

# Myanmar's Economic Governance Actors

Dr. Jared Bissinger  
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## **Lead Researcher and Author**

Dr. Jared Bissinger

## **Core Research Team**

Lin Zaw Min

## **Supporting Team**

Jon Keesecker

Marip Ja Dim

Mi Ki Kyaw Myint

## **Peer Reviewers**

Jon Keesecker

Edmund Malesky

Matthew Arnold

Richard Batcheler

## **Graphic Design**

Elzemiesk Zinkstok

## **Photo credits**

Jon Keesecker

James Owen

The Asia Foundation

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No. 11, Ko Min Ko Chin Yeik Thar Street

West Ngar Htet Kyi Ward

Bahan Township

Yangon, Myanmar

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Any faults in substance or analysis rest with the author.

# List of Acronyms

<b>ACC:</b>	Anti-Corruption Commission
<b>CDC:</b>	City Development Committee
<b>DALMS:</b>	Department of Agricultural Land Management and Statistics
<b>DAO:</b>	Development Affairs Organization
<b>DBE:</b>	Department of Basic Education
<b>DEC:</b>	Department of Environmental Conservation
<b>DHE:</b>	Department of Higher Education
<b>DICA:</b>	Directorate of Investment and Company Administration
<b>DISI:</b>	Directorate of Industrial Supervision and Inspection
<b>DoL:</b>	Department of Labor
<b>EPGE:</b>	Electricity Power Generation Enterprise
<b>ESE:</b>	Electricity Supply Enterprise
<b>FDA:</b>	Food and Drug Administration
<b>FMC:</b>	Farmland Management Committee
<b>FGLLID:</b>	Factories and General Labor Law Inspection Department
<b>GAD:</b>	General Administration Department
<b>IRD:</b>	Internal Revenue Department
<b>MBEI:</b>	Myanmar Business Environment Index
<b>MEB:</b>	Myanmar Economic Bank
<b>MCDC:</b>	Mandalay City Development Committee
<b>MDI:</b>	Myanmar Development Institute
<b>MIC:</b>	Myanmar Investment Commission
<b>MoI:</b>	Ministry of Information
<b>MoLIP:</b>	Ministry of Labor, Immigration and Population
<b>MoPF:</b>	Ministry of Planning and Finance
<b>MPT:</b>	Myanmar Post and Telecommunications
<b>NLD:</b>	National League for Democracy
<b>NCDC:</b>	Naypyitaw City Development Committee
<b>PPA:</b>	Power Purchase Agreement
<b>RCCFOL:</b>	Reinvestigation Committees for Confiscated Farmlands and Other Lands
<b>RTA:</b>	Road Transport Administration
<b>SEE:</b>	State Economic Enterprise
<b>SOP:</b>	Standard Operating Procedure
<b>TDAC:</b>	Township Development Affairs Committee
<b>TMC:</b>	Township Management Committee
<b>TVET:</b>	Technical and Vocational Education and Training
<b>UEHRD:</b>	Union Enterprise for Humanitarian Assistance, Resettlement and Development
<b>UHD:</b>	Urban Housing Department
<b>UNDP:</b>	United Nations Development Program
<b>USDP:</b>	Union Solidarity and Development Party
<b>VFV:</b>	Vacant, Fallow and Virgin
<b>YCDC:</b>	Yangon City Development Committee

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# Introduction

**Over the last decade, Myanmar has refocused attention on improving the country's business environment and creating an environment for private sector development.** It has reinvigorated its foreign investment regime, improved macroeconomic management, sought to combat corruption, and improved the transparency of governance. Overall, these steps have yielded significant benefits, encouraging billions of dollars in new investment (both foreign and domestic) and creating hundreds of thousands of new jobs. Though these and other important steps have been taken, Myanmar still faces significant challenges that hamper private sector development, which is a key ingredient for job creation and in turn, poverty alleviation.

**Though Myanmar's growth in the last decade has been impressive overall, it has not been evenly distributed.** Instead it has been concentrated heavily in urban areas, notably Yangon, raising concerns about inclusivity and sustainability. To help equip states and regions with the tools needed to improve the business environment locally, the Asia Foundation has launched the Myanmar Business Environment Index (MBEI) which identifies key constraints in the business environment at the state and regional levels, providing government with a new tool in their efforts to address local business environment challenges.

**One of the greatest challenges faced by subnational governments is translating the concerns of the business community into improved outcomes in their local areas.** In Myanmar, the responsibilities for economic governance are borne by all levels of government, but the Union has an outside role in shaping the legal and regulatory framework, as well as determining implementation procedures. Often subnational levels of government have limited ability to change policies and procedures. Some departments can do little more than strive to improve implementation of the Union framework. Other departments have more flexibility, and more authority to make decisions at the subnational level. A few government bodies, such as Development Affairs Organizations (DAOs) and City Development Committees (CDCs), have no corresponding Union authority, and therefore have significant flexibility on policy and implementation.

*In Myanmar, the responsibilities for economic governance are borne by all levels of government.*

**Many economic governance functions involve multiple actors, either working jointly or in sequence, which can complicate governance, degrade outcomes, and diffuse responsibility.** Many economic governance functions require engagement with multiple actors, either because a series of steps is required, a committee holds power, or recommendations letters are needed. Besides departments, committees play a very important role in economic governance, and can have functions in areas such as licensing, land, regulation, and law and order. These committees, which can number up to sixty at the township level and close to 100 at the state/region level, often have expansive duties and responsibilities, but little guidance on operationalizing this authority.

**This report examines the actors engaged in economic governance in Myanmar, the factors that shape their authority, and the ways they can contribute to improved economic governance outcomes.** It connects the MBEI, which focuses on the views and experiences of Myanmar businesses, with The Asia Foundation's work on governance, particularly reports such as "State and Region Governments in Myanmar." In this report, we lay a foundation for further research into best practices in economic governance in Myanmar. This future research will outline actionable strategies that can be adopted by subnational levels of government to improve economic governance outcomes.

## BOX 1

### Key Research Questions

- Who are the key union, S/R, district, township and town economic governance actors in Myanmar?
- In which areas of economic governance, as outlined by the ten MBEI sub-indices, do these actors engage?
- How local is economic governance in Myanmar?

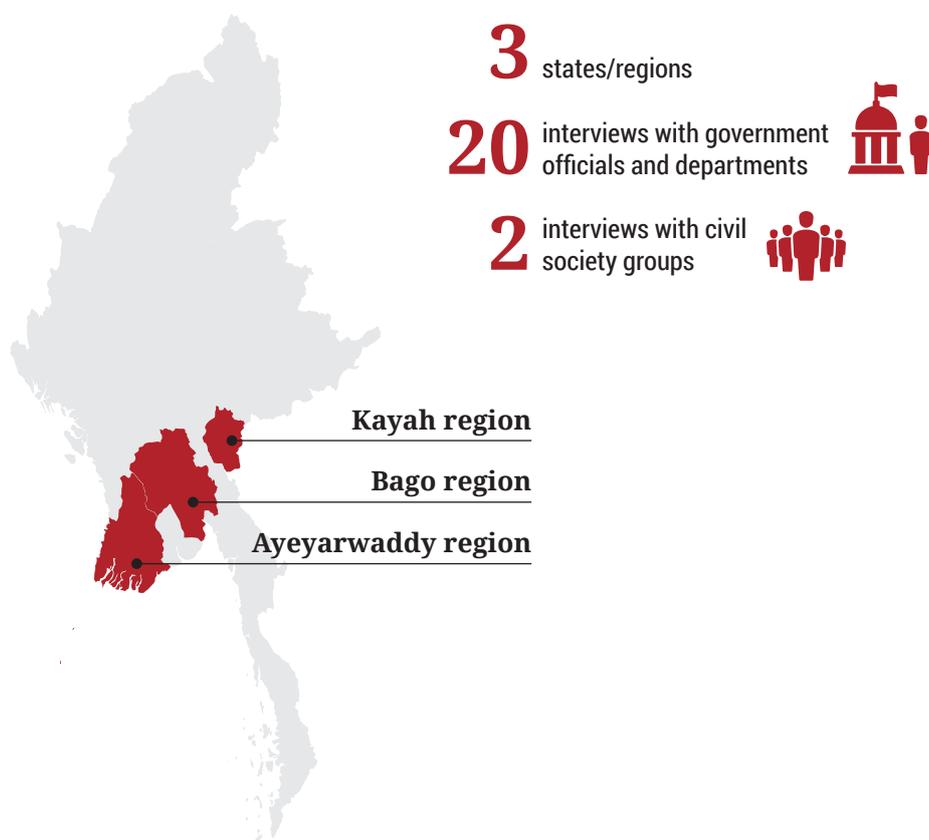
# Methodology

**This report brings together information from a wide range of secondary sources, most notably the MBEI and The Asia Foundation's other work on governance in Myanmar, with qualitative field research in three of Myanmar's states and regions.** One of the most important secondary sources that is drawn upon in this research is the MBEI, in large part because this research is designed to complement that study. The MBEI was developed in 2017 and 2018, with data collection taking place in the middle of 2018.<sup>1</sup> The MBEI conducted an enterprise survey, covering nearly 5,000 businesses across all of Myanmar's states and regions. This was

combined with observational and hard data that was both collected in the field and gathered from existing sources. The report also draws on a range of previous Asia Foundation reports on governance, including "State and Region Governments in Myanmar," "Local Economic Governance in Myanmar," and a number of other reports.<sup>2</sup> The qualitative fieldwork was conducted in May 2019 in three states/regions: Ayeyarwaddy, Bago, and Kayah. During these visits, 20 qualitative interviews were conducted with government officials and departments, while an additional two interviews were conducted with civil society groups.

**FIGURE 1**

## Fieldwork statistics



# 1

## What is Economic Governance?

**Governance has been defined in a variety of ways in the academic and practitioner literature, with varying degrees of state-centricity.**<sup>3</sup>

The United Nations Development Programme (UNDP) defines governance as “the exercise of economic, political and administrative authority to manage a country’s affairs at all levels. It comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences.”<sup>4</sup> The World Bank has previously defined governance as the “method through which power is exercised in the management of a country’s political, economic and social resources for development.”<sup>5</sup> Canada’s Institute of Governance (2002) offers another general definition, asserting that “governance is the process whereby societies or organizations make important decisions, determine whom they involve and how they render account.”<sup>6</sup> It has also been defined as “the process of decision-making and the process by which decisions are implemented (or not implemented).”<sup>7</sup> These definitions have a fairly broad conceptualization of governance, however there are also conceptualizations of governance that are more state centric. For example, Pierre and Peters define governance as “processes in which the state plays a leading role, making priorities and defining objectives.”<sup>8</sup>

**Economic governance is the subset of governance activities that support and affect economic activity.** Much like definitions of governance generally, the definitions of economic governance can vary, having various degrees of state-centricity. Avani Dixit defined economic governance as the “processes that support economic activity and economic transactions by protecting property rights, enforcing con-

tracts, and taking collective action to provide appropriate organizational infrastructure.”<sup>9</sup> The MBEI adopts a more state-centric approach, focusing on “the set of activities policy-makers and administrators can take to ensure a suitable environment for private business activity.”<sup>10</sup>

**This report reviews the actors engaged in state-administered governance in Myanmar, and so we focus on the narrower state-based conceptions of economic governance.** Because this report is designed to complement the MBEI and analyze state-based governance actors, it does not cover other avenues of economic governance in Myanmar. These mechanisms not only exist but play an important role in the country’s economic governance. Examples of non-state governance in Myanmar include the use of social pressures to solicit donations to underwrite local infrastructure construction and the economic governance role of ethnic armed organizations in parts of Myanmar. Non-state economic governance is present not only in Myanmar but other countries as well, as Dixit observed when he noted, “even in advanced market economies, governments do not provide all governance.”<sup>11</sup>

### 1.1. Economic Governance and the Business Environment

**Economic governance is closely related to another important concept in private sector development, the business environment.** Some definitions of the business environment are very similar to definitions of economic governance.

They focus on the systems and processes developed by people to govern economic interaction. For example, the International Finance Corporation has defined the business environment as “a complex of policy, legal, institutional, and regulatory conditions that govern business activities.”<sup>12</sup> Stern defines the business environment as the “policy, institutional and behavioural environment, both present and expected, that influences the returns, and risks, associated with investment.”<sup>13</sup> These definitions align closely with those of economic governance.

**Other conceptions of the business environment are broader and include factors beyond economic governance.** For example, Xu defines the business environment broadly, as the “external environment that affects the returns and risks faced by investors.”<sup>14</sup> Eifert et al refer to the business environment as the “nexus of policies, institutions, physical infrastructure, human resources, and geographic features that influence the efficiency with which different firms and industries operate.”<sup>15</sup> These definitions suggest that factors outside the control of government, such as the natural environment or proximity to large markets, are part of the business environment. The MBEI makes a similar distinction, noting that some aspects of the business environment are beyond the control of governments. It argues that economic governance is a part of the business environment, specifically the “elements of the business environment that governments are in a position to provide.”<sup>16</sup>

## 1.2. The Myanmar Business Environment Index

**The Myanmar Business Environment Index (MBEI) is an economic governance index, designed to measure the experiences of domestic firms in Myanmar’s services and manufacturing sectors.**<sup>17</sup> The MBEI aims to measure governance, not other factors that affect Myanmar’s markets and business environment. As the authors note, it is focused on “government activities to provide the institutions and policies that facilitate business success.”<sup>18</sup> The MBEI is based on two different kinds of information. First, the index uses survey data, built on a nationally representative survey of 4,874 private domestic firms. These firms are selected from a national sampling frame pro-

vided by the Ministry of Labour, Immigration and Population (MoLIP). The survey excludes some types of businesses, including foreign owned firms and firms with fewer than four employees. Second, the index uses hard data, including observations from visiting government offices as well as data from secondary sources. This information is combined and processed to create the MBEI.

**The MBEI covers ten facets of economic governance, which are referred to as sub-indices.**

Each sub-index is comprised of indicators which come from both the survey data as well as the observational and hard data. Between the 10 sub-indices, the MBEI draws on a total of 101 indicators that were selected based on a review of business environment literature as well as discussions with policy-makers and economic analysts that are familiar with Myanmar.

**FIGURE 2**

### MBEI subindices

-  Entry Costs
-  Land Access and Security
-  Post-Entry Regulation
-  Informal Payments
-  Infrastructure
-  Transparency
-  Favoritism in Policy
-  Environmental Compliance
-  Labor Recruitment
-  Law and Order

Source: *The Myanmar Business Environment Index 2019: Measuring Economic Governance for Private Sector Development*, Yangon: The Asia Foundation, 2019.

**TABLE 1**  
**List of All MBEI Indicators by Subindex**

**Key**

Survey data  
Observational or  
administrative data

 **Subindex 1: Entry Costs**

- Firms waiting over 3 months to be legal (%)
- Number of total documents for firm to become fully legal
- Median days to get operating license (CDC)
- Median days to get operating license (DAO)
- Median days to get DICA registration certificate (DICA)
- Had difficulty with any administrative document (%)
- DAO licensing efficiency (1-3 points)
- DAO required documents (0-6 points)

 **Subindex 2: Land Access and Security**

- Owns land and has a title
- Length of title acquisition (days)
- No obstacles in acquiring land or expanding premises
- No or low risk of expropriation
- Received fair compensation in case of expropriation
- Firms have done land procedures AND have not encountered any difficulties
- Low perceived rental risk
- DALMS licensing efficiency (Form 15, 1-3 points)
- DALMS required documents (Form 15, 0-5 points)

 **Subindex 3: Post-Entry Regulation**

- Less than 10% of time spent understanding and complying with regulations
- Number of inspections for all agencies (count)
- Government officials are effective
- Firm does not take many trips to finish registration
- Paperwork is simple
- Fees are publicly listed (%)
- Helpfulness of junior staff (GAD, 1-5 points)
- Helpfulness of senior staff (GAD, 1-5 points)
- Helpfulness of junior staff (DAO, 1-5 points)
- Helpfulness of senior staff (DAO, 1-5 points)
- Helpfulness of junior staff (DALMS, 1-5 points)
- Helpfulness of senior staff (DALMS, 1-5 points)

 **Subindex 4: Informal Payments**

- Percentage of firms that believe they do NOT have to pay informal charges
- Share that pay UNDER 2% of revenue in bribes
- Share that usually know amount of bribe in advance
- High expected delivery of service if bribe is given
- Commission is NOT necessary to win procurement contract
- Number of corruption cases per firm

 **Subindex 5: Infrastructure**

- Roads are good or very good
- Telephones are good or very good
- Electrical power is good or very good
- Median hours lost of telephone, fax, and internet
- Median hours of lost power in last month
- Median number of days road blocked in a landslide
- Internet is good or very good
- Population share with electricity
- Population share with TV
- Population share with a telephone

 **Subindex 6: Transparency**

- Access to planning and legal documents: state/region budget; township budget; Union laws and regulations; implementing documents of Union ministry; legal documents at state/region level; new infrastructure plans; public investment plans; land use allocation plans and maps; planning for the development of local industries and sectors; forms for fulfilling regulatory procedures
- Low frequency of changes in laws and regulations at the Union level (%)
- Low frequency of changes in the regulations at the local level
- GAD documents with information posted
- DAO documents with examples provided
- DAO documents with information posted
- DALMS documents with Form 15 examples provided
- DALMS documents with other examples provided
- DALMS documents with information posted
- Level of information posted in one-stop-shops (0-5 points)

 **Subindex 7: Favoritism in Policy**

- No favoritism of local authorities toward businesses with strong connections
- Favoritism in land access
- Favoritism in access to loans
- Favoritism in granting mineral exploitation license
- Favoritism in administrative procedures
- Favoritism in state contracting
- Favoritism in access to information
- Banks per 10,000 citizens
- Micro-finance institutions per 10,000 citizens

 **Subindex 8: Environmental Compliance**

- Overall environmental quality good or very good
- Severity of pollution is acceptable or better
- In case of pollution, authorities take timely action
- Pollution does not have negative effect on a firm's business
- Guidance on environmental compliance
- State support for water saving
- State support for waste recycling
- Percentage of the population with improved sanitation
- Percentage of the population with improved water sources

 **Subindex 9: Labor Recruitment**

- Median share of business costs spent on labor training
- Labor recruitment easy: manual rank-and-file workers
- Labor recruitment easy: technicians
- Labor recruitment easy: accountants
- Labor recruitment easy: supervisors
- Labor recruitment easy: managers/finance manager
- Share of population completing primary education
- Share of population completing middle school education

 **Subindex 10: Law and Order**

- If official violates law, he will be punished (share agree)
- If staff violate law, they will be disciplined (share agree)
- Legal system will uphold property rights and contracts
- State courts judge economic cases by law
- State court resolves economic cases quickly
- Court judgements are enforced quickly
- Legal aid supports businesses
- Judgement by the court is fair
- Security situation is good
- Victim of a crime last year
- Crimes per 10,000 citizens

Source: *The Myanmar Business Environment Index 2019: Measuring Economic Governance for Private Sector Development*, Yangon: The Asia Foundation, 2019.

