

Good Practice in Subnational Economic Governance in Myanmar

*Findings from the 2019
Myanmar Business
Environment Index*

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January 2020



The Asia Foundation



DaNa Facility
Empowering Enterprise





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Acknowledgements

The author and the research team would like to thank the many government officials and members of civil society who contributed to this study. Without them generously sharing their time and knowledge with the research team, this report would not have been possible.

The researchers would also like to acknowledge all of the additional contributors and those who reviewed the report for providing invaluable feedback and advice.

Lastly, the research team would like to acknowledge the support of the DaNa Facility and UK Aid, whose support made this research possible.

Any faults in substance or analysis rest with the author.

Preface

Private sector development is a key factor in generating economic growth, employment, and raising people's incomes. The government has an important role in supporting this development, through creating a fair, predictable and efficient business environment. There are many ways that governments can do this, for example making it easy to set up and register businesses, acquire land for their operations, or find information about government regulations. An environment that is business friendly is likely to boost economic development. In Myanmar a good business environment is not just the responsibility of the Union government. The Myanmar Constitution created an important economic governance role for states and regions, which was expanded by further constitutional changes in 2015. It also gave some responsibility to the township level. These constitutional changes have given subnational levels of government a greater role in ensuring a suitable environment for private sector activity.

In 2019, The Asia Foundation released the first ever Myanmar Business Environment Index (MBEI). Based on over 4,800 business interviews, the MBEI consists of 101 indicators under sub-indices such as entry costs, land access and security, infrastructure, informal payments, transparency, environmental compliance, and law and order. These are compiled into an index that allows the identification of strengths and weaknesses of each of Myanmar's states and regions as well as 63 townships.

This wealth of data provided an opportunity for additional research to look deeper into the topic. Firstly, The Asia Foundation published a report titled ***Myanmar's Economic Governance Actors*** which identifies the role of different government actors in shaping the business environment. Like the MBEI it has a focus on subnational governance, and it identifies links between different ministries and government agencies and the MBEI sub-indices. In times of rapidly changing governance structures it also contributes to a better understanding on who has the authority to influence the business environment.

This second paper on ***Good Practice in Subnational Economic Governance in Myanmar: Findings from the 2019 Myanmar Business Environment Index*** takes this research a step further. It attempts to identify the reasons why some states, regions, or townships have scored high or low on a MBEI indicator. The purpose is to identify government successes and good practices that have contributed to a good business environment. It provides examples of how individual government offices even at the township level have shaped the business environment for the better. It also provides concrete ideas for making the business environment better.

We hope the report provides inspiration and guidance for government and non-government actors on how to improve the business environment and to help pave the way for a thriving private sector in all states and regions of Myanmar. This report was generously funded by UK Aid and the DaNa Facility. The opinions expressed in this report are solely those of the author and do not necessarily reflect those of The Government of Myanmar, The Asia Foundation, UK Aid, or the DaNa Facility.

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Yangon, January 2020

Abbreviations

CDC:	City Development Committee
DAO:	Development Affairs Organization
DISI:	Directorate of Industrial Supervision and Inspection
ECD:	Environmental Conservation Department
FDA:	Food and Drug Administration
FGLLID:	Factories and General Labor Law Inspection Department
GAD:	General Administration Department
MBEI:	Myanmar Business Environment Index
MP:	Member of Parliament
SOP:	Standard Operating Procedure
TDAC:	Township Development Affairs Committee
TVET:	Technical and Vocational Education and Training
VFV:	Vacant, Fallow and Virgin

Table of Contents

4	Abbreviations
7	Introduction
8	Methodology
9	CHAPTER 1 The challenges of identifying good practice
11	CHAPTER 2 Where is good practice in local economic governance possible?
13	Union-directed good practice
13	Case study 1: Subnational implementation of Union policy
16	CHAPTER 3 The drivers of good practice
17	CHAPTER 4 Good practice in the legislative and regulatory framework
17	State and region laws, rules, and regulations
18	Case study 2: Variation in market bylaws—comparing Ayeyarwady and Tanintharyi Regions
20	Case study 3: Comparing DAO laws in Mandalay, Magwe, Bago, and Ayeyarwady Regions
21	CHAPTER 5 Good practice in administration and implementation
21	Good practice in policy implementation
22	Case study 4: Road development in Magwe and Phyu
22	Case study 5: DAO licensing in Hinthada
23	Good practice in responsiveness and case management
24	Case study 6: Responsiveness of the Ayeyarwady regional government to pollution
26	CHAPTER 6 Good practice in consultation and transparency
26	Case study 7: Transparency of standard operating procedures in Ayeyarwady Region
27	Case study 8: Budget transparency and outreach by the Shan State government
29	CHAPTER 7 Recommendations
32	Annex 1 - List of indicators examined, by subindex
33	Endnotes

Introduction

Since Myanmar's new constitution came into force, increased decentralization has created new space for subnational experimentation, initiative, and problem solving. These efforts by subnational levels of government offer numerous potential benefits. Local control and flexibility allow local officials to tailor policy and implementation to particular local needs and circumstances. They increase the potential benefits of consultation, as local officials have more scope to incorporate local views. They help local officials address problems in ways that make sense in the local context.

