016a.
158. Egreteau 2018.
159. Interviews with state/region hluttaw representatives.
160. Nixon et al. 2013.
161. Interview with region hluttaw representative.
162. Interviews with civil society organizations.
163. Kempel, Chan Myawe Aung Sun and Aung Tun 2015.
164. The Asia Foundation 2014.
165. The Asia Foundation 2018.
166. MyJustice 2018.
167. MDR and Kempel 2012.
168. UNDP Myanmar 2015a.
169. Ibid.
170. Unpublished GAD data.
171. Kyi Pyar Chit Saw and Arnold 2014, 35.
172. UNDP Myanmar 2015a.
173. Republic of the Union of Myanmar, Office of the President 2013. Notification 27/2013.
174. UNDP Myanmar 2015b.
175. UNDP Myanmar 2015a.
176. Republic of the Union of Myanmar, Office of the President 2016b. Order 37/2016.
177. There have been suggestions that the committees were abolished to remove USDP influence, as committee members were viewed as being loyal to the party.
178. For example, in all of Shan State, only three women were public committee members of the state's 86 committees. Arnold et al. 2015.
179. Arnold et al. 2015.
180. New Myanmar Foundation 2018.
181. UNDP Myanmar 2015a.

182. Ibid.
183. Ibid.
184. Interviews with state/region hluttaw representatives.
185. Staphenurst and O'Brien (n.d.).
186. As per article 4 (a) and article 31 (a), State Peace and Development Council Law No.16/2010, the president, with the approval of the region/state hluttaw, may determine the number of ministers and determine and assign duties to the ministers, with a minimum of five ministers and a maximum of 10 (excluding ethnic affairs ministers and chairpersons of the leading bodies).
187. Bissinger 2016.
188. A complete list of departments for which the Bago Region government is responsible, and their corresponding region ministers and Union ministries, is available in annex H.
189. This section builds on the evidence of Arnold et al. 2015 and Winter and Mya Nandar Thin 2016. See these reports for further details.
190. Current development affairs laws can be traced back to the Development Affairs Law, 1993, which repealed the previous ten development affairs laws. The law was amended in 1997. The 2008 Development Affairs Law, transferring DAOs to the supervision of state/region governments, was based on the 1993 law and 1997 amendment.
191. The work of township DAO offices used to cover an entire township, but is now supposed to concentrate on urban areas, though DAO projects can still take place within limited parts of village tracts, especially those that border urban concentrations. DAOs can designate areas within village tracts as "development affairs areas," where commercial activities are increasing and municipal services are needed. Between 2012 and 2013, all state/region hluttaws passed their own development affairs laws, which are based on the 1993 law.
192. The state or region office is led by a director, who is the senior DAO official in the system. There is some variation, but most state and region DDA offices are composed of three departments: administration; engineering; and law, tax, and security.
193. There are several other key differences between CDCs and DAOs, including in relation to systems of governance and their respective roles and responsibilities. At the state/region level, CDCs are led by mayors and a committee that includes elected members of the public.
194. Interviews with Department of Development Affairs officials.
195. Nixon et al. 2013.
196. Tidemand and Steffensen 2010, 17–18.
197. Nixon et al. 2013.
198. Ibid.
199. Ibid.
200. Bissinger 2016.
201. Interviews with state/region ministers.
202. Interviews with state/region officials.
203. Interview with chief minister.
204. There is some anecdotal evidence of state/region government spending on education and health, although this does not appear in state/region budgets.
205. Interviews with state/region government ministers and state/region department directors.
206. Interviews with state/region ministers.
207. Bauer, Kirk and Sahla 2018.
208. Mandalay Region Government Office 2017.
209. Nixon et al. 2013.
210. Ibid.
211. There is some anecdotal evidence of state/region government spending to hire medical doctors for remote areas and to hire teachers in exceptional circumstances.
212. Nixon et al. 2013.
213. Interviews with state/region and township officials in education and health departments.
214. Pyidaungsu Hluttaw Law no. 41/2014, chapter 3, section 4(m).
215. Republic of the Union of Myanmar Union Civil Service Board 2017.
216. Ibid.
217. Nixon et al. 2013.
218. Ibid.
219. Ibid.
220. Interviews with CSOs.
221. Kyi Pyar Chit Saw and Arnold 2014, 30.
222. The following section draws on Bissinger 2016; Kyi Pyar Chit Saw and Arnold 2014, and; Winter and Mya Nandar Thin 2016 .

223. Townships have been the “central unit of local government” for centuries. Kyi Pyar Chit Saw and Arnold 2014.
224. Bissinger 2016, 7.
225. Township offices comprise 34 GAD staff reporting to the township administrator, who has the rank of an assistant director. As is the case with GAD offices at other levels, regardless of population size, the township offices are all the same size. The township administrator is supported by one deputy township administrator, who is a staff officer. The two manage an office staffed primarily by clerks and accountants.