**The goal of the MBEI is to “identify constraints in Myanmar’s business regulatory environment and provide a tool for identifying reform opportunities that spur growth.”<sup>19</sup>** However, to translate private sector views into actionable policy recommendations, we first have to determine which parts of government are responsible for the different aspects of economic governance. That is the primary purpose of this paper. A subsequent paper will look at differences in governance outcomes, highlighting best practice and assessing areas in need of improvement, in order to help subnational governments improve economic governance, and hence their score in the MBEI.

**In Myanmar there are different types of arrangements that vest economic governance authority with many different actors.** We identify four different types of economic governance arrangements which apply to the indicators used in the MBEI:

- **Some MBEI indicators are directly linked to one or a small number of departments or authorities who have clear oversight and which involve no or few other government entities.** An example of this type of indicator is the registration of a company with the Directorate of Investment and Company Administration (DICA). This requires only the completion of a form, filing of corporate documents (such as a constitution), and attachment of an identification card, which is the only requirement that requires an action from another part of the Myanmar government.<sup>20</sup>
- **For some indicators, one department plays a lead role, but depends heavily on other departments which are not under its control for a meaningful part of the process.** This may involve multiple departments within the same ministry that work together, for example in the production of electricity. There, numerous departments involved in the production, transmission and delivery of power all bear some responsibility for business assessments of the quality of electricity. However, this may also involve multiple departments from different ministries. For example, the Department of Environmental Conservation (DEC) can conduct inspections of businesses if they have received a complaint about pollution, but have no authority to sanction offending firms. Instead they report to the state/region government or the department that licensed the

business. It is incumbent upon one of these entities to take punitive measures. As such, regulating pollution is not solely under the authority of the DEC.

- **Some indicators cover areas that apply to every department.** For example, questions about simplicity of paperwork, the solicitation of informal payments or public listing of fees apply to almost every department that engages in some form of economic governance (and governance more generally). Sometimes, a particular authority may have a remedial role working across government to address an issue, as the Anti-Corruption Commission would with corruption and informal payments.
- **For some indicators, the primary governance actor is not a department but instead another type of government entity such as a court or committee.** An example of this type of arrangement is the land compensation system. Decisions about levels of compensation for confiscated lands are vested with the Reinvestigation Committee for Confiscated Farmlands and Other Lands, which operates at numerous levels of government including the Union, state/region and district level. These committees include government officials and politicians, and with the sole exception of the Union committee, also include non-governmental individuals such as farmers’ representatives or community leaders.<sup>21</sup> The Department of Agricultural Land Management and Statistics (DALMS), which is the primary recordkeeping department for land, plays only a supporting role, and has no authority to award compensation.

**As this report shows, economic governance in Myanmar is delivered through a heavily integrated government system, in which multiple authorities and multiple levels of government have some influence over economic governance outcomes.** Though it has a focus on domestic firms, the MBEI captures business experiences with all levels of government. However, each sub-index is different in the degree to which it measures experiences driven by town, township, district, state/region or Union level of government. Some indicators cover functions that are heavily local, while others cover functions solely or heavily reliant on the Union government. This report will help better address the question of exactly how local economic governance is in Myanmar.

# 2

## Vertical Integration and Distribution of Economic Governance Authority

**Economic governance in Myanmar is a shared responsibility between all levels of government.**

In this section, we review the different levels of government and the Constitutional and legal framework that shape economic governance actors in Myanmar. We review the respective authorities, their interaction, and the vertical integration that characterizes the Myanmar government.

### 2.1. Union Level

**Economic governance, much like other areas of governance in Myanmar, is dominated by the Union government.** The distribution of authority and responsibility is outlined in the Myanmar Constitution, notably in Schedules 1 and 2 which distribute legislative authority to the Union and state/regions. The Constitution also gives significant power over the executive branch of the country to the president. Notably, while the Constitution leaves open the possibility that state/regions can form their own civil service organizations, the structure of the Union at present consists of 25 ministries, most of which are vertically-integrated. The Union level controls much of the legal and regulatory framework, as well as the administrative functions of the state including minute details such as office regulations, human resources, promotions and transfers.<sup>22</sup>

### 2.2. State/Region Level

**Myanmar has taken steps in the last decade to devolve some authority to lower levels of government.** The most important of these steps was taken by the 2008 Constitution, which created 14 new state/region governments in place

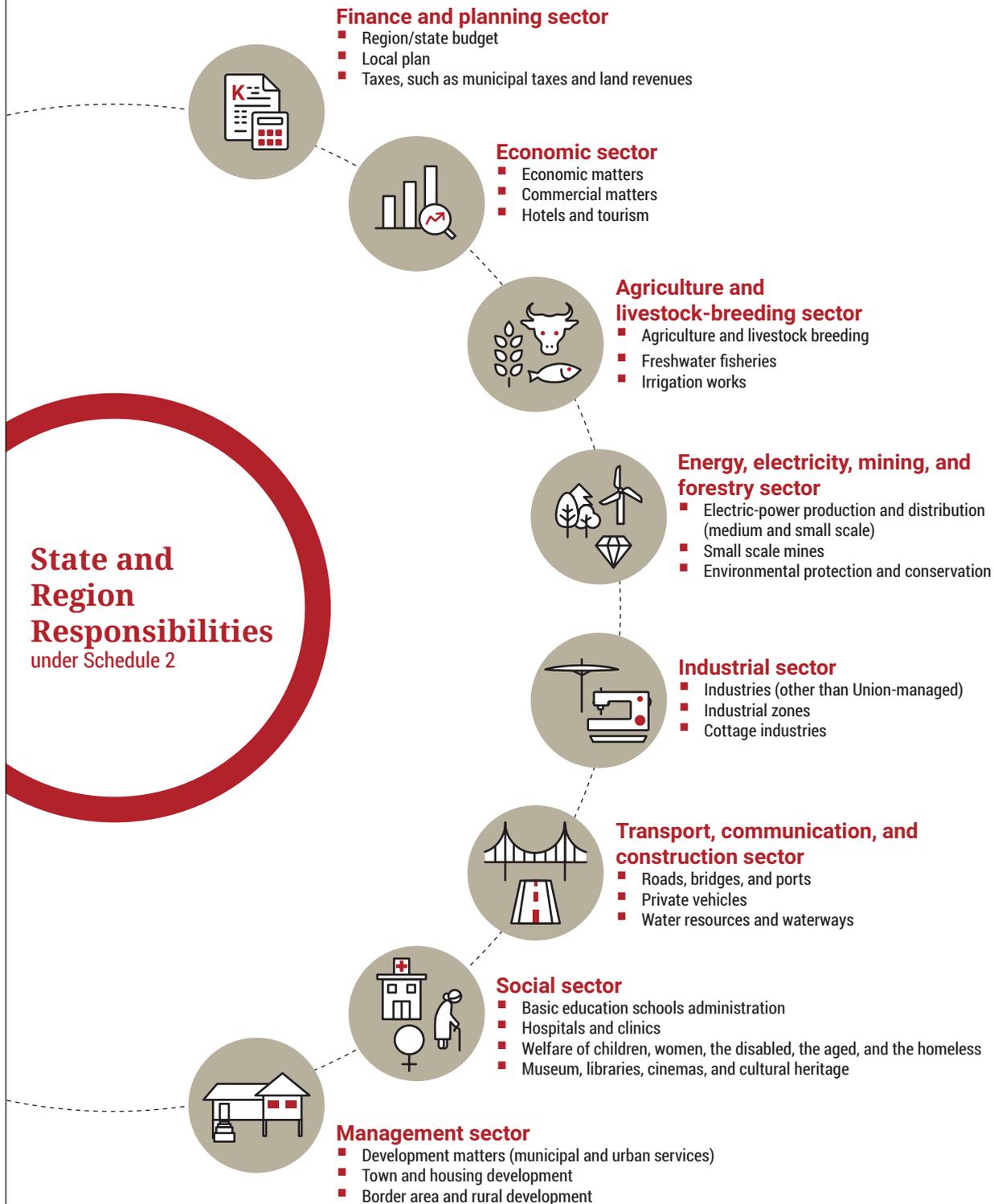
of the former states and divisions that were part of the old Union structure. These governments consist of a “unicameral, partially elected state/region *hluttaw*, an executive led by a chief minister and a cabinet of state/region ministers, and state/region judicial institutions.”<sup>23</sup> The Constitution outlines, in Schedule 2, the areas in which state/regions have legislative authority and in Schedule 5, where they have revenue raising authority.

**The distribution of powers between the Union and state/region governments is broadly outlined in Schedule 2 of the Myanmar Constitution.** The powers of the state/region government, which are outlined in Figure 3 are fairly limited and sometimes contain caveats about compliance with Union laws. In important economic areas such as energy, electricity, mining, forestry and industry, state/regions have authority over limited, peripheral areas not under Union control, including small and medium electricity production and a number of small industrial sectors.

**In 2015, the Myanmar Constitution was amended to expand the list of powers under Schedule 2, however with important limitations.**<sup>24</sup> The 2015 amendment included new authority to raise revenues and fees, including through income taxes, commercial taxes, customs duties, and sector specific taxes on tourism, mining, and other areas. It also expanded the legislative authority of state/regions, providing new latitude to legislate in areas including but not limited to land, small-scale mining, forestry, and tourism. However, the amendments almost universally included an important caveat, which stated these new state/region authorities were only “entitled to be carried out within the region or state in

**FIGURE 3**

**State and region responsibilities under Schedule 2**



accordance with the law enacted by the Union.” This caveat places limitations on state/regions and reflects their continuing need to implement economic governance in accordance with the Union framework.

**Devolution has created new opportunities for the state/region level of government.** This is evident in the new legislative powers of state/regions over a range of issues, such as development affairs, which do not have any oversight from the Union. It also opens up scope for state/region governments to take initiative on improved implementation, as the Mandalay state/region government has done with the e-Mandalay portal. This portal posts application forms, financial documents and other government items in a single online portal, improving ease of access for businesses and citizens alike.

**Though the formation of these state/region governments represents an important devolution of authority from the Union government, the Union continues to retain primacy in most governance matters.** As well as the Constitutional limitations that permit states/regions to govern only in accord with Union laws, the Union also has other important mechanism to limit state/region autonomy. Perhaps the most notable of these is the Constitutional authority of the Union President to appoint the chief minister of each state/region. The centrally-appointed chief minister then appoints a number of state/region ministers. This system limits the ability of citizens in a state/region to influence their executive branch of government.

**Another important feature of the executive branch of state/region governments is that all departments and staff, with one exception, are an integrated part of the Union government.** Each department at the state/region level, again with the exception of DAOs and CDCs, is under the oversight of a Union-department, which exercises significant authority over regulations and procedures. Staff of these departments are part of the Union ministry, recruited through the Union Civil Service Board, and regularly moved within their ministry to different state/regions.<sup>25</sup> State/regions do not have their own staff, only political leadership in the chief minister and state/region ministers. Because of this, state/region ministers are referred to as ministers without ministries. This characteristic of state/region governments has significant implications for the degree to which economic governance can be local.

**Despite their integration with Union ministries, departments also implement on behalf of and report to the state/region.** Some of them receive funds from the state/region budget, for both capital and current expenditure, including salaries. There are many other relevant nuances about the framework and function of state/region governments that are beyond the scope of this report to cover, but have been reviewed in other publications. For additional information on the history and structure of state/region governments, the Asia Foundation’s “State and Region Governments in Myanmar” provides a thorough review. For an introduction to economic governance, see “Local Economic Governance in Myanmar.”<sup>26</sup>

## 2.3. District Level

**The level immediately below the state/region is the district, which is fully integrated into the Union and state/regions.** As noted in “State and Region Governments in Myanmar,” Myanmar is “a system of *local governance without local government*” because all district and township functions are part of either the state/region or Union government.<sup>27</sup> Civil services personnel from the Union (or state/region in the case of DAOs) are assigned to the various departments at the district and township level.<sup>28</sup> Funds for district-level departments are incorporated into either the state/region or Union budget.

**Districts play an important role in the implementation of economic governance by coordinating between lower and higher levels of government.** They are responsible for overseeing the work of township offices and coordinating between different townships. They aggregate information and pass it to higher levels of government, while also disseminating information amongst the townships within the district.<sup>29</sup>

**Districts are the center of local regulation and service delivery for many departments and have some decision-making responsibilities.** For some departments, there is insufficient demand or funding for an office in every township, but too much work to operate only from a state/region capital. In these cases, departments have a district office from which they implement their local economic governance functions. For example, the Directorate of Industrial Supervision and Inspection (DISI) often has district offices and from those, conducts inspections.<sup>30</sup> The Factories and General Labor Law Inspection Department (FGLLID) does the

same in most parts of Myanmar. District offices also have some decision-making authority, in cases where the government has determined that issues are not important enough to merit attention from the state/region but too important to be decided at the township level. For example, granting of GAD alcohol licenses is done by district officers, as is the approval for some types of electricity connections.<sup>31</sup>

## 2.4. Township Level

**The township level of government is the “heart of subnational administration” and the level at which most business-government interactions happen.**<sup>32</sup> The vast majority of businesses, especially Micro, Small and Medium Enterprises (MSMEs), engage with the township GAD office and pay their taxes at the township tax office. Land registrations, inspections, and numerous other economic governance functions are, in most places in Myanmar, managed at the township level.

**Though the township is a key local level of government, it is heavily integrated into the centralized Union system.** The township offices that exist for all these economic governance functions are all integrated parts of a Union Ministry, with the exception of DAOs and CDCs. The township administrator, who is the most important person within a township, convenes most meetings and chairs most committees, is a Union-appointed GAD official who is not elected by the township. Commissioned civil servants, who lead many of the other township offices, are recruited nationally and often not from the area where they are stationed.

**Within a township, there are one or more urban areas called “towns,” and these are the lowest level at which government offices exist.**<sup>33</sup>

Towns have different classifications, including state/region capital town (of which there are 14, including towns such as Patheingyi, Dawei), district capital (57), “main town” (228) and “other town” (188). Almost all townships have either a state/region capital, district capital or “main town,” with the exception of some townships in Shan State.<sup>34</sup> These towns are the largest urban area in a township. The same township may also have a smaller urban area, which is referred to “other towns”.

**An “other town” can have offices of various government departments.**

While a comprehensive study of department presence in various towns has not been undertaken, a 2016 report by The Asia Foundation found 14 departments in Myittha town (Dawei Township) in Tanintharyi Region.<sup>35</sup> Of these, approximately ten had a role in economic governance. Town offices are centered around a GAD office, which reports to the main township office, and can also include key economic governance departments such as DAOs and DALMS. Government offices in “other towns” are significant because they can, among other things, greatly reduce the time and expense needed to travel to township offices located in other towns.

**DAOs are technically town-based organizations, with a mandate that primarily covers urban areas.** Previous research has shown that DAOs will, if needed, also perform a few functions in rural areas, even though their primary mandate is urban. The majority of the country’s business registrations and licenses are provided

### BOX A

#### City Development Committees<sup>36</sup>

While DAOs are responsible for municipal affairs in most of Myanmar’s urban areas, Yangon, Mandalay and Nay Pyi Taw have unique governance arrangements. In Yangon and Mandalay, municipal affairs are managed by the Yangon City Development Committee (YCDC) and Mandalay City Development Committee (MCDC) respectively. These two CDCs are not fully autonomous, but instead have delegated administrative functions under their respective S/R governments. They are unique because they are responsible for service delivery across multiple townships (33 for Yangon and seven for Mandalay). Recent changes to YCDC and MCDC laws mean that some of the committee members are publicly elected, though the chairman is still an appointee, the state/region Minister for Development Affairs. Nay Pyi Taw is governed by a council of 10 appointed members.

by these town-based DAOs. Notably, townships with more than one town may have a separate DAO for each, though some smaller towns do not have their own DAO.

**Despite a high level of centralization, governance in townships and towns is growing more local and new entry points are being created for local participation.** Most notably, the decentralization of DAOs significantly increased local control of economic governance, including through the decentralization of recruitment which has led to the hiring of local staff from only that state/region. The use of committees has also been an important avenue to increase local participation. DAOs are “the only local government actors with oversight by a dedicated local committee, the Township Development Affairs Committee (TDAC), that has decision-making power and a majority of its members elected by local communities.”<sup>37</sup> For additional information on the functioning of the township level of governance or the ways in which this has changed in the last decade, a number of other Asia Foundation reports provide significantly more detail.<sup>38</sup>

## 2.5. The Framework for Vertical Distribution of Authority

### Rules, Regulations and Procedures

**Administrative authority is exercised through a range of different types of documents, including rules, regulations, notifications, directives, orders and procedures.** These different types of documents are promulgated by government departments and committees and sometimes (though not always) published in the Myanmar Gazette. Rules accompany laws and are supposed to be issued by a Ministry no more than three months after a law has been promulgated. Notifications, directives, and orders are regular means of communicating between various parts of government.

**Rules, regulations and procedures are determined by the Union ministry, with the exception of CDCs and DAOs.** In interviews, government officials repeatedly noted that the state/region government could not change procedures that fell under Union laws. One official noted that “there are processes and procedures in Section 251 of constitution. In short, the state/region implements in line with the policy of

the Union.”<sup>39</sup> Departmental employees, who are often moved from one township to another as a regular part of their employment in the civil service, universally noted that procedures remain the same from place to place.<sup>40</sup> The Union ministry can also send notifications, directives, orders, etc. to subnational departments.<sup>41</sup> For example, the focal ministry for the GAD is the Office of the Union Government, which provides instructions to lower level offices through notifications, orders, etc.<sup>42</sup> In the case of the GAD, however, these communications are generally transmitted to the state/region chief ministers who then pass them on to the GAD offices in that state/region.<sup>43</sup> State/region governments can also discuss with local stakeholders about changing the law or its implementation and communicate those views to the Union ministry.