Despite the lack of experience among new divisions of government such as state and region parliaments and cabinets, good practice has started to emerge at the subnational level. Subnational governments have reformed parts of the legal and regulatory framework, exercised new control over implementation, and increased their involvement in transparency efforts and consultation. However, local control is not the same across all of these areas. Rigidities are most evident in the legal and regulatory framework for economic governance, most of which is determined by the Union. While states and regions do not write most laws and regulations, they are often responsible for their implementation, and it is up to them to determine how to implement them in context. Because of this, subnational levels of government are on the front lines of economic governance, responding to the concerns and complaints of businesses and citizens alike.

Good practice at the subnational levels in Myanmar is often the result of individual initiative, local accountability (especially through state/

region MPs), and good collaboration between different parts of government. In areas where powers are decentralized, individual initiative and direct local accountability play an important role in driving good practice. Decentralization is not always directly connected to good practice, however. Central control is not inherently bad, as some matters can be more effectively managed at the Union level, where technical expertise is centered. In Myanmar, good practice often depends on having the right degree of decentralization in important areas, including consultation, transparency, technical capacity, and management, accompanied by strong collaboration between the levels of government.

This report reviews and analyzes current good practices in economic governance by subnational governments in Myanmar. Using data and metrics from the Myanmar Business Environment Index, it identifies a number of good practices at the subnational level. The report first reviews the methodology of the research and the identification of good practice. It then reviews some of the challenges associated with researching good practice and isolating the role of governance in a complex environment, as well as the limitations that subnational officials face when trying to implement good practice. The report then reviews drivers of good practice, as well as examples of good practice in the legal and regulatory framework, implementation, and consultation and transparency. It closes with recommendations for further action that subnational governments may implement to improve local economic governance in the short to medium term.

While states and regions do not write most laws and regulations, they are often responsible for their implementation, and it is up to them to determine how to implement them in context.



Government officials visiting Lagunpyin Yangon CDC water distribution project site in East Dagon Township

Methodology

The purpose of this study is to document good practice in subnational economic governance in Myanmar and to recommend steps that subnational governments can take to improve economic governance. In this study, we use the term “good practice” instead of the more commonly used “best practice.” This language is more fitting for a few reasons. The team was not able to visit all locations and therefore cannot be certain that a practice encountered during research is definitively the best. This means that the research is also unable to determine the incidence of good practices or their presence in other townships or states/regions. Another reason for using this language is that, while practices were certainly good in comparison to other places in Myanmar, there was often room for further improvement. “Best practice” can also be assessed in context, in comparison to other townships in Myanmar, which is certainly a valid approach. Given the limitations of the research and desire to maximize clarity, however, this report uses the term “good practice.”

In order to identify good practice, we use data from a nationally representative survey of nearly 4,800 business firms in all fourteen of Myanmar’s states and regions and the capital, Nay Pyi Taw. This data was collected in 2018 for the Myanmar Business Environment Index (MBEI), a project implemented by The Asia Foundation in Myanmar. We also draw on previous research and analysis, including *The Myanmar Business Environment Index 2019: Measuring Economic Governance for Private Sector Development* and *Myanmar’s Economic Governance Actors*, both of which are also part of the MBEI project.¹ Using analysis from the second of these sources, the research team mapped Myanmar’s governance actors to the MBEI framework. This allows us to determine which governance actors are most likely responsible and able to create change in the various areas studied by the MBEI.

To identify good practice, the team examined the MBEI survey data at a disaggregated level, reviewing responses for each indicator at each of the townships where data was collected.² Townships with either very high or very low scores for a particular indicator were identified, and some exclusion criteria were applied:

- Townships with less than 10 survey responses were excluded, because there is less confidence that an indicator from

such a township is a genuine outlier.