226. Kyi Pyar Chit Saw and Arnold 2014.
227. Ibid.
228. Interviews with township administrators; Kyi Pyar Chit Saw and Arnold 2014.
229. The Deputy Minister of MoHA stated in August 2018 that women will be promoted to administrator positions in the future. Kyaw Myo 2018.
230. Currently one serving Deputy Township Administrator is a woman.
231. For some of these activities, the W/VTA supports the GAO.
232. Bissinger 2016.
233. Arnold et al. 2015.
234. An exhaustive list of responsibilities can be found in Arnold et al. 2015.
235. See Bissinger 2016, section 2.4 onwards.
236. An example list of committees for a single township is included in annex J.
237. The TDSC and TDAC were initiated under a Presidential Notification of February 2013.
238. Republic of the Union of Myanmar, Office of the President 2016b. Order 37/2016.
239. Members of the Township Management Committee include the township GAD administrator (chairperson), the township GAD deputy officer (secretary), the Police Office, the Planning Department officer, the Forestry Department officer, the Education Department officer, the Development Affairs officer, the Legal Department officer and the Revenue Department officer.
240. See Arnold et al. 2015 and Winter and Mya Nandar Thin 2016 for further information.
241. Winter and Mya Nandar Thin 2016.
242. The Central Committee was formed by Republic of the Union of Myanmar, Office of the President 2016c, Order 14/2016.
243. Interviews with township GAD officials.
244. The Asia Foundation 2014.
245. MyJustice 2018.
246. In their interviews, village tract administrators routinely noted that they communicate regularly with their respective township administrators and that approval is required for many different processes, including local development projects. Kyi Pyar Chit Saw and Arnold 2014.
247. Ward and Village Tract Administration Law 2012, chapter XIV, Articles 32-33. The 2012 Ward and Village Tract Administration Law, Article 28, states: “The Ministry of Home Affairs, with the approval of the Union government, shall prescribe the following subsidies for the ward or village tract administrator: (a) monthly subsidy, (b) lump sum subsidy if he serves the entire term of duty efficiently.” Pyidaungsu Hluttaw Law No. 1/2012.
248. This is complicated further by the fact that village tract administrators get an official appointment letter from the GAD.
249. Interviews with state/region hluttaw representatives.
250. Interviews with state/region GAD officials.
251. Boex 2012.
252. UNDP 2012, 6; World Bank 2013, 97.
253. The Asia Foundation, in collaboration with partners, has published a series of reports that have looked in detail at state and region financing, planning, and budgeting in Myanmar. Copies of the reports are available at <https://asiafoundation.org/tag/myanmar-governance-discussion-paper-series/>.
254. “Capital expenditure” refers to government investments in assets that will last for more than a year, such as vehicles, land, machinery, buildings, and roads.
255. “Current expenditure” refers to general government expenditure for expenses such as salaries, pension funds, maintenance, purchase of goods and services, and more.
256. This overview of process is adapted from Shotton, Zin Wint Yee, and Khin Pwint Oo 2016, which provides an explanation of the planning and budget processes in greater detail. Their analysis is supplemented by interviews to understand developments since 2016.
257. The focus of this section is on the capital budget. This part of the budget is where there are greater decision-making options and thus scope for local prioritization. The current budget, on the other hand, largely follows the existing staffing arrangements and operational expenses, with little scope for reprioritization.
258. Republic of the Union of Myanmar, Office of the President (2016d). Order 13/2016.
259. Republic of the Union of Myanmar, Office of the President (2016e). Order 12/2016.
260. Republic of the Union of Myanmar, Office of the President (2016f). Order 11/2016.

261. Interviews with state/region Planning Department officials.
262. Interviews with state/region government ministers, hluttaw representatives, and Budget and Planning Department officials.
263. Interview with subnational planning and budgeting expert.
264. Ibid.
265. Hein Ko Soe 2018b.
266. Valley et al. 2018.
267. Description of planning process for development affairs adapted from Winter, 2016.
268. Shotton, Zin Wint Yee, and Khin Pwint Oo 2016, xii.
269. As per chapter 3, all state/region hluttaws now have a committee responsible for leading the budget process.
270. Interviews with state/region hluttaw representatives.
271. OMI Budget Explorer, available at <http://budget.omimyanmar.org/>.
272. Shotton, Zin Wint Yee, and Khin Pwint Oo 2016.
273. The specific functions assigned to DAOs are provided for in their respective state/region development laws. The principal functions of most DAOs are limited to a few key infrastructure and service delivery tasks and a set of regulatory and revenue collection responsibilities. These typically include the construction, upgrading, repair and maintenance of roads and bridges, waste management, upkeep of parks and public spaces and the provision of street lighting.