**Technical capacity is primarily housed in the Union ministry, which is almost always the source of technical regulations and procedures.** This is evident in numerous examples. In electricity, for example, the “technical capacity for electricity supply and distribution resides with Union engineers, who provide expertise to the offices of the state/region governments responsible for the local aspects of electricity distribution.”<sup>44</sup> For the FGLLID, inspection forms are created by the Union ministry, which also provides clarifications about forms or procedures.<sup>45</sup>

**State/region governments can send notifications, orders and directives to departments instructing departments to take various actions, but they cannot change rules or procedures dictated by the Union.** For example, a district department could receive an order from the state/region government instructing it to investigate a case. Some subnational GAD offices noted that they could receive directives from other bodies as well, such as the Anti-Corruption Commission.<sup>46</sup>

**State/regions have some scope to amend procedures if they are not directly related to Union laws, while using other means to try to improve procedural implementation.** For example, one government noted that they are issuing temporary permits for businesses using different types of land. The permits are from the regional government, are not dependent on the Union, and are done in order to collect tax (land tax is collected by the state/region, per Schedule 5).

**There is sometimes room within Union policy and procedure to respond to local needs and demands.** For example, the Technical and

Vocational Education and Training (TVET) Department provides various types of training, however some of these vary based on local circumstances. In Ayeyarwaddy Region, the rice industry is a major part of the economy, and businesses sometimes request sector-specific trainings, such as rice milling. In these cases, the TVET Department may need to hire outside technicians and machinery, which requires budget that the local office requests from the Union. This additional step is needed to address local demands and is not necessary for the department in the course of their implementation of their normal trainings.

**Officials even at the township level may not have the authority to change the way they do things without approval.** Implementation is guided by regulations and procedures, but even changes in implementation may require approval. For example, one official noted that if they found a way to do something better, she would present it to the regional office of her department and then to Nay Pyi Taw, and if she received approval then she could implement.<sup>47</sup>

### Compliance with Regulations

**Departments at the state/region level sometimes have a role of ensuring that state/region government officials abide by Union laws, rules and regulations in their areas of authority.** Department officials at the state/region level noted that they acted as a “check” on the state/region governments, enforcing rules and making sure that state/region officials stay in line with Union-level procedures. For example, DICA has an important role as the secretariat of the new state/region investment committees. Because these committees are new and many state/region officials are not fully aware of DICA regulations, the state/region DICA office assists the committee to make sure that their work is fully in line with laws, rules and regulations.

### Reporting

**For many matters departments report to higher levels of government, including both the state/region and Union government.** For example, one office noted that they are a member of a state/region Hluttaw Committee on Health, Education, and Labour. Because of their work, they often inspect businesses and address complaints made by either employees of the business or the public. For each of these cases, they provide reports to three different entities:

- Union Ministry of Labour, Immigration and Population
- State/region government
- State/region Hluttaw Health, Education and Labor Committee

They noted that they share the same report with each of the three actors, a useful arrangement that saves the department from having to draft separate reports for each, which would use resources unnecessarily.

**Departments noted that it was not always clear when a case was the responsibility of the Union and when it was the responsibility of the state/region.** For cases that are started because of a complaint, it was often the recipient of the complaint that initiated action. If a complaint was received by the state/region government, they would send relevant departments to inspect. Sometimes the same departments will also be instructed by the Union ministry to follow up on cases. Sometimes they receive a request to follow up on a case because it was raised at the Union parliament. However, some departments noted that the issues that both the Union and the regional government ask them to deal with could be very similar.

**While budgets can help shed light on lines of reporting, in Myanmar the relationship is not clear cut.** Most departments at the subnational level receive funding from the budget of a Union ministry. However, there are a number of departments that receive funding for their regular operations (current account) from the state/region budget. Budget lines are not the sole determinant of the lines of reporting, and sometimes are not accurately representative of reporting responsibilities.

## 2.6. Integration and Collaboration between Levels of Government

**Many economic governance functions are heavily integrated between the levels of government.** It is common for different levels of government to work together, especially within the same department. Lower levels of a department are generally responsible to report to higher levels of the same department. For example, a township level GAD office would report to the district GAD, which would report to the state/region GAD. Funding for lower level offices generally comes through the parent ministry. In practice integration can take

many forms: a district office asking a township office to conduct an inspection of a business; a township escalating a case to the state/region when it is unable to solve an issue; the Union delegating investment approvals under a certain value to state/regions. This integration is often based on defined procedures that outline the jurisdiction of the different levels of government and is rarely left to the discretion of local administrators.

**It is common for economic governance issues to be divided between levels of government, with lower levels assigned smaller cases and higher levels assigned larger or more important cases.** This type of power sharing exists across government, with examples including:

- **Use of vacant, virgin and fallow lands law:** According to the 2018 amendment to the Vacant, Fallow and Virgin (VfV) Lands Law, applications for projects exceeding 300 acres for agriculture and 50 acres for livestock, as well as all applications for mining and other businesses permitted by the state should be directed to the VfV Lands Management Central Committee. However, for agricultural projects of up to 300 acres or for livestock projects up to 50 acres, applications should be directed to the Nay Pyi Taw Council or relevant Region/State Vacant, Fallow and Virgin Land Management Committee.<sup>48</sup>
- **Electricity connection:** The procedure for applying for an electricity connection, and the authority to approve that connection, depends on the power level of the connection. For connections that are 30kW or less, a business can submit an application to the township Electricity Supply Enterprise (ESE) which inspects and passes the application to the district level ESE for another inspection and approval. This process can be done in as soon as a week, according to the ESE. However, for connections greater than 30kW, a transformer is required and according to ESE, the additional technical issues require involvement and approval both at the state/region and Union level.<sup>49</sup>
- **Investment approvals:** The 2016 Myanmar Investment Law introduced state/region Investment Committees, which would complement the existing Union-level Myanmar Investment Commission (MIC). State/region Investment Committees are allowed to approve investments of up to USD 5 million (or MMK 6 billion), as long as those investments are not in select sectors. Larger investments, or those in select sectors, must obtain approval from the Union-level MIC.<sup>50</sup>



**Government officials observing Yangon City Traffic Control dashboard**

## 3

# Horizontal Integration and Distribution of Economic Governance Authority

## 3.1. Government Departments

The Myanmar government has over 150 departments and state economic enterprises at the Union level, as well as other key offices such as the Auditor General, Attorney General and Civil Service Board. Almost all of these are based in Nay Pyi Taw, though some head offices are located elsewhere. DICA, for example, is based in Yangon, because it is the country's commercial capital and the Directorate needs proximity to the business community. The only department without a union-level ministry is Development Affairs, which are responsible only to the state/region government.

**Sixteen Union ministries and approximately 61 Union-level departments have economic governance functions.** This does not include the DAOs, which do not have a Union ministry, or other government entities such as courts or committees. These figures may increase somewhat, depending on the definition of economic governance used and how the various functions of each department are viewed. Given the pervasiveness of private sector licensing, this number could also increase if a thorough review of licensing identified additional departments engaged in pre-entry business licensing.

**Many Union-level departments, State Economic Enterprise (SEEs) and other offices have locations in state/regions, districts, townships and towns.** For example, in Ayeyarwaddy Region, more than 60 departments and SEEs have a region-level office. The number of departments at the state/region level can vary based on department characteristics or local conditions. For example, the Customs Department does not have an office in every state/region because

some regions have no ports or border crossings, rendering a customs department unnecessary.

**Though there are approximately 60 Union-level departments with a role in economic governance, the average business engages with only a small fraction of them.** Most businesses register, pay taxes, and use basic infrastructure, but engagements beyond that are driven by sector, business size, and participation in government procurement.

**Departments tend to operate in similar ways.** Generally, departments are responsible for the implementation of one or more laws, as well as the rules, regulations, and other parts of the regulatory framework that derive from that law. Most departments receive instructions, notifications, orders, etc. from Union ministry as well as regional government and maintain files at the office (normally bound) where these instructions are kept.<sup>51</sup>

## 3.2. Committees

**Committees are vital though oft-overlooked institutions that play an integral role in economic governance in Myanmar.** Depending on the committee and the level of government, committees can be established by law, or through rules or notifications issued by a ministry. The guidance that establishes committees often includes a list of committee members, as well as the duties and responsibilities of the committee. Some civil servants spend a significant portion of their time in committee meetings or performing various functions/duties for committees. Committees, much like ministries, can be joined in a hierarchy, with township committees working on behalf of

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*Committees are vital though oft-overlooked institutions that play an integral role in economic governance in Myanmar.*

FIGURE 4

## List of Union Ministries and Departments with Economic Governance Functions

### Ministry of Agriculture, Livestock and Irrigation

- Department of Agriculture
- Department of Irrigation and Water Management
- Department of Agricultural Land Management and Statistics
- Department of Fisheries
- Department of Rural Development
- Department of Cooperatives
- Small Scale Industries Department

### Ministry of Commerce

- Department of Trade
- Consumer Affairs Department
- Myanmar Trade Promotion Organization

### Ministry of Construction

- Department of Urban & Housing Development
- Department of Building
- Department of Highways
- Department of Bridges
- Department of Rural Road Development

### Ministry of Education

- Department of Higher Education
- Department of Basic Education
- Department of Technical, Vocational Education and Training

### Ministry of Electricity and Energy

- Department of Electric Power Planning
- Department of Hydropower Implementation
- Electricity Supply Enterprise
- Electric Power Generation Enterprise
- Department of Electric Power Transmission & System Control

### Ministry of Health and Sports

- Department of Food and Drug Administration

### Ministry of Home Affairs

- Myanmar Police Force

### Ministry of Hotels and Tourism

- Directorate of Hotels & Tourism

### Ministry of Industry

- Directorate of Industrial Collaboration
- Directorate of Industrial Supervision & Inspection

### Ministry of Information

- Information and Public Relations Department
- Printing and Publishing Department

### Ministry of Investment and Foreign Economic Relations

- Directorate of Investment Company Administration

### Other Central Offices

- The Supreme Court of the Union
- Union Attorney General's Office

### Ministry of the Office of the Union Government

- General Administration Department (GAD)

### Ministry of Labor, Immigration and Population

- Department of Immigration
- Department of Labor
- Department of Factories & General Labor Laws Inspection
- Department of Labor Relations

### Ministry of Natural Resources and Environmental Conservation

- Forest Department
- Environmental Conservation Department
- Department of Mines

### Ministry of Planning and Finance

- Planning Department
- Myanmar Economic Bank
- Myanmar Foreign Trade Bank
- Myanmar Investment and Commercial Bank
- Myanmar Insurance
- Myanmar Agriculture Development Bank
- Budget Department
- Internal Revenue Department
- Customs Department
- Financial Regulatory Department
- Revenue Appellate Tribunal
- Office of the Securities and Exchange Commission of Myanmar

### Ministry of Transport and Communications

- Myanmar Post
- Department of Civil Aviation
- Inland Water Transport
- Myanmar Port Authority
- Myanmar Posts and Telecommunications
- Road Transport Administration Department
- Department of Post and Telecommunications
- Information Technology and Cyber Security Department
- Directorate of Water Resources and Improvement of River Systems
- Road Transport

Note: list excludes SEEs with both regulatory authority and commercial interests, including shareholdings. Excludes department with responsibility for registration of private schools, because governance framework is not yet clear.  
Source: various ministry websites.

the district or state/region, and state/region working on behalf of the union.

**Myanmar has thousands of committees and sub-committees at the Union, state/region, district, and township level.** Because of their significant numbers and important responsibilities, their cumulative role in economic governance cannot be understated. One example, from *Sub-index 9: Labor Recruitment*, illustrates the proliferation of committees. The Ministry of Labour, Immigration and Population, which is one of two ministries relevant for Sub-index 9, is responsible for approximately 14 labor-related laws. Just one of these laws, the Employment and Skills Development Law, establishes three different national committees, including the Occupational Competency Standards and Training Committee. Under this single committee

are 14 different sectoral committees and 10 different sub-committees.<sup>52</sup> As shown later in the report, committee proliferation is amplified when committees are created at subnational levels of government.

**Committees often have authority to make decisions when there is a lack of clarity in procedures, or when a “case” arises at the local level.** This is demonstrated both in the written notifications that establish committees, as well as through discussions with government officials who are members of committees. One official noted that when they face a situation where the laws, regulations and procedures do not clearly outline what to do, they “call the committee members to discuss and vote,” although he noted that these instances were fairly rare.<sup>53</sup> Another official noted that commit-

#### BOX B

### List of Committees and Sub-Committees under the Occupational Competency Standards Committee<sup>54</sup>

1. **Metal and Engineering Industry Occupational Competency Standard Committee**
  - a. Machinist Occupational Competency Standard Sub- committee
  - b. Sheet Metal and Foundry Occupational Competency Standard Sub- committee
  - c. Welding Occupational Competency Standard Sub- committee
  - d. Electrical Occupational Competency Standard Sub- committee
  - e. Mechanic Occupational Competency Standard Sub-committee
2. **Construction Occupational Competency Standard Committee**
3. **Woodworking Industry Occupational Competency Standard Committee**
4. **Agricultural Occupational Competency Standard Committee**
5. **Livestock and Fishery Occupational Competency Standard Committee**
6. **Transport Industry Occupational Competency Standard Committee**
7. **Mining Industry Occupational Competency Standard Committee**
8. **Information Technology Occupational Competency Standard Committee**
9. **Health Services Occupational Competency Standard Committee**
10. **Social Welfare Services Occupational Competency Standard Committee**
11. **Manufacturing Industry Occupational Competency Standard Committee**
  - a. Textile and garments Industry Occupational Competency Standard Sub- committee
  - b. Shoes and Leather Goods Industry Occupational Competency Standard Sub- committee
  - c. Ceramic Products Industry Occupational Competency Standard Sub- committee
  - d. Food and Drinks Industry Occupational Competency Standard Sub-committee
  - e. Other Industry Occupational Competency Standard Sub-committee
12. **Commercial & Business Services Occupational Competency Standard Committee**
13. **Hotel and Tourism Occupational Competency Standard Committee**
14. **Oil and Gases Occupational Competency Standard Committee**

tees “make decisions” when faced with cases that include things that are not mentioned in the procedures.<sup>55</sup> The responsibility of committees to find solutions for exceptional cases is noteworthy, in its quasi-judicial role in interpretation of regulations.

**The procedures and standards used by committees to make decisions are somewhat discretionary.** While committees must adhere to the operating procedure of the relevant department, (for example, the Township Farmland Management Body must adhere to the laws, regulations and procedures under the Ministry of Agriculture, Livestock and Irrigation), few

committees receive formal guidance on how they are to reach decisions. Laws and regulations that establish committees contain a list of members and a set of duties and responsibilities, but no guidance on how members are to discharge those duties and no procedure to follow in the process of fulfilling those duties. However, providing discretion to local committee members, especially if they are elected, may be a beneficial and democratic approach to local governance, and not a problem to be addressed.

**Committees often have inspection-like authority to “check” and “monitor”.** The Township

### BOX C

#### The Duties and Responsibilities of the Kyaikto Township Management Committee<sup>56</sup>

- Coordination between committees and departments for township development in many aspects
- Meet people representing the town, grassroots level (ward/ village) and departments at least once a month to get ideas and recommendations for the township development
- Present the cases of security, stability and rule of law, at weekly meeting with departments
- For planning the projects, get accurate data, coordinate with respective groups on urban and village development projects, land usage and its issues, and ensure to meet the budget and planning projects
- Coordinate for agricultural, social economic development, creating job-opportunities and raising income in grassroots level
- Get suggestions for the development on livestock, industry, services, transport and financial services
- Coordinate to improve social economic index of education, health, human resources, social economic development in grassroots level
- Monitor the projects funded by international institutions and coordinate with departments and organizations to ensure the accomplishment of the projects
- Monitor the departments to be able to work efficiently and serve the people in polite manners
- Educate people and officials the role of obeying and working in line with laws that help strengthen stability and rule of law in the region
- Support to accomplish the goal of good governance and clean government and report to district
- In accordance with the laws, by laws, orders and notifications, take quick actions to solve the issues presented by departments, grassroots level in township level and report quickly to district if township level could not handle it itself
- In order to supply water, electricity in every village, coordinate with institutions to the projects funded by government budget, international assistance and people
- Open libraries in order to educate people and encouraging reading habit among people
- Help people in villages to get information technology – internet, mobile phone
- Enhance connectivity – roads, bridges – in the region.

Management Committee (TMC), for example, is empowered to “monitor the projects funded by international institutions and coordinate with departments and organizations to ensure the accomplishment of the projects.” The Township Planning and Implementation Committee (TPIC) is charged with monitoring implementation of projects within the township. The Township Monitoring Committee on Construction is responsible for checking the quality of construction (building plan and building quality) at public sector construction project sites. The Illegal Mining Management Body checks for compliance with mining license terms and conditions.

**The responsibility and authority of committees can vary, but can include functions such as consulting, coordinating, monitoring and problem solving.** The duties and responsibilities of each committee are outlined in the legislation or regulation that establishes it. One example, the TMC, provides a good illustration of the many different types of functions with which committees can be charged. The TMC has consultative functions, such as its requirement to meet with people on a monthly basis and gather suggestions on developing various economic activities. TMCs have administrative roles, particularly in monitoring, as well as a charge to engage in key areas of public service delivery including education, transparency of governance, and delivery of water, electricity and transport connectivity. They also have a problem-solving role,

contained in their mandate to “take quick action to solve issues.”

**Committees are mostly comprised of government officers, but can also include representatives of the private sector, trade unions and farmers, as well as community leaders and other non-government officials.**<sup>57</sup> Government officials are usually drawn from departments that have relevance to the focus of the committee. Private sector representatives are included on a number of committees, including committees with a broad focus such as the Township Development Affairs Committee (TDAC) and the Township Planning and Implementation Committee. The primary purpose of having a private sector representative on these committees is to ensure that the viewpoints of the business community are shared with the committee and integrated into the decision-making process. Private sector representatives are also regularly included on sector-specific committees.