- Geographically remote townships were excluded. While data was collected in Chin State, for example, the lack of an airport in Chin makes these townships quite remote, and revisiting them for this new research would have required excessive travel time, reducing the overall productivity of the fieldwork.
- Conflict-affected townships were excluded. Townships in Rakhine, Southern Chin, eastern Karen, and parts of Shan State are affected by conflict or inaccessible to foreign visitors and were automatically excluded.

Based on the data and these considerations, a number of townships were identified for potential fieldwork. The MBEI contains 101 indicators, however, and each has high- and low-performing townships, resulting in an unfeasibly long list of potential fieldwork locations. Further steps were therefore taken to pare the final list. First, the fieldwork was designed to include at least one indicator from each of the ten MBEI sub-indices. Then, a number of “matched pairs” were selected. These were pairs of townships, one of which performed well and one of which performed poorly on the same single indicator. By visiting two townships and investigating the same indicator, we could compare practices in the two locations and identify the reasons for the discrepancy in scores. There are five indicators for which the fieldwork included a high-performing and a low-performing township. Lastly, the team sought to increase the efficiency of the fieldwork by reducing travel times and maximizing the time available for research during government office hours (9:30 a.m. to 4:30 p.m., Monday through Friday). Based on these factors, a final list of fieldwork locations was established (for a full list of locations and indicators studied, see annex 1).

Fieldwork was conducted in 12 townships across seven of Myanmar’s fourteen states and regions—Ayeyarwady, Shan, Kachin, Mandalay, Magwe, Bago, and Yangon. The fieldwork took place over three weeks in September and October 2019. Follow-up fieldwork was conducted in one additional township in late October. In total, 41 interviews were conducted with a range of government officials, parliamentarians, and other economic governance actors.³

1

The challenges of identifying good practice

The context in which economic governance is implemented varies considerably among Myanmar's 330 townships. There are differences in climate, geography, infrastructure, staffing levels in government offices, budget allocations, literacy rates, and many other factors. The MBEI can and does control for some of these factors, such as literacy,⁴ and this helps to mitigate their effect on the analysis of economic governance. Other factors, however, lack systematic data or suffer from data that is disaggregated and extremely time consuming to collect. These factors nevertheless can affect the local context in which officials are expected to administer economic governance, and they can contribute to a "playing field" that is not level for all townships. This sometimes makes it difficult to interpret the data and distinguish good practice from other contextual factors shaping results, despite efforts in this paper and the MBEI to do so.

Though it is not possible to isolate the effect of many other factors on economic governance, it is useful to review them before moving to the discussion of best practice. There is a wide range of such factors, including but not limited to:

Natural conditions such as geographic differences. These can affect the cost and the government's capacity to deliver infrastructure, among other things. For example, Ayeyarwady Region has many rivers and waterways but few bridges, which are significantly more costly to build than roadways. The region also experiences a heavier monsoon than many other places in Myanmar, increasing the cost of road-related drainage. Factors like these can increase infrastructure construction and maintenance costs.

Market conditions such as the condition of the labor market. Wakema Township and other places in Ayeyarwady suffer from high unemployment rates and few job opportunities, partly as a result of the dense and agriculturally dependent population. This job scarcity makes labor recruitment easier for businesses. While the labor market is partly shaped by governance, other factors such as birth rates also play a role. The strong results from Wakema for labor recruitment may also reflect the ability of businesses to find qualified staff at a lower, more affordable price. In an interview, the local labor exchange office said it had over 5,000 applicants waiting for jobs, and in the preceding month had 318 applicants for just 47 open positions.⁵

Geographic distribution of administrative offices. As discussed in *Myanmar's Economic Governance Actors*, the distribution of government offices is inconsistent among townships. Some departments have just a few offices, located in only some townships. Budget decisions that fund offices are largely made at the Union level, but the presence or absence of an office can affect the ability of local officials to fulfill their responsibilities. It can, for example, reduce the frequency of inspections, because some departments lack the budget to go to more distant townships, or it can increase the time needed to complete procedures, because paper files have to be transported to offices in another township.

Business characteristics that affect procedures. Different kinds of businesses require different governance procedures. For example, the procedure for connecting to the electrical grid varies based on the voltage of the hook-up. Businesses applying for higher voltage connec-

tions, which require Union government approval, must follow a longer procedure. Likewise, labor inspections take longer at larger businesses, because inspectors must cover a larger factory and meet with more workers during the inspection. Holding all other factors equal, inspection times will be higher in townships with larger businesses. Businesses are not equally distributed among all townships, this affects the context of economic governance.

Other characteristics that affect procedures.