274. There is some anecdotal evidence of minor state/region government spending on health and education, although this does not appear in state/region budgets.
275. Schedule 1 assigns Union responsibility for “major highways and bridges managed by the Union.” Schedule 2 assigns state/region responsibility for “roads and bridges having the right to be managed by the region or state.”
276. For a more detailed discussion of fiscal decentralization in the roads sector, see Valley et al. 2018.
277. In aggregate, state and region budget expenditure allocated for works on Union-classified highways varies across the country; from around 60 per cent of total DOH expenditure in Tanintharyi to 15 per cent in Bago and under 2 per cent in Ayeyarwady. Shotton, Zin Wint Yee, and Khin Pwint Oo 2016, 9; Valley et al. 2018.
278. Boex 2012.
279. Budget expenditure is classified as “capital” or “current/ordinary” expenditure. Capital expenditure primarily includes expenditure on the creation of fixed assets and on the acquisition of land, buildings, vehicles, machinery, and intangible assets. Current expenditure includes salaries paid to state/region government employees, which account for around half of total current expenditure. Other items include maintenance, purchase of goods and services, and petrol for government vehicles. It also includes fiscal transfers like the Constituency Development Fund.
280. For more on capital expenditure in states/regions, see World Bank 2017, chapter 2.
281. Interview with state Department of Development Affairs director.
282. It is important to note that the variation between capital and current expenditure ratios could be at least partly driven by ambiguity in accounting definitions. See Shotton, Zin Wint Yee, and Khin Pwint Oo 2016, 62.
283. Valley et al. 2018.
284. Ibid.
285. Fifty-four percent refers to public works expenditure across all 14 state/region governments. Thirty-eight percent refers to expenditure for ten state/region governments. The Department of Public Works was under the Ministry of Construction and predominantly responsible for the construction and maintenance of public-owned infrastructure such as roads, bridges, airports, and buildings. The Ministry of Construction remains responsible for roads, bridges, and buildings, but is no longer responsible for airports.
286. Sample includes all states and regions with the exception of Chin and Rakhine States.
287. Interviews with state/region government ministers and officials.
288. State/region government bodies comprise (1) Cabinet Office (2) Hluttaw (3) Courts (4) Attorney General Office, and (5) Auditor Office. In 2013–14, budgets excluded the Cabinet Office and the Hluttaw.
289. Interviews with MOPF officials.
290. Valley et al. 2018.
291. Yangon and Mandalay accounted for nearly 95 percent of the growth in municipal expenditure between FY 2013–14 and FY 2016–17 across the sample of 12 states and regions.
292. 2014 census data, Ministry of Immigration and Population 2014.
293. For a more comprehensive analysis of subnational expenditure financing, please see Shotton, Zin Wint Yee, and Khin Pwint Oo 2016 and Dickenson-Jones, De, and Smurra 2015.
294. Valley and Hein Aung Kyaw 2016.
295. In Kayin, general grant transfers increased from 40 percent of available resources in 2011–12 to nearly 94 percent. It has declined to 87.5 percent in the 2017–18 budget estimate.
296. Under the Medium-Term Fiscal Framework (MTFF), the Union government has been moving towards a “rule-based” financing model, inspired by international best practice. The grant transfer mechanism has been reformed as part of the MTFF reforms. Since FY

- 2015/16, both the grant pool and the allocations to states and regions have been rules based, with a share of resources distributed through a formula.
297. The formula includes the following criteria, all weighted equally: state/region population, based on the national population census, 2014; state/region poverty index, based on the Integrated Household Living Conditions Assessment, 2009/10; state/region per capita GDP, based on Planning Department estimates; state/region land area, based on the national population census, 2014; state/region urban population as a percentage of the total state population, based on the national population census, 2014; and per capita tax collection, based on the actual tax revenue collected in the previous fiscal year.
298. For examples, see Hein Aung Kyaw et al. 2017.
299. Shotton, Zin Wint Yee, and Khin Pwint Oo 2016, v.
300. Shotton, Zin Wint Yee and Khin Pwint Oo 2016, p32.
301. Please see Robertson, Joelene, and Dunn 2015 for further information.
302. The fund was promulgated by Pyidaungsu Hluttaw Law No. 9/2014, Development Fund Law, with subsequently issued rules and regulations (Order 82, 86/2013 and Notification 92/2014).
303. Projects are limited to 5 million kyats.
304. Bauer, Shortell, and Delesgues, 2016.
305. Bissinger 2016 provides a more detailed explanation of tax collection.
306. Valley and Hein Aung Kyaw 2016.
307. Dickenson-Jones, De, and Smurra 2015.
308. Boex 2012.
309. Chen, He, and Liu 2018.
310. Boex 2012.
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