**Some committees can issue notifications, orders, directives and procedures.** For example, the 2012 Vacant, Fallow and Virgin Lands Law explicitly notes that the Central Committee for the Management of Vacant, Fallow and Virgin lands may “issue...notifications, orders, directives and procedures.”<sup>58</sup>

**Committees exemplify the model of collective governance that is characteristic of much of the Myanmar system.** The committee system

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*Committees exemplify the model of collective governance that is characteristic of much of the Myanmar system.*

#### BOX D

### Membership of Select Township-level Committees<sup>59</sup>

#### Township Management Committee

- GAD (Chairman)
- Internal Revenue Department (Secretary)
- Police Force
- Development Affairs Organization
- Education Department
- Planning Department
- Legal Office
- Agriculture Department

#### Township Monitoring and Management Committee on Oil and its related Businesses

- GAD (Chairman)
- Police Force (Secretary)
- Fire Brigade Department
- Internal Revenue Department
- Electricity Enterprise
- Road Management Department
- Development Affairs Organization
- Department of Agriculture Land Management and Statistic
- Department of Consumer Affairs
- Gas Station Owners

facilitates the participation of government officials from a range of departments in decision making that may, in other circumstances, be fully vested with a single department. Decisions are often made through voting, and often with limited guidance on the decision-making process outside of the laws, regulations, and procedures of the relevant department.

**Committees at the township level are often chaired by GAD and serve as an important symbol of GAD primacy.** The GAD serves as the chairperson of many committees, even some that cover areas that fall under the portfolio of another ministry. However, there are exceptions to this pattern. The TDAC has an elected head, and the Township Labour Dispute Resolution Body is chaired by “a person assigned duty by the relevant Region or State government.”<sup>60</sup>

### 3.3. The Judicial System

**Myanmar’s judicial system is outlined in the Constitution and contains a Union-level Supreme Court as well as a high court in each state/region.** The chief justice of the state/region High Court is nominated by the president, in consultation with the chief justice of the Union Court and the chief minister of the respective state/region, and appointed by vote of the state/region hluttaw.<sup>61</sup> The other justices of the state/region High Court are nominated by the chief minister, in consultation with the chief justice of the Union Court. Though the state/region hluttaw is charged with appointing the chief justice and other justices, the Constitution explicitly forbids the state/region hluttaw from not approving the nomination unless certain qualifications are not met.<sup>62</sup> Given this explicit Constitutional language, chief justices of state/region High Courts are effectively appointed by the president, while other justices appointed by the presidentially-appointed chief justice of the state/region High Court, resulting in a top-down state/region court system.

**The state/region High Court supervises lower levels of the court system, the District and Township Courts.** These lower level courts have jurisdiction over civil cases, including economic disputes. In some state/regions, lower courts are also paid for out of the state/region budget.

**Some measures of Myanmar’s judicial system suggest that the system provides poor results for resolving contract disputes.** Notably, the Doing Business indicators suggest that Myanmar’s legal system is amongst the worst in

the world for resolving contract disputes. It estimates that trial and judgement can take over two years, while enforcing a judgement can take 280 days.<sup>63</sup> The Myanmar court system also lacks expedited procedures for small cases, such as a small claims court, or a court dedicated only to commercial disputes.<sup>64</sup> However, there is insufficient evidence about whether many businesses have had first-hand experience with the court system. Qualitative interviews suggest that businesses do not frequently use courts to handle commercial disputes, and instead appeal to other parts of government, committees, and private sector associations.

### 3.4. Legislatures

**Much like the courts, Myanmar’s legislative structures are outlined in the 2008 Constitution, which created new unicameral legislatures in each of Myanmar’s fourteen state/regions.**

These legislatures are comprised mostly of elected representatives, which hold 75 percent of the seats in the state/region legislature, and the military, which holds 25 percent of the seats in the legislature. The areas of authority for state/region legislatures have been clearly outlined in Schedule 2 of the Myanmar Constitution, which was expanded in 2015 to include significant additional authority.

**State and region parliaments “view their role as three-fold: representing their constituents, overseeing the executive, and legislating.”<sup>65</sup>**

State/region parliaments and their parliamentarians certainly engage in activities other than legislating. They receive and act on complaints. They communicate with departments. They participate in committees.

**State/region parliaments have an important role in economic governance because they are the only subnational organization outside of DAOs that has full authority over some aspects of the business legal and regulatory regime.**

They can fully shape the legal framework in Schedule 2 areas without caveat, and partially shape them in Schedule 2 areas that must comply with the Union.<sup>66</sup>

### 3.5. Horizontal Integration and Overlap

**Economic governance issues in Myanmar often involve more than one department, a result that**

**BOX E****Overlapping Governance Frameworks for Land Use and Development<sup>67</sup>**

The process of receiving land use authorization and building new facilities is governed by multiple overlapping authorities and laws. Some businesses may be required, or may find it beneficial, to obtain a Land Rights Authorization from the Myanmar Investment Commission (as outlined in the Myanmar Investment Rules, Chapter IX). Businesses seeking to change the land use need to apply following the procedure outlined in the 2012 Farmland Rules and obtain approval from the Farmland Management Committee. Businesses seeking to develop facilities on land need to apply for and receive a construction permit from the local DAO, a process governed by the Development Affairs Law of the state/region.

However, these different procedures do not always work together seamlessly. The 2016 Investment Law and Rules mentions that investors may need land use permits for their investments, for example if they want to develop an industrial business but the land does not already have approval for this use. The law notes that the assessment of the application may be assigned to the state/region committee. However, approval from either the MIC or state/region committee does not alleviate the investor of the responsibility to receive approval under other laws.

One of the most significant challenges is the interaction of the Farmland Rules and DAO construction permitting process. The Farmland Rules require that businesses begin developing the land within six months of the change in land use. However, before they can do this, they must obtain a DAO construction permit. According to one official, there are 10-12 steps in this process, and it is very time consuming because the DAO requires many recommendations. If a business does not get their DAO permit within six months, the Land Management Committee may sue them for failing to start construction. If they start earthworks without a construction permit from the DAO, they may face penalties of up to MMK 5 million per acre. This creates a very difficult scenario for investors, who are subject to multiple laws whose interaction has not been well designed.

**sometimes reflects purposeful integration, but other times reflects unneeded overlap.**

Often procedures are designed with a number of requirements that must precede it. For example, in order to apply for a DAO business license an individual must first have a national registration card. In order to apply for a hotel license, a business must first have recommendation letters from officials such as the township health officer, police, fire force, and GAD.<sup>68</sup>

**A number of departments with the authority to inspect businesses, including the DEC and FGLLID, lack the authority to issue fines or take other immediate action on their own.**

Instead, they can report back to the department that issued the business with a license and ask that the license be revoked. Alternatively, after a number of warning letters, FGLLID can file a lawsuit against a business. However, the

inspectors cannot themselves issue on-the-spot fines. One official summarized the issue by noting that they have no “enforcement authority”. This structure may contribute to the relatively low levels of reported corruption surrounding inspections.

**The design of the enforcement regime often gives businesses an opportunity to take corrective action before imposing significant penalties.**

For example, one official noted a case in Yangon where a garment factory had many workers under 14 years of age. The officer found out and then went there to inspect and found some young workers between 14 and 17 years old, who can work legally but with some restrictions. She formed a group with the Labour Department and other departments including the GAD and police and sent a warning to the factory. The officer also sent a report to

regional level and the Union ministry. The officer noted that they must strike a balance between enforcement and education. On the one hand, many businesses are not aware of the law and this type of approach helps educate businesses without serious penalties. On the other hand, sending warnings instead of penalties does not incentivize learning and compliance, and can create the leeway for businesses to operate poorly until caught.<sup>70</sup>

### 3.6. Other Implementation Challenges

**While procedures are often the same for all townships, the circumstances of implementation differ.** For example, in Ayeyarwaddy, departments engaged in business inspections noted that there are many rice mills, and these are often located along river banks. During the region's long rainy season there are many floods, which makes some businesses inaccessible.

**Budget constraints affect the ability of departments to properly implement their assigned responsibilities.** Inspections are a good example of this. The Department of Environmental Conservation is charged with inspection of pollution, among other items, but some offices noted that they do not have the equipment needed to appropriately test. They can physically examine

at a location but because they do not have the necessary tools, they face challenges. Other departments face challenges such as the lack of budget for the petrol necessary to get to and from the businesses that need inspecting. In one case, the township department started asking businesses to come to their office instead, so that they could be 'inspected'.

**Inspections are not always fully technical exercises and can also incorporate political or other considerations.** Inspection departments noted that they will sometimes conduct inspections with teams including parliamentarians. They also noted that other factors, such as a desire not to scare off foreign investors, can be considered.<sup>71</sup>

**Higher level officials may not always be aware of, or follow standard operating procedures.** This creates a challenge for lower level officials, who on the one hand are obliged to implement their duties according to the department's procedures but on the other, need to obey their superior officers.

**Standard operating procedures may not cover all contingencies.** In this case, officials note that they refer to the laws for issues such as land disputes or demonstrations such as labor or businesses. For some things there are not clear procedures, so officials note they just have to do their best in accordance with the law or refer the matter to a committee or higher official.

# 4

## Combining Horizontal and Vertical: Where are Myanmar's Economic Governance Actors?

**One of the most fundamental requirements for economic governance to be 'local' is for the economic governance actors to have a local presence.** Economic governance cannot be local if it is administered only through officials located in a state/region or national capital. In this section, we explore the degree to which economic governance is local by examining the local presence and accountability of two key types of economic governance actors: departments and committees.

### 4.1. Case Study: Economic Governance Departments in Ayeyarwaddy Region

**Based on a detailed study of Ayeyarwaddy Region, we find that there are a select group of departments with major economic governance responsibilities that have full complement of region, district, township, and town offices.** These departments were of two different types: core administrative departments and infrastructure providers. The core administrative departments with a full complement of offices were the GAD and police. The infrastructure providers with the full complement of offices included the Electricity Supply Enterprise and Post and Telecommunications Department.

**Two government departments, DALMS and DAO, had a presence in all townships, but covered only some of the towns in the townships, while four others had a full complement of**

**township offices but no town offices.** DAOs were present in 34 towns across all of Ayeyarwaddy's 26 townships. However, of the 19 "other towns," DAOs had an office in only eight. DALMS was present in all townships, and also had five town offices. The Departments of Trade, Internal Revenue, and Rural Road Development and the Department of Highways were present in all 26 townships but had no town offices.

**The Myanma Economic Bank (MEB) has a presence in every township, however in some cities the district and township offices are combined.** For example, in Patheingyi and Myaung Mya, these offices were combined, and services were administered out of the district office. Though MEB has township offices in both townships in Labutta district, there is no district office, with township branches being overseen by other proximate district offices.

**Some major economic governance departments are present in every township, but with few or no district offices.** The most notable among these is the DAO, which has a presence in every township but has no district offices, as these are not part of the DAO structure. Instead, each township DAO reports directly to the state/region office. Similarly, the IRD has offices in every township but no district offices. The Department of Trade also has offices in every township but only one district office.

**Some departments with important economic governance functions only have a regional office.** Notable among these is DICA, which handles company registration and serves as the secretariat for the Regional Investment Commission. Other departments that operate only

from a region office include the Departments of Buildings, Bridges, Budget and Small Scale Industries.

**Some departments work through the regional office and a limited number of district and/or township offices.** DISI and FGLLID, both with important inspection mandates, have a regional office and one district office in each of

Ayeyarwaddy's six districts. The Forest Department, Food and Drug Administration (FDA), Department of Urban and Housing Development, Road Transport Administration, and DEC have between one and four district offices. The Customs Department has only a regional office, and one township office in Pathein.

**A small number of departments use one township office to cover multiple townships.**

In Ayeyarwaddy Region, this was the case with the Department of Labour, which covered Ayeyarwaddy Region's 26 townships with its six township offices. In Kayah State, MEB employed the same strategy, covering some townships through branches in neighboring townships. This was done to save resources, as township offices have a smaller number of staff than district offices for many departments.

**The presence of department offices at the district and township level is shaped by service demands and budget constraints.**

The influence of these factors is illustrated by changes made by MoLIP in 2017, when it downgraded 42 Department of Labour (DoL) district offices to township offices. This affected almost all of the DoL district offices in the country, excluding only the Nay Pyi Taw district office. Despite the formal change, however, township offices run in the same way and with the same functions as district offices of the past. Staff of one office noted that they still attend district level government meetings. According to sources in the ministry, the changes were made due to budget constraints and a lack of capacity. The converse can also happen, however, with departments growing as additional budget comes available. The DEC noted that it was opening its first district office in Kayah State in 2019. Department officers explicitly noted that they may expand in the future if demand increased. Notably, they said that GAD, with its universal presence in townships and towns, acts as an intermediary between businesses and departments that do not have a presence in a township.

**As this example demonstrates, there is flexibility for departments to tailor their structure to needs and available resources.**

Numerous departments have adopted abnormal structures, such as having district offices cover township services or township offices cover other nearby townships. This in itself is strong evidence of local input in governance, with office presence shaped at least in part by local needs, not centrally-mandated rigidities.

**TABLE 2**  
**Economic Governance Departments in Ayeyarwaddy Region, by office presence**

Office presence	Economic Governance Departments
Regional capital, and all districts, townships and towns	<ul style="list-style-type: none"> <li>▪ General Administration Department (26 townships, 19 towns)</li> <li>▪ Police (26 townships, 19 towns)</li> <li>▪ Electricity Supply Enterprise (26 townships, 19 towns)</li> <li>▪ Posts and Telecommunications (26 townships, 19 towns)</li> </ul>
Regional capital, all townships, and some districts/towns	<ul style="list-style-type: none"> <li>▪ Highways (1 regional, 6 district, 26 township, 7 towns)</li> <li>▪ DALMS (1 regional, 6 district, 26 townships, 7 towns)</li> <li>▪ DAO (1 regional, 33 towns)</li> <li>▪ Trade (1 regional, 1 district, 26 township, 1 town)</li> <li>▪ Planning (1 regional, 6 district, 26 township)</li> <li>▪ IRD (1 regional, 26 township)</li> </ul>
Regional capital and some districts and/or townships	<ul style="list-style-type: none"> <li>▪ Rural Road Development (1 regional, 6 district, 25 township)</li> <li>▪ Myanma Economic Bank (1 regional, 5 district, 22 township)</li> <li>▪ Labor (1 regional, 6 township)</li> <li>▪ DISI (1 regional, 3 district)</li> <li>▪ FGLLID (1 regional, 6 district)</li> <li>▪ Food and Drug Administration (1 regional, 2 district)</li> <li>▪ Urban and Housing Development (1 regional, 2 district and 1 township)</li> <li>▪ Road Transport Administration (1 regional, 4 district)</li> <li>▪ Environmental Conservation Department (1 regional, 3 district)</li> <li>▪ Mining (1 regional, 1 district)</li> <li>▪ TVET (1 regional, 6 district)</li> </ul>
Regional capital	<ul style="list-style-type: none"> <li>▪ Customs Department (1 regional, 1 township)</li> <li>▪ Department of Bridges (1 regional)</li> <li>▪ Department of Buildings (1 regional)</li> <li>▪ DICA (1 regional)</li> <li>▪ Small Scale Industries Department (1 regional)</li> <li>▪ Budget Department (1 regional)</li> </ul>

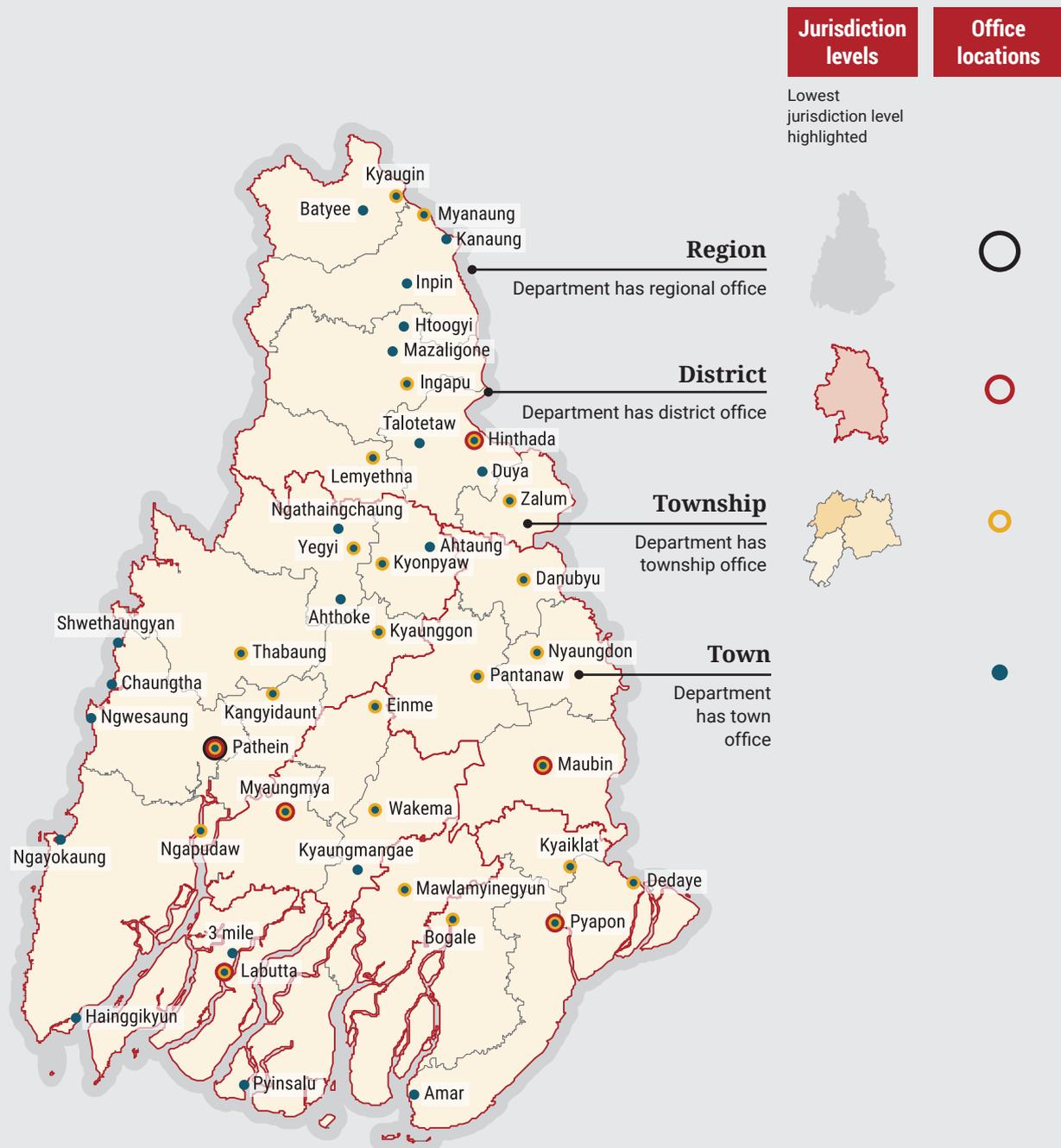
Notes: FGLLID district office in Labutta scheduled to open in August or September 2019. Department of Environmental Conservation is scheduled to open new district offices in Hinthada and Pathein District in July 2019.