Some processes involve alternative procedures, and the choice depends on the specific characteristics of the case. For example, there are a number of ways for a business to obtain a land certificate. Urban land transfer procedures can be more expedient than other types of land transfers. In two townships in Yangon region with only urban land, businesses reported that it took an average of just 30 days to obtain land certificates. Certification of lands that the government has designated vacant, fallow, or virgin (VFV) follows a significantly longer procedure. But both result in a land certificate. The challenge is that VFV lands are not equally distributed across all townships. Some townships, such as Bhamo, have many VFV land applications, while others, like Latha, have none. This contributes to a significantly greater workload per case in Bhamo than in Latha and creates major differences in the economic governance context for land titling.

Frequency of complaints. Complaints are among the most important accountability mechanisms in Myanmar, and they are included in many procedures. When someone complains, it halts the procedure so that authorities can investigate, which can affect a number of things, including the how many inspections or how much time is needed to complete the procedure. The number of complaints is likely to vary from place to place under the influence of factors such as population density or the share of township lands that are VFV.

Differences in understaffing. The vast majority of government offices at the township level are understaffed, according to the official guidelines. Variation in staffing levels can affect the ability of township offices to meet deadlines or improve processing times. Townships have no control over staffing levels for higher-ranking civil servants (staff officer and above) and limited power over staffing of lower-ranking civil servants, which is heavily shaped by the local labor market.

Having a strong counterparty to engage with.

Officials in a few townships noted that consultation and private-sector engagement were easier when there was a good private-sector engagement partner, such as a local business association, to facilitate information dissemination. For example, Wakema Township had an association of rice millers, and one township official said they always engaged with them to help disseminate information, which they viewed positively.

Conflict. Some of the townships surveyed are either partly or wholly conflict affected. Government often approaches economic governance issues in these areas differently. For example, the Development Affairs Organization (DAO) in a conflict-affected area visited for another Asia Foundation project explicitly said they did not collect any taxes because they did not want to anger the locals. Conflict can also increase the time needed to complete procedures—for example, a land survey needed for titling. In one conflict-affected township, government officials estimated that 5 percent of applications were delayed by conflict, often due to the inability to complete an inspection. Conflict can be intermittent, so it might delay an application without making it impossible to complete.

These various factors can have a significant effect on the ability of officials to effectively and efficiently implement economic governance. They can also affect businesses and shape their views of economic governance. Lastly, they can complicate interpretation of the data, because it sometimes is not clear which factor or factors are driving results. One example of how contextual variation can affect data interpretation is a case noted above on the speed of the land certification process. Speed is often used as a proxy for quality of practice—quick turnaround times equate to good practice. In some townships, however, government officials have other considerations or priorities that affect processing times.

This is the case with land certificates, which can be granted through numerous legal channels, including the VFV lands committee, which is charged with reviewing applications from individuals and businesses to use VFV lands. On the one hand, the VFV lands committee is required to review and make decisions on applications in a timely fashion. The VFV rules include a series of deadlines:

- A VFV application must be publicly announced, and 30 days allowed for

objections.

- If there are objections, the township department must review them and report to the state/region task force within seven days. The task force commissions an inspection, which must be completed in seven days.⁶
- If there is no objection to a VFV application, the township department has seven days to submit the case to the district, which in turn has seven days to submit the case to the state/region department. The state/region department then has seven days to submit the case to the state/region task force.⁷

According to one interviewee, who is part of a VFV township committee, the process takes three months, as long as there are no complaints.⁸ A complaint, however, can significantly increase the amount of time it takes to review the application.

On the other hand, VFV land applications can be complicated and politically sensitive and involve numerous stakeholders. These complications often stem from traditional land claims by farmers or others who have a history of land use but whose claims have not been recognized or formalized by the government. Because of complications like these, VFV land committees are very reluctant to make decisions without consensus. One member noted that, while they want to process applications quickly, they do not want to be “rushed into mistakes.” Because good historical records of ownership and land use are often unavailable, government officials note that they need active and well-documented consultations with all stakeholders. The VFV committee member noted that “if the committee decides quickly and makes a mistake, they will be held accountable.” Because of this, they “want to avoid an emphasis on speed and focus on thorough consultation.”⁹

This dynamic makes it challenging to interpret data on the length of time needed to get a land certificate. A response indicating that a long time was required may be a sign that a government officer was trying to extract an informal payment (bad practice). However, it may also indicate an inclusive and comprehensive investigation and period of negotiation in order to obtain an acceptable outcome for all parties (good practice). However, because of the contextual variation, it is not possible to establish a clear relationship between processing times for land certificates and good practice.

The same challenge is present when interpreting data on inspections, which can be an important regulatory function of the state, but which can also be a needless bureaucratic requirement or be used corruptly for personal gain. In Myanmar, inspections generally fall into a few categories:

- Complaint-driven inspections. These inspections, which involve many authorities, demonstrate government responsiveness and are a tool often used to address grievances. Because they are labor-intensive, they are rare and can generally be viewed as an example of good governance.
- Compliance-driven inspections. These inspections, which are conducted by departments such as the Factories and General Labor Law Inspection Department (FGLLID) or the Food and Drug Administration (FDA), are designed to ensure compliance. They are fairly uncommon: in one township, about 10 percent of businesses are visited each year. They can generally be viewed as an example of good governance.
- License- and permit-driven inspections: These inspections, conducted by departments such as DISI, are required as part of a license renewal process. This generally happens one time per year, though some inspections are related to a particular process, such as a construction permit. Their usefulness varies.

Some inspections of businesses are necessary to monitor legal compliance and address complaints. However, the relationship is not simple or linear, making it difficult to separate out good and bad practice in inspections.

Lastly, the communal nature of the decision-making process often makes it difficult to isolate individuals or departments that exhibit and drive good practice. There is significant vertical and horizontal integration in economic governance. This collaboration makes it difficult to determine at a systemic level who is driving good practice. Similarly, significant decision-making is delegated to committees, where the process is somewhat opaque. Because the dynamics among, for example, Myanmar’s 330 Township Management Committees probably vary significantly, it is difficult to draw conclusions about good practice or the role of key officers—for example, the Township GAD.

2

Where is good practice in local economic governance possible?

Improving local economic governance and demonstrating good practice are possible in a range of areas and circumstances. However, local economic governance actors still operate within a system that is meaningfully shaped by the Union government. This system creates boundaries that limit the flexibility of subnational actors to improve local economic governance and engage in best practice. Before reviewing areas in which good subnational economic governance practices are evident, it is useful to review the governance system and the constraints faced by subnational actors. This helps to provide an understanding of when good practice is possible.

The Union government has promulgated a wide range of laws, rules, regulations, and policies that must be obeyed by subnational governments. This hierarchy is apparent in Article 198(b) of the Myanmar constitution, which states, “if any provision of the law enacted by the region hluttaw or the state hluttaw is inconsistent with any provision of the law enacted by the Pyidaungsu Hluttaw, the law enacted by the Pyidaungsu Hluttaw shall prevail.”¹⁰ The areas subject to Union laws are elaborated in the Union legislative list (schedule 1). The areas not subject to Union legislation are elaborated in the state/region legislative list (schedule 2). In 2015, the Union government amended the constitution to expand the powers of state/region governments. An important proviso, however, said that the new powers were “to be carried out within the region or state in accordance with the law enacted by the Union.”¹¹

Union laws, rules, and regulations apply to all subnational levels of government, including DAOs, which otherwise have significant latitude

under the constitution to operate without Union oversight. For example, the Union government issued tender document 1/2017 to provide a governance framework for tendering. This document outlines the processes and procedures for tendering, which are applicable to all parts of government, including state and region governments and DAOs. This means that for tenders under 10 million kyat, the DAO can administer them locally under the oversight of the township development affairs committee (TDAC). However, tenders of more than 10 million kyat must go to the state/region tendering committee for a decision.

With the exception of procedures governed by state and region legislation under Schedule 2 of the Constitution, operating procedures are also the same across the Union for all departments other than DAOs. Some departments, for example, will have forms that must be completed as part of their standard operations. This is the case for both the Directorate of Industrial Supervision and Inspection (DISI) and the FGLLID, both of which have forms for use in business inspections. There is no variation in forms between townships—they all use the same Union government forms. Education is the same: all curricula are centrally developed. As one interviewee at a technical and vocational education and training (TVET) school noted, the “central TVET center is in Bilin. They make the syllabus for all TVET schools.”¹²

Subnational levels of government are also subject to Union civil service rules, which govern pay, pensions, terms and conditions of work, and other aspects of civil servant employment. States and regions are not permitted to change the pay of civil servants, regardless of conditions in the local labor market. They are also

required to contribute to the pension plan out of their own budgets, which can be especially problematic for DAOs, which are wholly dependent on local revenues. The civil service rules also outline disciplinary procedures. A major drawback of this centralized system is that it denies states and regions control over hiring, especially local hiring of upper-level staff who are familiar with the geographic area where they will work.