**FIGURE 5**

**Economic Governance Departments in Ayeyarwaddy Region, by office presence**

**How to read the maps**

The highlighted areas show jurisdiction levels of the departments on regional, district, township and town level. The circles show office locations at each level.



**Regional capital, and all districts, townships and towns**

**General Administration Department (GAD)**

**Police**

**Electricity Supply Enterprise**

**Posts and Telecommunications**

- 1 Region office**
- 6 District offices**
- 26 Township offices**
- 19 Town offices**



**Regional capital, all townships, and some districts/towns**

**DAO**

- 1 Region office**
- 33 Town offices**



**Department of Highways**

**DALMS**

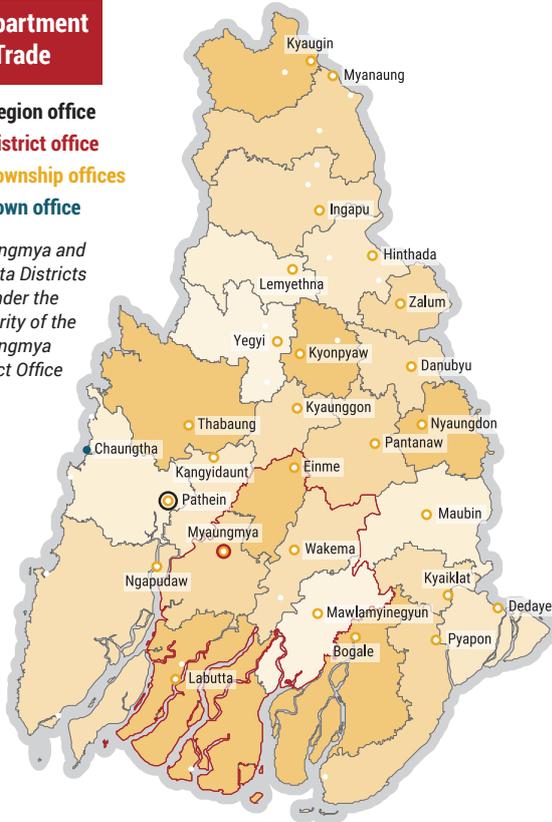
- 1 Region office**
- 6 District offices**
- 26 Township offices**
- 7 Town offices**



**Department  
of Trade**

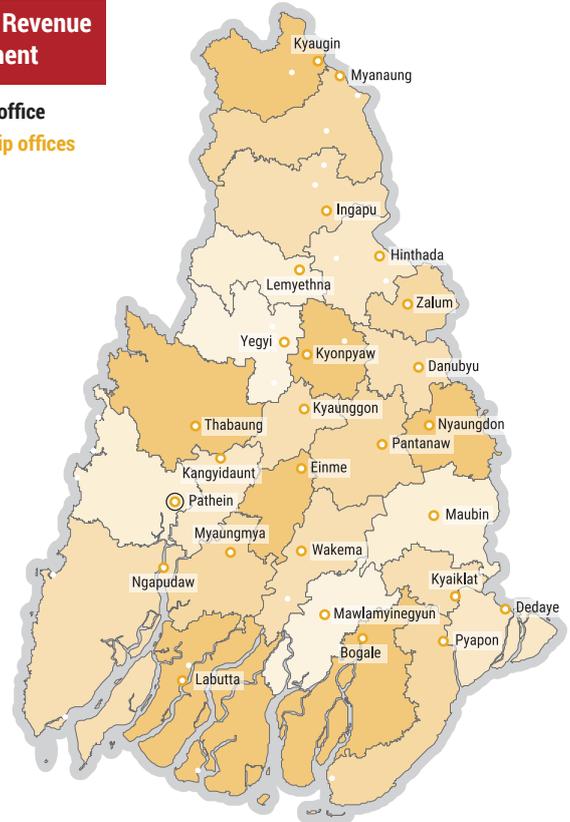
- 1 Region office
- 1 District office
- 26 Township offices
- 1 Town office

*Myaungmya and  
Labutta Districts  
fall under the  
authority of the  
Myaungmya  
District Office*



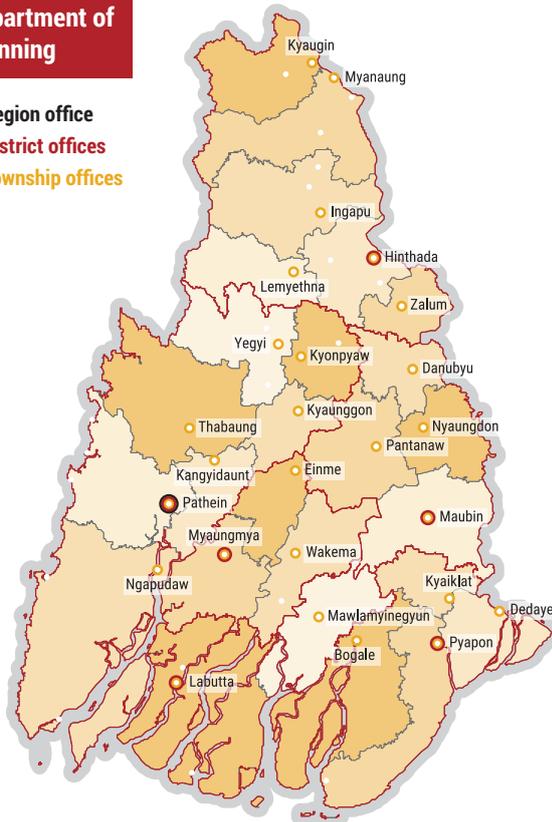
**Internal Revenue  
Department**

- 1 Region office
- 26 Township offices



**Department of  
Planning**

- 1 Region office
- 6 District offices
- 26 Township offices



**Regional capital and some districts  
and/or townships**

**Department of  
Rural Roads**

- 1 Region office
- 6 District offices
- 25 Township offices



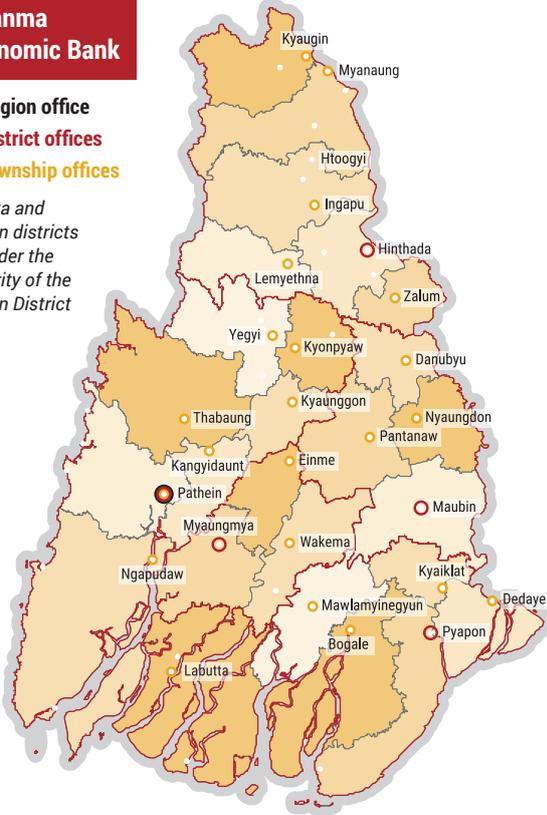
**Chapter 4**

Combining Horizontal and Vertical: Where are Myanmar's Economic Governance Actors?

**Myanmar Economic Bank**

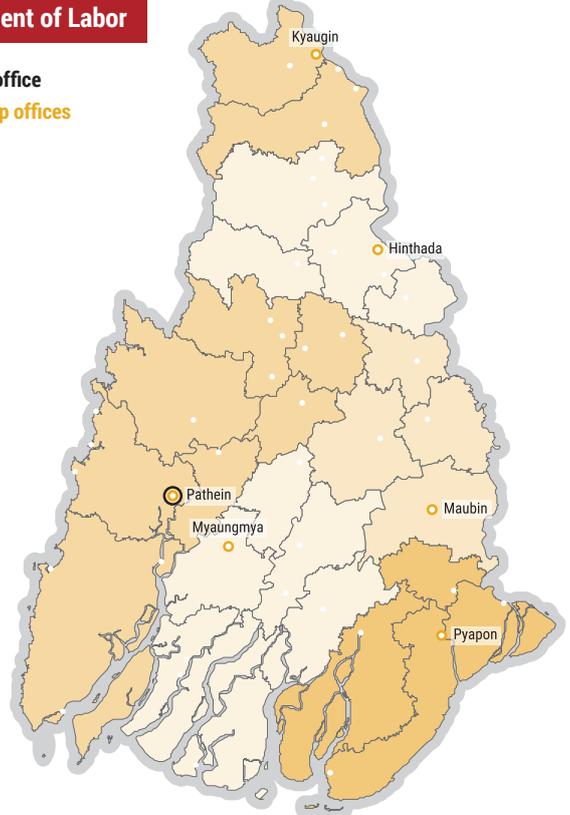
- 1 Region office
- 5 District offices
- 22 Township offices

*Labutta and Pyapon districts fall under the authority of the Pyapon District Office*



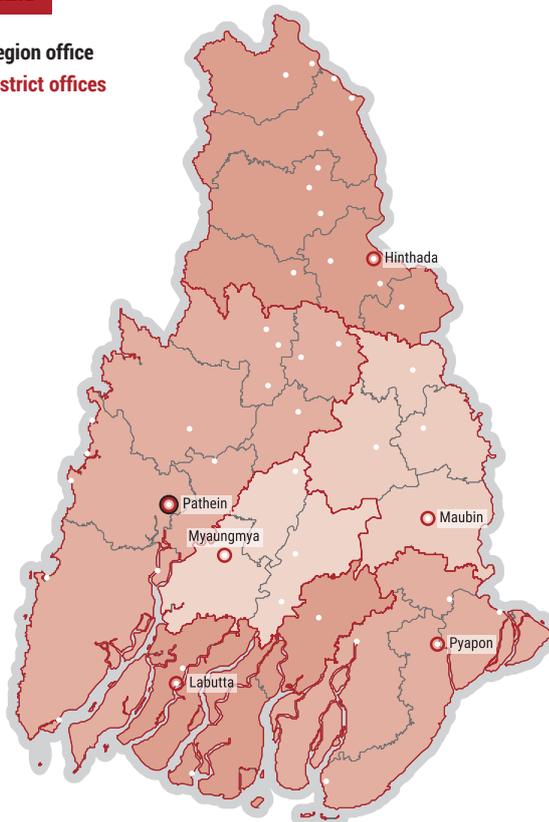
**Department of Labor**

- 1 Region office
- 6 Township offices



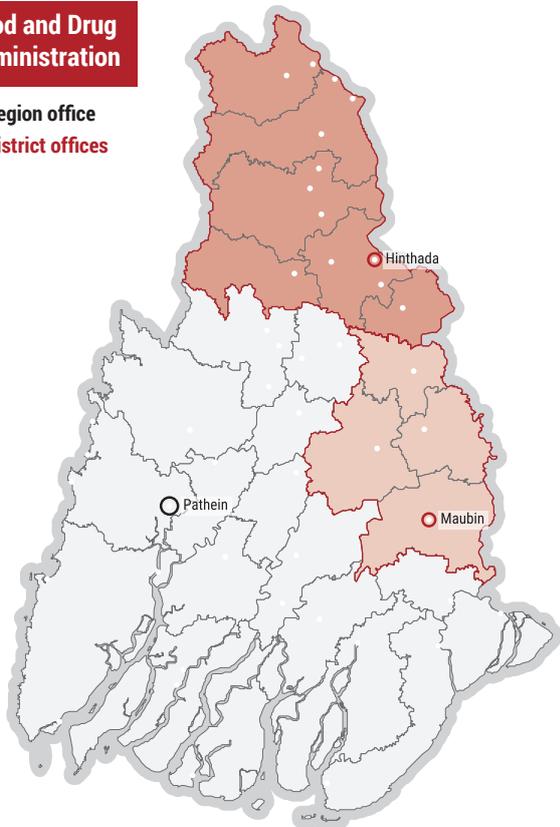
**FGLLID**

- 1 Region office
- 6 District offices



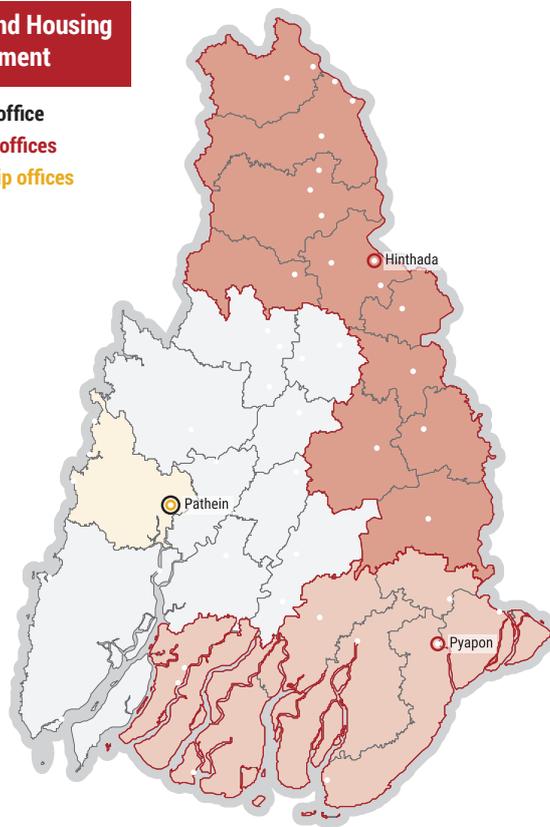
**Food and Drug  
Administration**

1 Region office  
2 District offices



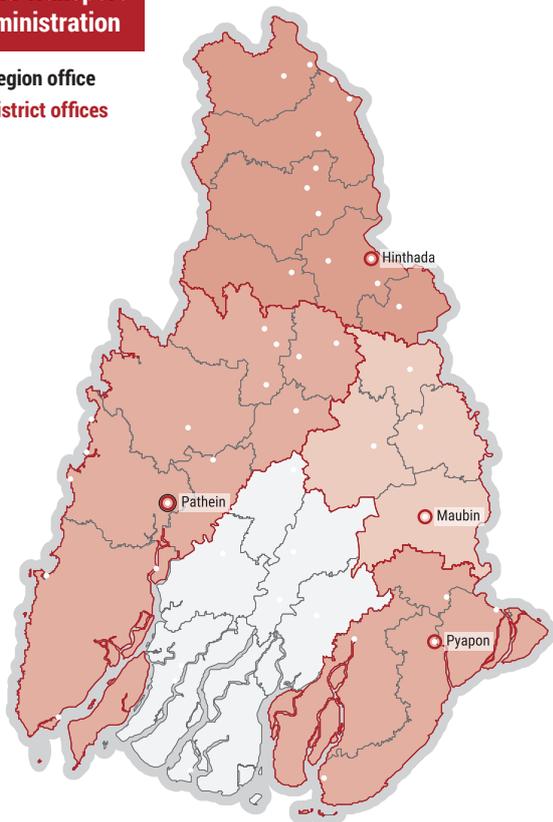
**Urban and Housing  
Development**

1 Region office  
2 District offices  
1 Township offices



**Road Transport  
Administration**

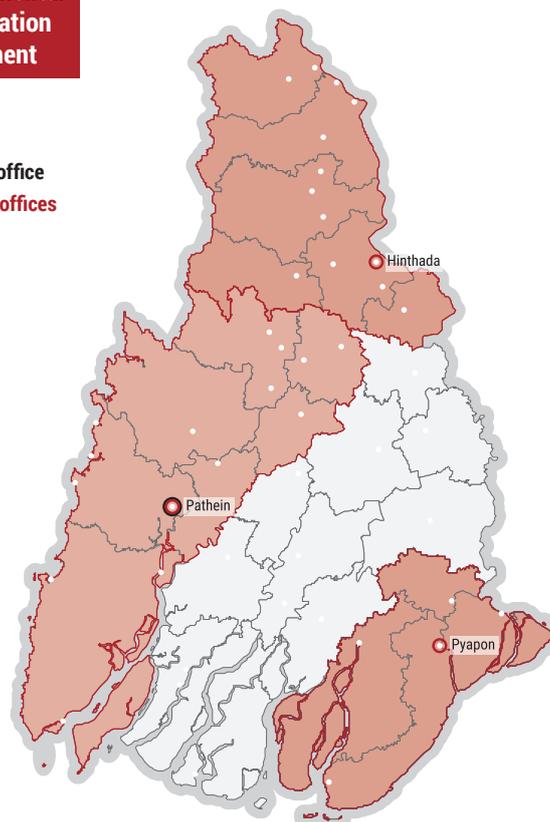
1 Region office  
4 District offices



**Environmental  
Conservation  
Department**

**DISI**

1 Region office  
3 District offices

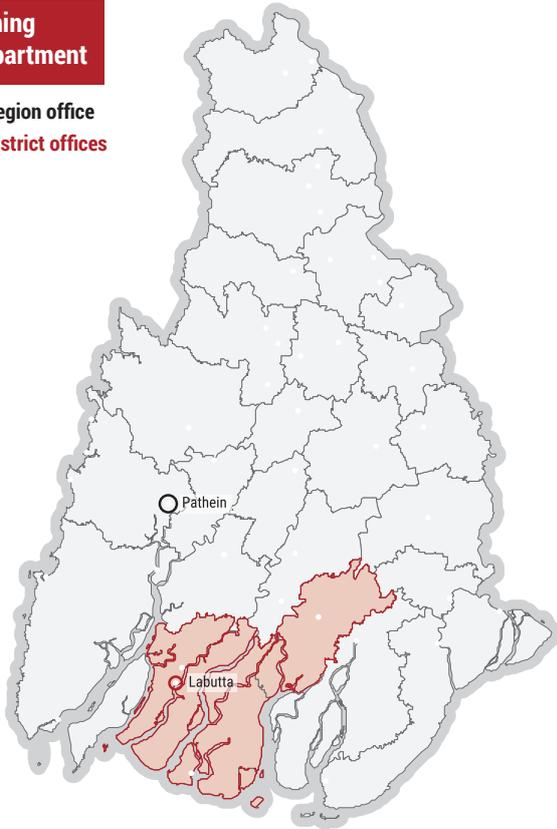


**Chapter 4**

Combining Horizontal and Vertical: Where are Myanmar's Economic Governance Actors?