Most government departments involved in economic governance spend the majority of their time implementing economic governance functions that ultimately fall under Union laws. As such, they have less flexibility to shape the legal and regulatory framework in which they operate, and therefore fewer opportunities to demonstrate good practice. A few departments, notably DAOs and City Development Committees (CDCs) in Yangon, Mandalay, and Nay Pyi Taw are not governed by Union laws and have significantly more opportunity to demon-

strate good practice. Because the freedom to shape the legal and regulatory framework varies significantly between departments, it is not reasonable to expect all departments to demonstrate similar levels of good practice. Instead, it is likely to be more frequent among DAOs and CDCs.

While departments are bound to follow Union laws, rules, regulations, and procedures, they have flexibility to demonstrate good practice in a number of areas, including: (1) legislative areas outlined in schedule 2, the State/Region Parliament Legislative List; and (2) the implementation of both Union and state/region legal and regulatory frameworks. These areas of authority provide scope for subnational governments to demonstrate good practice. Numerous interviewees noted the distribution of authority, stating that law and policy come from the Union while the state or region is responsible for implementation.¹³

Most government departments involved in economic governance spend the majority of their time implementing economic governance functions that ultimately fall under Union laws.

TABLE 1

Constitutional authority and the ability to shape best practice, by level of government

	Level of Government		
	Union	State/region	Township
Areas included in the Union Legislative List (schedule 1)	Parent laws, related laws, regulations, implementation	Implementation	Implementation
Areas included in the State/Region Legislative List (schedule 2)	Related laws, regulations	Parent laws, regulations, implementation	Implementation
Powers that are "entitled to be carried out within the region or state in accordance with the law enacted by the Union"	Parent laws, related laws, regulations	Regulation, implementation	Implementation
Municipal affairs	Related laws	Parent laws, implementation	Regulations (such as bylaws), implementation

Note: Parent laws are the primary legislation shaping economic governance of a sector or issue. For example, the Mining Law shapes governance of the mining sector. Related laws shape the practical implementation of a parent law. For example, the Anti-Corruption Law governs anti-corruption efforts across all sectors and the Occupational Health and Safety Law governs workplaces across many sectors.

Union-directed good practice

In their implementation, states and regions are sometimes directed by the Union to take certain steps, such as initiatives to increase transparency. There are numerous examples of this, including posting rates for business electrical hook-ups (discussed above), posting information and forms from various land laws, and listing key phone numbers on vinyl posters so that the public can call and make complaints. The Union government also requires the posting of parts of the township plan at the township planning office. While these steps do represent

good practice, they are not wholly subnational measures, because they are mandated by the Union government and required of all states and regions. The degree of state/region compliance can vary, however, a key focus of later sections of this report.

In other areas, the Union government has created space for greater subnational control, such as in the decentralization of some budgets, which requires state/region officials to consult and make decisions about spending. The decentralization of funds for road construction is a good example of this, permitting greater local input and allowing decisions to be made by officials who are closer to the issues.

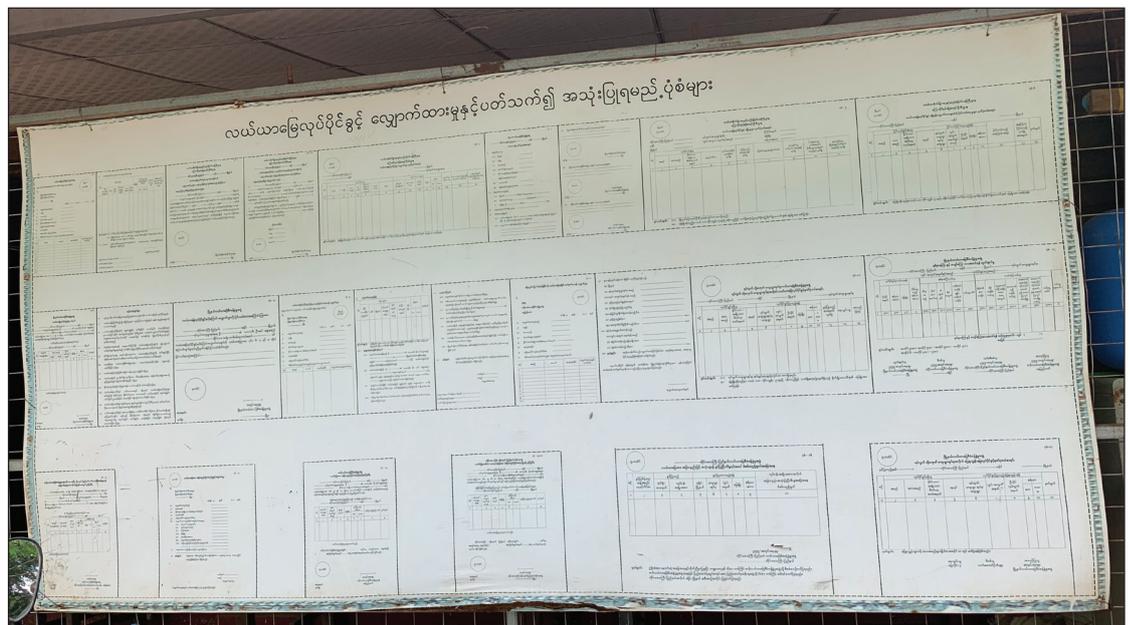


FIGURE 1

*Display of
Information and
forms from the
Farmland Law*

CASE STUDY 1

Subnational implementation of Union policy

There are numerous examples of how states and regions are responsible for implementation, from big important undertakings to mundane ones. Sometimes the Union government gives very specific instructions to a state or region government but allows some discretion in how they implement the instruction. For example, the Union-level Electricity Supply Enterprise instructed states and regions to increase township-level transparency by publicly posting information for businesses about the official costs of installing electrical connections. The states and regions were responsible for the implementation of this directive, however, including practical tasks such as the design of the vinyl posters. The result (figures 1 and 2) was the same information displayed on posters with different designs in each state or region. This illustrates both the role the states and regions can have in implementation and the limits that they face in shaping matters of policy. Despite wide variation in costs, geography, and other factors, the price of installing electrical connections is exactly the same in all states and regions.

စဉ်	ပမာဏ (KVA)	အားပေးစနစ် (ကျပ်)	လျှပ်ကြိုးဆက်သွယ်မှု (ကျပ်)	မီးဆက်စနစ် (ကျပ်)	မှတ်ပုံတင်ကြေး (ကျပ်)	စုစုပေါင်း (ကျပ်)
၁	၅၀	၁,၈၀၀,၀၀၀	၃၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၂,၃၃၅,၀၀၀
၂	၁၀၀	၂,၁၀၀,၀၀၀	၆၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၂,၇၃၅,၀၀၀
၃	၁၆၀	၂,၄၀၀,၀၀၀	၉၆၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၃,၃၉၅,၀၀၀
၄	၂၀၀	၂,၇၀၀,၀၀၀	၁,၂၇၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၃,၉၅၅,၀၀၀
၅	၃၁၅	၃,၃၀၀,၀၀၀	၁,၈၉၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၅,၂၁၅,၀၀၀
၆	၅၀၀	၄,၅၀၀,၀၀၀	၃,၀၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၇,၅၃၅,၀၀၀
၇	၁၀၀၀	၇,၈၀၀,၀၀၀	၆,၀၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၁၃,၈၃၅,၀၀၀
၈	၁၂၅၀	၉,၃၀၀,၀၀၀	၇,၅၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၁၆,၈၃၅,၀၀၀
၉	၂၀၀၀	၂၀၀,၀၀၀,၀၀၀	၁၂၀,၀၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၃၂၀,၀၃၅,၀၀၀
၁၀	၂၅၀၀	၂၅၀,၀၀၀,၀၀၀	၁၅၀,၀၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၄၀၀,၀၃၅,၀၀၀
၁၁	၃၀၀၀	၃၀၀,၀၀၀,၀၀၀	၁၈၀,၀၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၄၈၀,၀၃၅,၀၀၀

မှတ်ချက်။ အထက်ပါ နှုန်းထားများနှင့်အတူ ထရန်စဖော်မာ (ကေမီအေ) အလိုက် ပေးသွင်းရမည့် ကြီးကြပ်မှုမှာ မြို့နယ်အလိုက် မီးသွေးတန်းမှ ကုန်ကျစရိတ်အပေါ် ၁၅ ရာခိုင်နှုန်းနှင့် အုပ်ချုပ်မှုစရိတ်မှာ တပ်ဆင်ဝန်အားနှင့် ဓာတ်အားလျှပ် အကွာအဝေးအပေါ် အခြေခံ၍ တွက်ချက်ထားသည့် နှုန်းထားများအတိုင်း ပေးသွင်းရမည် ဖြစ်ပါသည်။

FIGURE 2
Poster of electrical connection installation prices in Kyaukpadaung Township