**Mining Department**

1 Region office  
1 District offices



**TVET**

6 School locations



**Regional capital**

**Customs Department**

1 Region office  
1 Township offices



**Dept. of Buildings**

**Department of Bridges**

**DICA**

**Small Scale Industries Department**

**Budget Department**

1 Region office



## 4.2. Case study: Committees at the state/region and township level

Committees exist at all levels in Myanmar, from the Union to the village tract level.<sup>72</sup> For example, committees for Reinvestigating Con-

fiscated Farmlands and Other Lands exists at Union, state/region, district, township and village levels. Each level has somewhat different functions. The Union committee sets policies and guidelines while the state/region committee determines when investigations are necessary. The township and village tract levels participate in investigations.<sup>73</sup> Other committees, such as the Minimum Wage Committee, exists only at the national and state/region level.<sup>74</sup>

FIGURE 6

### List of S/R Committees in Sagaing Region

#### Broad Engagement

- Small and medium enterprises development agency
- Tender committee on business (between 10 and 100 million MMK of 2018-19 fiscal year budget)
- Open tender committee on business (between 10 and 100 million MMK of 2018-19 fiscal year budget)

#### Sector Specific

- Monitoring committee on private healthcare services
- Video businesses management committee
- Oil and its related businesses management sub-committee
- Form (8) related wood trading management committee
- Small oil businesses data collection committee
- Oil related businesses management committee
- Khanti gems licensing body
- Crude oil transportation budget committee
- Small mining businesses body
- Mining management committee
- Loading and unloading goods committee
- Private ships management body

#### Business Environment Focus

- Alcohol license tax increasing and monitoring body
- Rechecking committee on confiscated farmlands and other scrutinized lands
- Nature land management assisting body
- Vacant land and virgin land management body
- Allocation city land for departments committee
- Food and drug administration committee
- Rural development and poverty reduction implementing committee
- Information network connectivity body
- Traffic safety management council
- Myanmar coastal line and inland water transport management body
- Road transport administration body
- Management committee on buildings and items (2018-19 fiscal year budget)
- Street lamps and development affairs management committee
- Budget commission
- Planning commission
- One Stop Shop (OSS) establishing and implementing sub-committee
- Coordination body (EITI – The Extractive Industries Transparency Initiative)
- E-government implementing committee
- Loan management committee
- SME loan committee
- Monitoring body on preventing the danger of chemical items and its related items
- Environmental conservation and climate change management committee
- Green planning and implementation management committee
- Flood reduction committee
- Implementation committee on recovery (jobs) (natural disasters)
- Joint body of rule of law and implementing its activities
- Illicit trade control body
- Disaster management committee
- Legal aid support body

Source: Sagaing Regional Government

**Committees can be established by most levels of government.** Some subnational committees are established at the request of the Union government, such as the aforementioned subnational committees for Reinvestigating Confiscated Farmlands and Other Lands and the Minimum Wage Committees. Other committees can be set up based on the requests of the state/region government. For example, in Sagaing Region, there is a traditional hospital (50 bedded) management committee in Monywa. Even townships have the authority to establish their own, township-focused committees. For example, Kyaikto in Mon State has established a township-level Kyaikto Mountain Greenery Committee, to maintain and improve the natural environment at one of Myanmar's most popular tourist destinations, the Kyaiktiyo Pagoda (Golden Rock Pagoda).

**At the state/region level, the number of committees can be significant – nearly 100 in the case of the Sagaing Region government.** Of

these approximately 44 have economic governance functions that cover consultation, implementation, and problem-solving across all economic sectors. A few, such as the Small and Medium Enterprises (SME) Development Agency and tender committees, have broad engagement with business and government. Some committees focus only on a particular sector. However, the economic governance functions of most committees are evident in their mandate which includes a part of the local business environment.

**Townships often have a significant number of committees, and many of them can have important and varied economic governance functions.** Much like state/regions, the committees present in each township can vary significantly, depending on local circumstances, however an illustrative list of township-level committees from Kyaikto township, Mon State, is provided in Figure 7. Additional committees may be present in townships not covered by this research.

**FIGURE 7**

## Township Committees with Economic Roles

### Broad Engagement

- Township Management Committee
- Township Development Implementation Committee
- Township Management Committee on Rural Development
- Township Development Affairs Committee
- Township Planning and Implementation Committee

### Sector Specific

- Township Private Healthcare Services Management Committee
- Township Video Businesses Management Committee
- Township Monitoring and Management Committee on Oil and its related Businesses
- Township Committee for Prevention of Import/Export of Domestic Animals and Their Products
- Illegal Spirit Management Body
- Spirit Tender Management Body
- Illegal Mining Management Body
- Township Monitoring Committee on Construction

### Location Specific

- Township UEHRD Committee for Rakhine State Development

### Business Environment Focus

- Township General Licenses Body (DAO) 
- Township Confiscated Farmlands and Other Lands Scrutinizing Committee 
- Township Natural Land Management Supporting Body 
- Township Farmland Management Body 
- Township Buildings and Fencing Body 
- Food and Drug Administration (FDA) committee 
- Electricity, Water Usage Committee 
- Township Traffic Safety Committee 
- Township Water Resources Committee 
- Township Management Committee on Rural Development 
- Township Management Committee on Environmental Conservation and Climate Change 
- Township Monitoring Committee on Compensation for Labors 
- Township Labor Conflict Negotiating Body 
- Township Stability, Security and Rule of Law Committee 
- Township Stability Joint Body 
- Township Emergency Management Committee 
- Township Natural Disasters Management Committee 
- Township Security Committee 

*Note: Some committees may no longer be active. For example, the Township Security, Stability and Rule of Law Committee was formed under the USDP government, however since the NLD government came to power, it has not been utilized by the new government, who instead conduct similar work in the Emergency Response Management Committee.*

*Source: Interview with government official, Kyaikto Township.*

# 5

## Local Economic Governance and the Ten MBEI Sub-indices<sup>75</sup>

**Though the range of economic governance actors is broad, a detailed review of the economic governance system, using the MBEI framework, provides valuable insights about who does what.** In this section, we review many indicators from the ten sub-indices, outlining exactly which departments, committees and other economic governance actors are involved in each specific area of economic governance. We do not cover all indicators, as some are relevant across all of government, but assess

ones that connects with a specific actor or small group of actors.<sup>76</sup> Of course it may not be possible to determine precisely if a business perception is shaped by experiences at the local, state/region or Union level. However, given the integration amongst levels of government, for many of these indicators feedback can be interpreted as applying to all levels. This section provides a detailed examination of the economic governance actors engaged in each of the ten MBEI sub-indices.



*Township officials documenting their roles at a workshop*

## 5.1. Sub-Index 1: Entry Costs

### Among all the MBEI indicators, Sub-Index 1: Entry Costs is amongst the most local.

This is in part because it focuses heavily on business registrations and licensing, which is often handled by DAOs and the CDCs, which are not part of a Union Ministry. For some types of licensing, additional administrative documents are sometimes required. These depend on the license, but could include recommendation letters from the fire, police, GAD, and health departments, all of which have a presence in every township (and almost all towns).

**Entry costs do have some important connections with the Union government.** Union-issued IDs and family household lists are required to

register or license businesses, even with CDCs or DAOs. Companies can be registered only with DICA, as outlined in the Companies Act, though can be completed online or at DICA offices at the state/region. As of June 2019, there were 65,341 companies registered with DICA, including both foreign and domestic.<sup>77</sup> This is lower than the number of businesses registered with DAOs and CDCs. A 2017 study found over 71,000 municipally registered manufacturing firms, while other sources have indicated that the number of municipally registered firms is approximately 228,000.<sup>78</sup> Given these figures, the majority of businesses that are the focus of the MBEI would register with the DAO or CDC. The role of the Union is more pronounced in licensing, particularly in some sectors that are under the authority of Union ministries (these sector specific licenses are not explicitly covered in the MBEI).

Indicator	Department	Legislation assigning authority	How is it local?	How is it Union?
Number of additional documents needed	<ul style="list-style-type: none"> <li>▪ YCDC</li> <li>▪ MCDC</li> <li>▪ NCDC</li> <li>▪ DAO</li> <li>▪ DICA</li> <li>▪ MIC</li> </ul>	<ul style="list-style-type: none"> <li>▪ Myanmar Companies Law</li> <li>▪ Yangon City Development Affairs Law</li> <li>▪ Mandalay City Development Affairs Law</li> <li>▪ Various S/R Development Affairs Laws</li> </ul>	Local authorities manage registration (CDC, DAO); many township-level offices provide the documents needed and receive applications even if they cannot approve them.	Many township level offices that provide additional documents are connected to Union ministries. For businesses in many sectors, Union laws create additional document requirements.
Number of days from hire of service until receipt of document (CDC)	<ul style="list-style-type: none"> <li>▪ YCDC</li> <li>▪ MCDC</li> <li>▪ NCDC</li> </ul>	<ul style="list-style-type: none"> <li>▪ Yangon City Development Affairs Law</li> <li>▪ Mandalay City Development Affairs Law</li> </ul>	CDCs are subnational organizations, and fully in control of licensing and registration processes.	Require Union ID card, and sometimes recommendations from township offices of Union department; CDC Chairman are appointed by S/R Minister, who is appointed by President.
Number of days from hire of service until receipt of document (DAO)	<ul style="list-style-type: none"> <li>▪ DAO</li> </ul>	<ul style="list-style-type: none"> <li>▪ S/R Development Affairs Laws</li> </ul>	Administered by DAOs (subnational organization); Legal and regulatory framework set at S/R or township level.	Requires union ID card and family household list from Union government. <sup>79</sup> Some licenses can also require recommendations from township offices of Union department.
Number of days from hire of service until receipt of document (DICA)	<ul style="list-style-type: none"> <li>▪ MIC</li> <li>▪ DICA</li> </ul>	<ul style="list-style-type: none"> <li>▪ Myanmar Companies Law (2017)</li> </ul>	DICA has offices in S/Rs, where businesses can apply for company registrations.	Company registration rules and procedures are Union-level.
Have difficulty acquiring any administrative document	<ul style="list-style-type: none"> <li>▪ Fire</li> <li>▪ Police</li> <li>▪ GAD</li> <li>▪ Health</li> <li>▪ Village/Ward Admin</li> <li>▪ Neighbors (non-govt)</li> </ul>		Most departments located within township; some document requirements (such as those by DAO) determined locally; village admin is elected.	Most departments are staffed by Union civil servants and affiliated with Union Ministry; some document requirements (especially for sectoral licenses) determined by Union.

## 5.2. Sub-Index 2: Land Access and Security

**Land is an area in which the Union has long claimed dominance, and as such the scope for local governance is limited.** The centrality of the Union in land-related matters is evident in the Constitution, which proclaims that the “Union is the ultimate owner of all lands.”<sup>80</sup> While CDCs have some authority for land transfers in urban areas, DAOs do not share

similar authority outside of Yangon, Mandalay, and Nay Pyi Taw. Instead these duties fall to DALMS. Notably, a number of committees are involved in various issues related to land, and these exist at multiple levels of government. These can include non-government members, a positive step to improve local participation and influence. However, local committees on land seem to have limited decision-making power.

Indicator	Department	Committees	Legislation assigning authority	How is it local?	How is it Union?
<b>Share that owns land and has a title</b>	<ul style="list-style-type: none"> <li>▪ DALMS</li> <li>▪ YCDC</li> <li>▪ MCDC</li> <li>▪ NCDC</li> </ul>	Various sectoral committees such as: <ul style="list-style-type: none"> <li>▪ Illegal Mining Management Committee</li> <li>▪ Land Management Committee</li> <li>▪ Land Valuation Committee</li> <li>▪ Committee for the Management of Vacant, Fallow and Virgin Land</li> </ul>		CDCs have recording authority for titles; DALMS has many township level offices for non-CDC titles.	DALMS, which registers most transactions, is part of a Union ministry. Most rules regarding transactions are related to Union.
<b>No obstacles encountered acquiring land or expanding premises</b>	<ul style="list-style-type: none"> <li>▪ DALMS</li> <li>▪ YCDC</li> <li>▪ MCDC</li> <li>▪ NCDC</li> </ul>	<ul style="list-style-type: none"> <li>▪ Committees for the Management of Vacant, Fallow and Virgin Land (multi-level)</li> <li>▪ Farmland Management Committee</li> <li>▪ Land Management Committee</li> </ul>	<ul style="list-style-type: none"> <li>▪ 2018 Revision to the Vacant, Fallow and Virgin Lands Law; 2012 Farmland Law; National Land Use Policy</li> </ul>	CDCs have role in land acquisition in their areas; DALMS has many township level offices for non-CDC acquisitions to file paperwork, etc.	DALMS is part of the Union government; legal and regulatory framework from Union government.
<b>Fair compensation for land</b>		<ul style="list-style-type: none"> <li>▪ Farmland Management Committees</li> <li>▪ Reinvestigation Committees for Confiscated Farmlands and Other Lands</li> </ul>	<ul style="list-style-type: none"> <li>▪ Presidential Notification 14/2016</li> <li>▪ Farmland Rules</li> <li>▪ Land Acquisition Act</li> </ul>	Subnational committees of the FMCs and RCCFOL exist at S/R, district and township level. Some subnational committees have local non-government members.	All legislation and rules on compensation determined by Union. All committees are part of Union-level committees.
<b>Low to very low rental risk</b>	<ul style="list-style-type: none"> <li>▪ GAD</li> </ul>		<ul style="list-style-type: none"> <li>▪ Registration Act 1909</li> </ul>		Governed by Union-level legislation; administered by GAD.

### 5.3. Sub-Index 3: Post-Entry Regulation

**This sub-index has many indicators which apply broadly, and the remaining indicators are a mix between local and Union level control.**

A number of the indicators in Sub-Index 3 apply across almost all departments, as well as all levels of government. For example, the simplicity of paperwork could apply to any government department with which businesses interact. Almost all departments also charge a fee for

one or more service, making the indicator about publicly posting fees similarly universal. The effectiveness of government officials could apply to officials at all levels of government across almost any department with which businesses interact. The remaining indicators include number of inspections, which include both DAOs and numerous departments. The framework for stamps is administered by IRD and MEB, while signatures could also apply broadly.

Indicator	Department	Committees	Legislation assigning authority	How is it local?	How is it Union?
<b>Mean number of inspections by all agencies</b>	<ul style="list-style-type: none"> <li>▪ DAO</li> <li>▪ FDA</li> <li>▪ GAD</li> <li>▪ Health</li> <li>▪ DISI</li> <li>▪ FGLLID</li> </ul>	<ul style="list-style-type: none"> <li>▪ Illegal Mining Management Body</li> <li>▪ Township Management Committee</li> <li>▪ Township Planning and Implementation Committee</li> <li>▪ Township Monitoring Committee on Construction</li> <li>▪ SR Cabinet</li> </ul>	<ul style="list-style-type: none"> <li>▪ SR Development Affairs Laws</li> <li>▪ Factory Act (1951)</li> <li>▪ Notification No. 400/2-7/ U4</li> <li>▪ Notification No. 3/17-1/U3 (2816)</li> <li>▪ Notification No. 5/3-5/U6 (3445)</li> <li>▪ Notification No. 3/23-1/U5 (2171)</li> </ul>	Almost always conducted by officials at the district or township level (though sometimes S/R officials are also involved); DAOs are a local department and have full authority over some types of inspections such as commercial construction sites and slaughterhouses; SR Cabinet sometimes involved in decision-making on business closures. <sup>81</sup>	Most inspections are implemented by Union departments; some departments (FGLLID, DISI) have inspection quotas set by Union; <sup>82</sup> inspection guidelines determined by union.
<b>Firm does not need to take many trips to obtain stamps and signatures (% agree)</b>	<ul style="list-style-type: none"> <li>▪ IRD</li> <li>▪ MEB</li> <li>▪ GAD</li> </ul>		<ul style="list-style-type: none"> <li>▪ 1899 Stamp Act</li> </ul>	Both IRD and MEB have broad township coverage, though some townships do not have an MEB branch which may increase travel distance for payment of stamp duties. Likewise, GAD is included because it is amongst the most likely departments from which businesses may need a signature. GAD also has a presence in almost every township.	All departments are connected to Union Ministries. Legislation governing stamps is Union level.

### 5.4. Sub-Index 4: Informal Payments

**Informal payments and corruption are an issue at all levels of government, and there is not sufficient evidence to show that it is more endemic amongst either local or Union officials.** In some ways, the MBEI metric on informal payments lends itself to higher level authorities, because appealing an act of corruption is naturally done

to higher authorities who sit at higher levels of government. The country's anti-corruption body, which is established by Union law, does not have state/region offices or presence, and largely operates from Nay Pyi Taw. Likewise, the president recently directed ministries to establish Corruption Prevention Units, but these are still being formed as of mid-2019 and there is no evidence that they have a subnational presence.<sup>83</sup>

Indicator	Department	Committees	Legislation assigning authority	How is it local?	How is it Union?
<b>Agreement with statement “If state official breaks the law I can appeal to a competent person at a higher level for resolution”</b>	<ul style="list-style-type: none"> <li>■ Corruption Prevention Units at 13 Ministries</li> <li>■ Courts</li> </ul>	<ul style="list-style-type: none"> <li>■ Anti-Corruption Commission</li> </ul>	<ul style="list-style-type: none"> <li>■ Anti-Corruption Commission Law &amp; Rules</li> </ul>	ACC members will sometimes visit S/R; Local courts are under control of S/R court.	ACC is a Union-level institution, established by Union law and based in Nay Pyi Taw; Corruption prevention units exist at Union-level ministry offices; Court system overseen by Union appointees.

## 5.5. Sub-Index 5: Infrastructure

**The responsibilities for road infrastructure lie with both the Union or state/region government, as well as DAOs and CDCs who are responsible for urban road infrastructure.** The division of responsibility between the Union and the state/region is theoretically determined by the class of road, however the reality is that both levels of government, as well as parliamentarians, play an important decision-making role. Highways, which are classified as either “Union highways” or “other highways,” are generally the responsibility of the Department of Highways, which receives funding from both the Union and state/region budget. Rural roads are divided into class A, B, and C. According to the Department of Rural Road Development, the regional government provides money to build and maintain class A rural roads. Class B and C roads are funded from the Union, even though they are smaller.<sup>84</sup> However, theoretical distribution of authority does not always hold in practice. Though class B and C roads are funded by the Union, they still involve the regional government. Likewise, though class A roads are generally funded by the state/region, they may also sometimes be funded by the Union. Priorities for road construction or repair can be identified by local leaders to the regional parliament, or by parliamentarians in coordination with TPICs. Parliamentarians will often create lists of roads that they think are priorities and work to push these to the top of the list for funding. These requests are then sent to either the state/region government or the Union Ministry of Construction, who adds this to the budget request submitted to the Union parliament.<sup>85</sup> However, the level of government funding the road does not always have complete authority to decide which roads are build or repaired.

**Urban roads are much more ‘local’ than any other type of infrastructure.** Urban roads, which are often the closest to businesses interviewed for the MBEI, are the responsibility of DAOs and CDCs. These organizations plan, implement, and pay for roads, although they often rely on public contributions, including from businesses, for the cost of materials. Because business responses about road quality are likely heavily influenced by their local, urban road network, MBEI responses about road quality at least partly reflect local decisions and actions regarding roads.

**Some types of infrastructure provide examples of the high degree of integration amongst all levels of government.** The aforementioned example of electricity is a good illustration of this interconnection. The separation between the powers of the local offices and the Union ministry depend on the voltage of the connection for which a business is applying. However, this is not a Constitutional or legal power of states/regions – the Constitution gives the Union government full control over all generation and distribution of electricity when connected to the national grid. Instead, it is a delegation of limited authority to subnational offices, with the level of delegation being defined by the voltage of the connection.

**More than any other area of economic governance, infrastructure depends heavily on the private sector.** The MBEI covers various types of infrastructure including electricity, roads, and telecommunications, all of which involve private sector to varying degrees and in varying ways. Electricity is heavily state-controlled (especially distribution), however private companies are involved in power generation. These private sector businesses can develop power plants and sell power to the grid through a power purchase agreement signed with the Myanmar government’s Electricity Power Gen-

eration Enterprise (EPGE). At present Myanmar has at least 10 Power Purchase Agreements (PPAs).<sup>86</sup> These agreements specify, among other things, the amount and price of power to be purchased, however it is up to the private business and not the government to generate the power. Road infrastructure also has private sector involvement. Businesses are involved in the development, improvement and maintenance of highways and bridges through build-operate-transfer programs managed by the Ministry of Construction. Tolling fees are regulated, and road improvements often specified by government in the build-operate-transfer agreement, but with implementation done by the private sector.

**In the telecommunications sector, private companies play the primary role in infrastructure delivery.** There are currently four telecommunications providers in Myanmar. Two are foreign-owned and were awarded licenses after a Union-run tendering process (Telenor and Ooredoo). The two other providers are formerly state-owned telcos (MPT and MyTel, which were formerly government and military owned, respectively) that have privatized and partnered with foreign companies. While the Union government has set regulations about telecommunications (including fees, coverage, etc.) the companies are solely responsible for delivery of telecommunications services.

 <b>Indicator</b>	 <b>Department</b>	 <b>Committees</b>	 <b>Legislation assigning authority</b>	 <b>How is it local?</b>	 <b>How is it Union?</b>
<b>Roads are good or very good (% agree)</b>	<ul style="list-style-type: none"> <li>▪ Highways</li> <li>▪ Bridges</li> <li>▪ Rural Road Development</li> <li>▪ DAOs</li> <li>▪ Rural Development</li> </ul>	<ul style="list-style-type: none"> <li>▪ Township Development Affairs Committee</li> <li>▪ Industrial Zone Management Committee</li> <li>▪ TPICs</li> </ul>	<ul style="list-style-type: none"> <li>▪ Myanmar Highways Law (2015)</li> </ul>	DAO roads are locally (sometimes informally) funded and implemented; S/Rs have authority over non-Union highways and class A rural roads and assist in aspects of Union highways and class B & C roads; S/R budget used for class A roads.	Union highways and class B & C rural roads are union-funded; some class A and non-Union highways also supported and sometimes funded by Union; all departments except DAOs are Union.
<b>Telephones are good or very good (% agree)</b>	<ul style="list-style-type: none"> <li>▪ Dept. of Posts and Telecommunications</li> </ul>	<ul style="list-style-type: none"> <li>▪ National Telecommunications Advisory Committee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Telecommunications Law (2013)</li> </ul>		Union-level tendering and contracts for telcos; Governed by Union legislation; Overseen by Union dept.
<b>Electrical power is good or very good (% agree)</b>	<ul style="list-style-type: none"> <li>▪ Electric Power Planning</li> <li>▪ Hydropower Implementation</li> <li>▪ ESE</li> <li>▪ EPGE</li> <li>▪ Electric Power Transmission and System Control</li> <li>▪ Yangon Electricity Supply Corporation</li> <li>▪ Mandalay Electricity Supply Corporation</li> </ul>	<ul style="list-style-type: none"> <li>▪ National Energy Management Committee</li> <li>▪ Electricity and Water Usage Committee (township)</li> <li>▪ Village Electrification Committee</li> <li>▪ Energy Committee (Parliament)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Myanmar Electricity Law</li> </ul>	S/R has authority to license small power plants and regulate off grid electricity. Village electrification done by S/R. Some services, including basic connection, can be approved by Union ministry at district level.	Constitution allocates authority to Union; all departments are Union; Union signs PPAs, manages distribution, manages numerous power plants, and handles retail sale of electricity.

## 5.6. Sub-Index 6: Transparency

**Transparency is a responsibility of all levels of government, however there are only limited legal requirements for transparency applicable to both the Union and state/region governments.** Notably the Constitution requires that any Union law signed by the president or any state/region law signed by a chief minister be published in the Myanmar Gazette.<sup>87</sup> This provides a degree of transparency on all legislation; however, the gazette is not amongst the most widely circulated publications in Myanmar

(though it is available online). The gazette also publishes a wide range of announcements, notifications and other administrative matters. Many of the larger public investment and infrastructure plans (over MMK 2 billion) that the government hopes to have funded are placed in a Union-run project bank, developed by the Ministry of Planning and Finance (MoPF) with technical assistance from the Myanmar Development Institute (MDI), a government think tank. Some ministry implementing documents are not made public. These are generally internal operating procedures and other internal guidance documents that provide assistance to staff in the implementation of their jobs.

Indicator	Department	Committees	Legislation assigning authority	How is it local?	How is it Union?
<b>State or Regional Budget</b>	<ul style="list-style-type: none"> <li>Planning Department</li> <li>Budget Department</li> </ul>	<ul style="list-style-type: none"> <li>Planning Commission</li> <li>Budget Commission</li> </ul>	<ul style="list-style-type: none"> <li>Budget law</li> </ul>	Numerous S/Rs publish budgets.	
<b>Township Budget</b>	<ul style="list-style-type: none"> <li>Planning Department</li> </ul>	<ul style="list-style-type: none"> <li>Township Plan Formulation and Implementation Committees</li> </ul>		Budget for some township-level departments (such as GAD) is part of the S/R budget.	Budget for most township-level departments are integrated into budgets of Union ministries.
<b>Union laws and regulations</b>	<ul style="list-style-type: none"> <li>Printing and Publishing Enterprise (Mol)</li> </ul>				Under full authority of Union; Published in Union Gazette.
<b>Implementing documents of Union ministries</b>	<ul style="list-style-type: none"> <li>Union ministries</li> </ul>				Under full authority of Union.
<b>Legal documents at state level</b>	<ul style="list-style-type: none"> <li>Printing and Publishing Enterprise (Mol)</li> <li>S/R governments</li> </ul>			S/R can disseminate laws.	Laws signed by the S/R Chief Minister are constitutionally required to be published in the Union Gazette.
<b>New infrastructure plans</b>	<ul style="list-style-type: none"> <li>Department of Planning</li> </ul>	<ul style="list-style-type: none"> <li>Myanmar Development Institute</li> </ul>	<ul style="list-style-type: none"> <li>Notification No. 2/2018 (issued Nov 30, 2018)</li> </ul>	Subnational officials can submit proposed projects.	Union Project Bank is a centralized resource for infrastructure projects.
<b>Public investment plans</b>	<ul style="list-style-type: none"> <li>Department of Planning</li> </ul>	<ul style="list-style-type: none"> <li>Myanmar Development Institute</li> </ul>	<ul style="list-style-type: none"> <li>Notification No. 2/2018 (issued Nov 30, 2018)</li> </ul>	Subnational officials can submit proposed projects.	Union Project Bank is a centralized resource for larger public investment plans.
<b>Land use allocation plans and maps</b>	<ul style="list-style-type: none"> <li>DAO</li> <li>DALMS</li> </ul>	<ul style="list-style-type: none"> <li>Land Use Council</li> <li>VFV Land Management Committee</li> </ul>		CDCs have land use authority.	Land use authority outside of CDCs rests with GAD-led committees and DALMS.

## 5.7. Sub-Index 7: Favoritism in Policy

**Favoritism is an issue at all levels of government, and there is not sufficient evidence to show that it is more endemic amongst either local or Union officials.** By definition, favoritism is in circumvention of laws, rules and regulations, and the responsibility to combat it lies with a broad range of departments whose officials may show favoritism. It is not possible to determine which departments are perceived by the private sector as providing the greatest degree of favoritism. However, specific responsibilities such as granting of loans or procurement may lend themselves to

greater favoritism than other areas. For example, DISI plays an important role in the state-administered SME loan program, inspecting businesses that apply for loans and writing recommendation for them.<sup>88</sup> In areas where businesses note there is significant favoritism in access to loans, it could be appropriate to engage with DISI because of its lending-related functions. Favoritism may exist in connection with informal payments, the focus of Sub-index 4, and the Anti-Corruption Commission has purview to investigate corrupt cases of favoritism. To the degree that favoritism is anti-competitive, it may fall under the purview of the Myanmar Competition Law.

Indicator	Department	Committees	Legislation assigning authority	How is it local?	How is it Union?
Favoritism of local authorities towards businesses with strong connections (all in % agree)	<ul style="list-style-type: none"> <li>Department of Trade</li> </ul>	<ul style="list-style-type: none"> <li>Myanmar Competition Commission</li> <li>Investigation Committee</li> </ul>	<ul style="list-style-type: none"> <li>Myanmar Competition Law (2015)</li> </ul>		<ul style="list-style-type: none"> <li>Union-level legislation, commission, and committee</li> </ul>

## 5.8. Sub-Index 8: Environmental Compliance

**Subnational levels of government have a strong role to play in environmental quality, including numerous areas where they have sole responsibility and can work without depending on the Union government.** DAOs and CDCs have authority over water quality, which includes both residential wastewater treatment as well as industrial waste water, as well as trash collection and recycling. Despite legal authority for water quality, Myanmar's DAOs and CDCs have almost no wastewater treatment plants. CDCs and DAOs are also responsible for water quality in industrial areas, but few steps have been taken and declining water quality from industrial pollution is a growing problem.<sup>89</sup> These authorities generally require businesses to clean water before releasing it, but few businesses do this. On occasion, businesses will be shut due to their wastewater pollution, though this seems rare in practice. CDCs and DAOs are also responsible for trash collection, recycling, and municipal

dumps. In Yangon, most waste is organic and deposited at landfills. Only about 5 percent of waste is recyclable.<sup>90</sup> Illegal dumping is a significant problem, and in Yangon has been estimated at 300 tons daily.<sup>91</sup>

**Overall responsibility for environmental quality, and regulation of pollution, lies with the Union government.** There is important Union legislation on the environment, including the Environmental Conservation Law, as well as departments focused on the environment, such as the Department for Environmental Conservation. The Environmental Conservation Law also mandates the use of environmental impact assessments for many types of investments, which must receive Union-level approval at the MIC. However, much of the regulatory framework at the Union level is dispersed amongst sectoral ministries, a result of the many sectoral laws containing environmental provisions. For example, the Oilfields Act mentions restrictions on pollutants from oil fields, while the Factories Act mentions restrictions on pollution and requirements for wastewater treatment for factories.<sup>92</sup> Licensing ministries

also have an important role to play in compliance. The Department for Environmental Conservation does not have authority to sanction businesses, and instead depends on licensing departments to revoke their license or take other action against non-compliant businesses.

 <b>Indicator</b>	 <b>Department</b>	 <b>Committees</b>	 <b>Legislation assigning authority</b>	 <b>How is it local?</b>	 <b>How is it Union?</b>
<b>Overall environmental quality is good or very good</b>	<ul style="list-style-type: none"> <li>▪ Department of Environmental Conservation</li> </ul>	<ul style="list-style-type: none"> <li>▪ Environmental Conservation and Climate Change Committee (Union, S/R, District, Township)</li> <li>▪ Green planning and Implementation Management Committee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Many Environmental Conservation Law</li> </ul>	Local authorities responsible for wastewater treatment, recycling.	Most environmental protection provisions in Union laws; DEC is part of Union Ministry.
<b>Severity of pollution in state or region (is severe or very severe)</b>	<ul style="list-style-type: none"> <li>▪ Department of Environmental Conservation</li> <li>▪ Many (sectoral)</li> <li>▪ Pollution Control and Cleansing Dept (YCDC)</li> </ul>		<ul style="list-style-type: none"> <li>▪ Environmental Conservation Law</li> <li>▪ EIA Procedures (2016)</li> </ul>	YCDC has pollution control committee; DAOs have responsibilities such as waste water treatment.	Most pollution related provisions are in Union laws, and regulatory responsibility with Union ministries; DEC conducts water quality tests across sectors. EIA regulations are union-level and EIAs are cleared by MIC.
<b>Guidance from local authorities on environmental compliance (% yes)</b>	<ul style="list-style-type: none"> <li>▪ Department of Environmental Conservation</li> </ul>		<ul style="list-style-type: none"> <li>▪ Environmental Conservation Law</li> </ul>	Provide local-level information sharing sessions through subnational offices.	Rules and regulations on environmental compliance are Union-level.
<b>State support for water saving (% yes)</b>	<ul style="list-style-type: none"> <li>▪ CDC</li> <li>▪ DAO</li> <li>▪ Directorate of Water Resources and Improvement of River Systems</li> </ul>	<ul style="list-style-type: none"> <li>▪ Electricity and Water Usage Committee (township)</li> </ul>		CDC and DAOs are responsible for water supply.	
<b>State support for waste recycling (% yes)</b>	<ul style="list-style-type: none"> <li>▪ CDC</li> <li>▪ DAO</li> </ul>			CDCs and DAOs are responsible for recycling.	

## 5.9. Sub-Index 9: Labor Recruitment

**Economic governance as relevant to labor recruitment is almost exclusively a matter handled by the Union government.** That labor recruitment is heavily controlled by the Union government is not a surprise, given that it is comparatively easy for labor to move between different state/regions. Labor recruitment happens by businesses directly, through recruitment agencies (either physical or digital), through networks and through the Department of Labour's "Labour Exchange Offices." These offices are a remnant of previous governments but still play a role in assisting both public and private sector to recruit workers (for public sector, this applies only for non-commissioned officers). There are a total of 91 Labour Exchange Offices.<sup>93</sup> They also organize job fairs and provide labor cards, which workers need when entering various types of formal employment. These Labour Exchange Offices are part of the Union-level MoLIP and under the full control of the Union government.

**Myanmar's education system, which provides the general, university-level and technical education that should create a skilled workforce, is also under the control of the Union government.** The Ministry of Education is a

Union ministry, and all staff in the education system are Union employees. Curriculum are designed at the Union level. Technical and vocational education is also part of the Ministry of Education. Although there are schools, universities and TVET institutions across Myanmar, state/region and local officials are limited in their ability to shape their performance. Some TVET schools noted that they can conduct certain locally-driven trainings, but may need Union approval for funds if private funding is not available.

**While not specifically contained in Sub-index 9, subnational governments play an important role in labor dispute resolution.** Under the authority of the Union government's Settlement of Labour Dispute Law, each township is charged with establishing a "Conciliation Body" to help negotiate some types of labor disputes. As well as township-level government officials, this body includes numerous local representatives from both businesses and workers, as well as community leaders. At the state/region level, there is an Arbitration Body comprised of state/region level government officials as well as representatives of businesses and workers and community leaders. Subnational levels of government have significant authority in the formation of these bodies and in their discharge of their duties.<sup>94</sup>

Indicator	Department	Committees	Legislation assigning authority	How is it local?	How is it Union?
Percentage of business costs spent on labor training	<ul style="list-style-type: none"> <li>▪ DBE</li> <li>▪ DHE</li> <li>▪ TVET</li> </ul>	<ul style="list-style-type: none"> <li>▪ Township education committee</li> <li>▪ 14 sectoral skills committees</li> </ul>		Some mechanisms for local input on skills needs.	Union controls Ministry of Education and all education-related laws. Budget, employees, and curriculum determined by Union.
Ease of labor recruitment for manual workers, technicians, accountants, supervisors and managers	<ul style="list-style-type: none"> <li>▪ DoL</li> <li>▪ DBE</li> <li>▪ TVET</li> <li>▪ DHE</li> <li>▪ Ministry of Industry Training Centers (1-6)</li> <li>▪ SME Center</li> </ul>	<ul style="list-style-type: none"> <li>▪ Township Education Committee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Employment Restriction Act (1959)</li> <li>▪ Education Law</li> </ul>		Union controls Ministry of Education and all education-related laws. Budget, employees, and curriculum determined by Union.

## 5.10. Sub-Index 10: Law and Order

State/region have some power to improve the functioning of courts through the power of state/region High courts to supervise lower courts. This constitutionally-bestowed authority for state/region high courts is not accompanied by details, however there may be scope to

improve the duration of cases, amongst other issues.

**Law and order is an area that is closely associated with the Union government, with the Myanmar Police Force having primary responsibility.** The police force is part of the Ministry of Home Affairs, a Union Ministry under a military-appointed minister. State/regions do not have significant formal influence over the police force.

Indicator	Department	Committees	Legislation assigning authority	How is it local?	How is it Union?
Legal system will uphold property rights and contracts (% agree)	<ul style="list-style-type: none"> <li>Courts</li> <li>Attorney General</li> </ul>		<ul style="list-style-type: none"> <li>Contract Act 1872</li> </ul>	S/R high court supervises lower courts.	President appoints S/R High Court Chief Justice; Contract law framework is from Union law.
Provincial courts judge economic cases by law (% agree)	<ul style="list-style-type: none"> <li>Courts</li> </ul>		<ul style="list-style-type: none"> <li>Contract Act 1872</li> </ul>	S/R high court supervises lower courts.	Contract law framework is from Union.
Court judgements are enforced quickly (% agree)	<ul style="list-style-type: none"> <li>Police</li> <li>Courts</li> </ul>				Police are a Union-level department.
Very good or good assessment of security situation	<ul style="list-style-type: none"> <li>Police</li> </ul>	<ul style="list-style-type: none"> <li>Township Stability Joint Body</li> <li>Emergency Response Management Committee</li> </ul>		Local level bodies exist on stability and security.	Police are a Union-level department.

## 5.11. Other Factors Shaping Economic Governance Perceptions in the MBEI

**Because of the significant horizontal and vertical integration in Myanmar's governing structure, MBEI results often reflect shortcomings beyond just a single department or level of government.** For example, Myanmar has made strides in improving budget transparency in recent years. Each of the three states visited for fieldwork produced citizens' budgets, which were readily available online. Despite this, only 6.3 percent of firms said that they had access to the state/region budget. The issue, as noted by a government official in one state/region, is publicizing the budget. He noted that there were

"limited resources and info to share to the public."<sup>95</sup> The official noted that they give a printed copy to each village/ward leader and to other respective departments, and also have a copy in their department library and other libraries. However, they do not have budget to conduct a publicity campaign on TV or radio, and few people visit the regional government website where the budget is also available. Therefore, responses on transparency may actually better reflect the lack of education and awareness raising about the publicly-available budget, more than the transparency of the budget itself. It is nonetheless incumbent on government to engage in publicity campaigns and awareness raising, which is an integral part of transparency.

**Communications challenges were raised by a few departments, who noted these shortcomings likely affected public and business**

**perceptions about government.** They noted that more could be done to communicate with the public generally, and the private sector in particular, about information and plans. One department noted that communication failures had at times caused public responses, such as boycotts and demonstrations against a factory.

**Infrastructure issues which affect business also affect public service, hindering their delivery and potentially affecting the perceptions of business.** While much of Myanmar's government still relies on paper-based record keeping, departments are starting to adopt computers for basic functions such as typing up official documents and email. However, government offices are sometimes delayed in implementing their responsibilities because electricity problems prevent them from typing up documents or communicating with their head office via email.<sup>96</sup> These government offices suffer from exactly the same business environmental challenges that affect private sector.

**Factors such as topography may influence sub-indices such as infrastructure, and businesses may sometimes not be able to differentiate when issues are driven by topography versus government performance.** For example, Ayeyarwaddy Region faces significant challenges in building and maintaining road infrastructure due to its climate, which is among the rainiest of any state/region in Myanmar. This, combined with the numerous waterways requiring bridges and the many low-lying areas that can flood, make it amongst the most challenging states for road infrastructure. Despite this, Ayeyarwaddy's budget allocation for infrastructure does not seem to take into consideration its geographical and topographical characteristics. This can cause negative perceptions amongst the business community, who must deal with these infrastructure shortcomings. While there are certainly governance issues that affect outcomes, such as allocation of funds, natural factors also play an important role.



*YCDC Official explaining about the sewage system at the site*

# 6

## Conclusions

**Economic governance in Myanmar depends on a significant number of actors, often working together either through horizontal or vertical integration and collaboration.** This model of governance makes it difficult to assign responsibility for an outcome to a specific department or level of government. It can decrease efficiency and clarity about economic governance processes. However, it can also facilitate the participation of other views in the decision-making process, making it more consultative and inclusive. While this type of governance runs the risk of slowing some processes, it may also serve to insulate against corruption. After all, it is much harder and costlier to bribe a committee full of decision-makers than it is just one. Given that inclusiveness is an important goal to promote, committees could strive for increased efficiency and clarity without eroding their inclusiveness or consultative role.

**Economic governance remains heavily concentrated at the Union level, and the results of the MBEI should not be used to place undue blame for outcomes on state/regions.** Much of the legal framework of economic governance remains with the Union parliament, and the rules, regulations, and procedures that shape its implementation with Union ministries. The structure of the civil service, in which all but one department are staffed with Union civil servants, also reflects the continuing pre-eminence of the Union level in economic governance.

**Despite the significant powers of the Union, there are areas within the MBEI where economic governance is highly local, and where state/regions have significant scope to improve local economic governance.** These include:

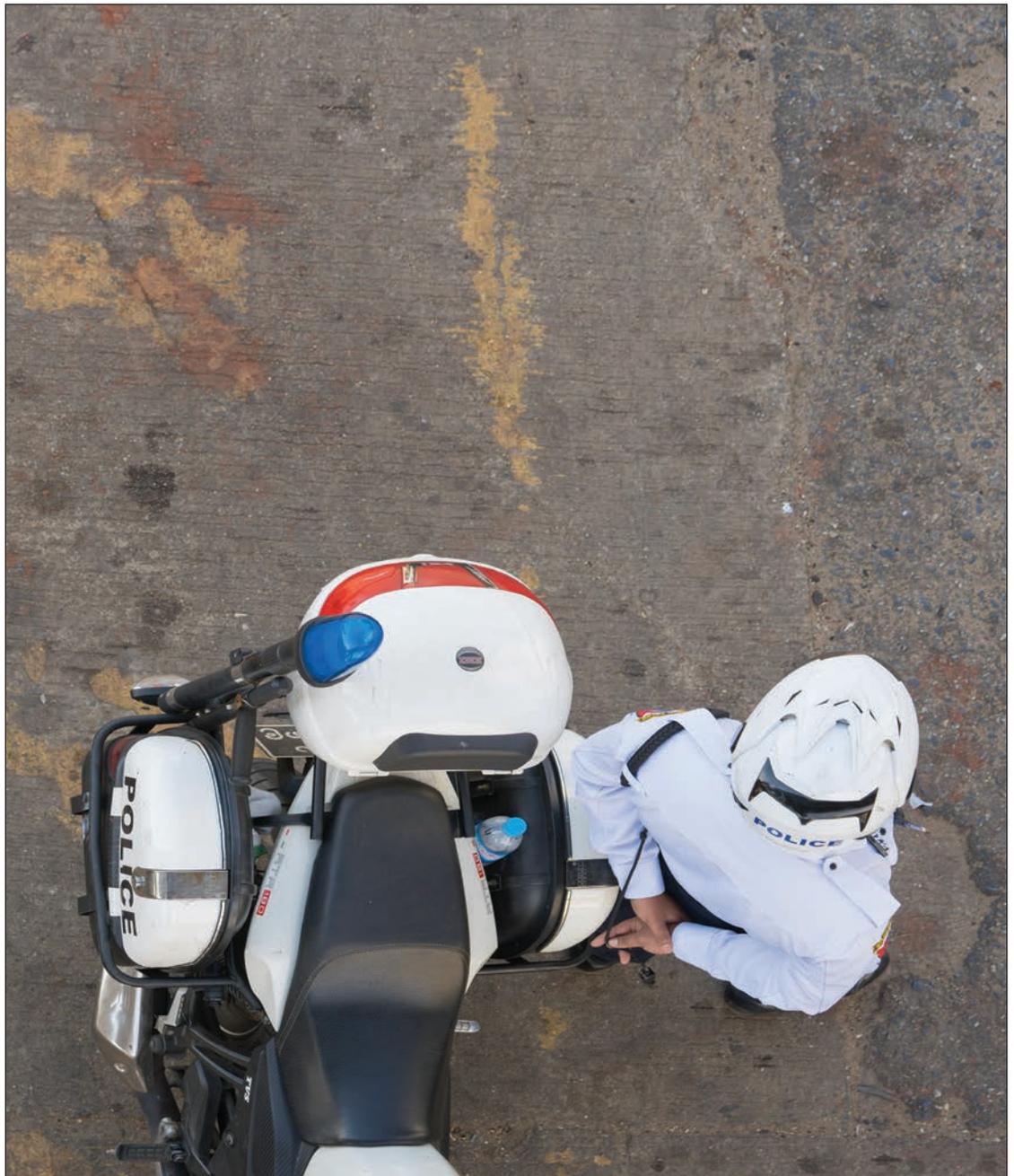
- **Sub-index 1:** DAO and CDC licenses; recommendation letter requirements for licenses
- **Sub-index 2:** Sub-national land committees
- **Sub-index 3:** DAO and CDC inspections (construction, sanitation, other)
- **Sub-index 5:** DAO and CDC managed road infrastructure; CDC-controlled electricity supply corporations; state/region funded Class A roads & consultation process on class B & C roads;
- **Sub-index 8:** Water quality; subnational environmental inspections; waste management; recycling
- **Sub-index 10:** State/region courts

**Beyond the framework and implementation, the personal dedication and effort of elected leaders and civil servants is important and can shape outcomes.** Leaders and high-level civil servants have significant authority over staff working under them. They have latitude to demand improved performance such as timely and accurate submission of work. A leader can, for example, demand that a case report is filed within one business day or discipline staff if it is not done. However, because MBEI does not track the individual and many civil servants move between state/regions regularly, it is difficult to capture this individual leadership in the MBEI.

**Lastly, chief ministers are taking on increasing authority and as they do, are increasingly responsible for local economic governance outcomes.** Administrative reforms have brought the GAD much more significantly under the

control of the chief minister. The GAD is the single most important department at the township level, because it is (comparatively) well-resourced, in charge of many committees, and ubiquitous. When the GAD was moved to the Union Ministry of the President's Office in 2018, it also reshuffled the reporting lines for GAD at the state/region level, so that they now report directly to the chief minister. This, along with the state/region government authority over DAOs and the new constitutional powers given to state/regions in 2015, translate to an increasing responsibility amongst chief ministers for local economic governance outcomes.

**The analysis of governance actors in this report is the first part of Myanmar's economic governance story and will be followed by a second report that examines how and why subnational levels of government can excel in economic governance.** Despite the relative consistency of the legal and regulatory framework, some geographical regions and actors have excelled in the eyes of the private sector, while others have lagged. The second report will examine case studies of best practice, examining how departments and committees work within certain confines to improve local economic governance.



*Traffic police on duty in downtown Yangon*

**ANNEX 1**

# Fieldwork Methodology (detailed) and Interview Questions

**Engagement with business**

- What are your key engagements with business (we should already know this)?
- When a business comes to you with a particular problem, how do you know which level of government should make the decision?

**The legal and procedural framework**

- In Myanmar, the parliament passes laws. Rules are written by Ministries, who also issue orders, notifications and directives. What other types of written instructions do you get from higher levels of government?
- For this department, what laws, rules, etc. help you understand the specifics of how to do what you are supposed to do?
  - What do you do when these documents do not clearly give instructions for the case you are facing?
- Do you have a source that contains all of the legislation, rules, regulations, notifications, directives and orders relevant to this department?
- Do you have a manual or other book that contains all of the procedures for this department?

**Working with others in government**

- Which processes do you have full control over?
- How do you know who has the authority to make a change or authorize you to do something?
- Which processes require you to get approval from other government officials?
  - What is the process for getting that approval?
  - Do personal relations help?
- How do you know who else in government (either vertical or horizontal) you have to work with to make a certain decision?
- Does decision-making take place through consensus and consultation with others in government, even if this is not required by law?
- Have you encountered a situation when the Union ministry favors one approach but the S/R government the other?
  - How do you handle the situation?

**Implementation Challenges**

- How much control do you have over the economic governance metrics on which MBEI assesses you?
- If a process is heavily controlled by the Union ministry, what small things can you do to try to make it work better on the ground?
- Do you often waste time waiting for approval?
  - When?
  - Why?
  - What do you do to try to speed things up?

### Comparative Experience

- Have you previously worked in another township?
  - How did the processes for getting stuff done vary in that township?
  - Are processes all written, or do you also depend on verbal instructions?
- Do processes regularly change?
  - If so, how do you find out about it?
  - Can you influence it?
  - How does information work its way up the chain?
- Are there other departments in this township that are able to be more effective or flexible?
  - If so, why can they do that?
  - How can you also adopt that?

## Endnotes

1. For a full methodology of that study, see Myanmar Business Environment Index pg. 21.
2. To read any of The Asia Foundation's series of reports on governance in Myanmar, visit: <https://asiafoundation.org/tag/myanmar-governance-discussion-paper-series/>
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6. Canada's Institute of Governance, 2002.
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19. Malesky, Edmund, et al, 2019, pg. 13.
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22. Field Research Interviews
23. The Asia Foundation, "State and Region Governments in Myanmar," Yangon, 2018.
24. A full list of additional Schedule 2 and Schedule 5 authorities in the 2015 amendments is available in Annex D of The Asia Foundation, 2018.
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26. Bissinger, Jared, "Local Economic Governance in Myanmar," Yangon: The Asia Foundation, 2016.
27. The Asia Foundation, 2018, pg. 58.
28. Constitution of the Republic of the Union of Myanmar, Naypyitaw, 2008, Article 288.
29. The Asia Foundation, 2018, pg. 58.
30. Interview 18
31. Interview 18; Bissinger, Jared, 2016.
32. The Asia Foundation, 2018, pg. 58.
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36. Municipal Governance in Myanmar: An Overview of Development Affairs Organizations,” Yangon: The Asia Foundation, Policy Dialogue Brief Series, 2015 <https://asiafoundation.org/publication/municipal-governance-in-myanmar/>, pg. 9.
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38. For more information about the township as part of the overall governance structure, see The Asia Foundation, 2018. For a better understanding of local municipal governance, see Arnold, Matthew et al, 2015. For more information on economic governance at the township level, see Bissinger, Jared 2016.
39. Interview 1
40. Interview 18
41. Interview 09
42. In late 2018, the Myanmar government transferred the GAD from the military-controlled Ministry of Home Affairs to the civilian-led Ministry of the Office of the Union Government. In a press conference on Dec. 22, 2018, the government noted that the change was part of arrangements being made “to reduce central control in preparation for a federal union administrative system that would be established in the future.” See Global New Light of Myanmar, “Presidential Spokesperson Explains Pension Increase and GAD Move,” Dec. 22, 2019. <http://www.globalnewlightofmyanmar.com/presidential-spokesperson-explains-pensions-increase-and-gad-move/>
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45. Interview 09
46. Interview 14
47. Interview 08
48. Government of the Union of Myanmar, “Vacant, Fallow and Virgin Lands Management Central Committee,” Letter No. 12/2018, October 30, 2018, [http://www.burmalibrary.org/docs25/2018-10-30-VFV\\_Notification-en.pdf](http://www.burmalibrary.org/docs25/2018-10-30-VFV_Notification-en.pdf)
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52. For additional information, see Government of the Republic of the Union of Myanmar, “National Employment & Skills Development: About NESD,” <http://www.nesdmyanmar.org/about-nesd/>.
53. Interview 11
54. For additional information, see Government of the Republic of the Union of Myanmar, “National Employment & Skills Development: About NESD,” <http://www.nesdmyanmar.org/about-nesd/>.
55. Interview 11
56. Interview with member of Kyaikto Township Management Committee
57. A 2014 UNDP report on S/R governance in Mandalay contains information on committees and breaks down their roles into 3 discrete functions: Management, Support and Coordination. See United Nations Development Program, “The State of Local Governance: Trends in Mandalay,” Yangon, 2014, [http://www.burmalibrary.org/docs21/UNDP-2014-The\\_State\\_of\\_Local\\_Governance-Trends\\_in\\_Mandalay-en.pdf](http://www.burmalibrary.org/docs21/UNDP-2014-The_State_of_Local_Governance-Trends_in_Mandalay-en.pdf).
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59. Interviews with various township officials
60. For the township labor dispute resolution body, see Government of the Republic of the Union of Myanmar, “Settlement of Labor Disputes Law,” Chapter 3, Article No. 10, 2012.
61. Constitution of the Republic of the Union of Myanmar, 2008, pg. 134.
62. Constitution of the Republic of the Union of Myanmar, 2008, pg. 134.
63. World Bank, 2019, pg. 47.
64. World Bank, 2019, pg. 47.
65. The Asia Foundation, 2018, pg. 37.

66. Though S/Rs are theoretically in full control of powers under Schedule 2, in practice their exercise of this power can be more complicated. For example, the Mon State Parliament passed a law on land tax in 2012, an area clearly enumerated in Schedule 2. However, the departments did not obey the new law, and after a recommendation from the Constitutional Tribunal, the Mon State Parliament coordinated with the Union President and agreed that the law would become a 'pending' law until all other S/Rs had passed a similar law. This arrangement may have resulted in the relatively newness of the Constitution and governing system, which at the time had been in place for only a year. See The Asia Foundation, 2018, pg. 24 for more information.
67. Interview 10
68. For additional details on the process of hotel licensing, see Jared Bissinger, "Subnational Governments and Business in Myanmar," The Asia Foundation. 2014, pg. 19.
69. Interview 02
70. Interview 09
71. Interview 09
72. Committees are one of a number of different types of groups that bring together multiple actors to work on policy, solve problems, etc. Other names used to describe these types of groups include sub-committee, commission, and body. Because they all share similar traits, we examine them in this section together and refer to them as committees, for simplicity.
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76. Note that in some cases, a particular aspect of the business environment is the focus of more than one indicator. For example, in sub-index 5, indicators review both the percentage of businesses that think electricity is "good" or "very good" as well as the number of hours of lost power in the last month.
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79. Bissinger, Jared, 2016, pg. 10.
80. Constitution of the Union of Myanmar, 2008.
81. Interview 19
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87. Constitution of the Republic of Myanmar, Chapter 4, no. 107 and no. 196 (c).
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94. Interview 08
95. Interview 01
96. Interview 09



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