စဉ်	ထရန်စဖော်မာ (KVA)	အားပေးစနစ် (ကျပ်)	လျှပ်ကြိုးဆက်သွယ်မှု (ကျပ်)	မီးဆက်စနစ် (ကျပ်)	မှတ်ပုံတင်ကြေး (ကျပ်)	စုစုပေါင်း (ကျပ်)
၁	၅၀	၁,၈၀၀,၀၀၀	၃၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၂,၃၃၅,၀၀၀
၂	၁၀၀	၂,၁၀၀,၀၀၀	၆၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၂,၇၃၅,၀၀၀
၃	၁၆၀	၂,၄၀၀,၀၀၀	၉၆၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၃,၃၉၅,၀၀၀
၄	၂၀၀	၂,၇၀၀,၀၀၀	၁,၂၇၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၃,၉၅၅,၀၀၀
၅	၃၁၅	၃,၃၀၀,၀၀၀	၁,၈၉၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၅,၂၁၅,၀၀၀
၆	၅၀၀	၄,၅၀၀,၀၀၀	၃,၀၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၇,၅၃၅,၀၀၀
၇	၁၀၀၀	၇,၈၀၀,၀၀၀	၆,၀၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၁၃,၈၃၅,၀၀၀
၈	၁၂၅၀	၉,၃၀၀,၀၀၀	၇,၅၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၁၆,၈၃၅,၀၀၀
၉	၂၀၀၀	၂၀၀,၀၀၀,၀၀၀	၁၂၀,၀၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၃၂၀,၀၃၅,၀၀၀
၁၀	၂၅၀၀	၂၅၀,၀၀၀,၀၀၀	၁၅၀,၀၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၄၀၀,၀၃၅,၀၀၀
၁၁	၃၀၀၀	၃၀၀,၀၀၀,၀၀၀	၁၈၀,၀၀၇,၅၀၀	၆,၀၀၀	၂၀,၀၀၀	၄၈၀,၀၃၅,၀၀၀

အထက်ပါ နှုန်းထားများနှင့်အတူ မြို့နယ်အလိုက် အားပေးစနစ် (စီအိုအေ) အလိုက် ပေးသွင်းရမည့် ကြီးကြပ်မှုမှာ မြို့နယ်အလိုက် မီးသွေးတန်းမှ ကုန်ကျစရိတ်အပေါ် ၁၅ ရာခိုင်နှုန်းနှင့် အုပ်ချုပ်မှုစရိတ်မှာ တပ်ဆင်ဝန်အားနှင့် ဓာတ်အားလျှပ် အကွာအဝေးအပေါ် အခြေခံ၍ တွက်ချက်ထားသည့် နှုန်းထားများအတိုင်း ပေးသွင်းရမည် ဖြစ်ပါသည်။

FIGURE 3
Poster of electrical connection installation prices in Magwe Township

3

The drivers of good practice

Before reviewing case studies of good practice in Myanmar, it is important to review some characteristics common to many of the examples. There are good practices evident in a number of areas that connect directly to metrics in the MBEI. Behind these good practices, however, are an important set of incentives and behaviors that are closely connected to good practice in subnational economic governance.

Individual leadership and initiative are among the most important drivers of good practice and positive economic governance outcomes in Myanmar. Often, it is the individual who shapes the institution in Myanmar. This is due in part to the relative weakness of institutions, but also to a hierarchical culture that defers to senior figures. This is somewhat different from countries with stronger institutions, where individual behavior is shaped by an established set of rules, precedents, and norms.

Accountability is an important driver of good practice. In Myanmar, the channels of accountability between subnational governments and citizens are weak. Chief ministers are centrally appointed by the president, not chosen by voters.¹⁴ State/region ministers are appointed by

the chief minister. Department heads and all government officials of the rank of staff officer and above are appointed by the Union. They are not elected, and often are not from the state or region they are appointed to serve.¹⁵ There are channels of indirect accountability if their superior officers choose to use them, but they do not provide the same level of accountability as direct election or appointment. The only members of the state/region government who are directly accountable to the citizens of that state or region are members of parliament, who can engage with and put pressure on other, unelected actors. Because accountability structures are indirect, individual initiative and leadership take on greater importance.

Coordination and relationship management are also important drivers of good practice. Because of the greater role that individuals play in economic governance, outcomes depend heavily on the interpersonal skills, influence, and stature of key leaders. There is an element of consensus-building in governance, though there is sometimes a fine line between consensus-building and deference to seniors, which can give the appearance of consensus when it does not exist.



**Mandalay CDC's
solid waste
transfer station**

4

Good practice in the legislative and regulatory framework

State and region laws, rules, and regulations

States and regions have the authority to pass laws and related regulations in all areas described in the legislative list of state and region parliaments, which is contained in schedule 2 of the Myanmar constitution. Examples of types of laws and regulations that fall under the state and region government include DAO laws, directives from the state/region government, and township DAO bylaws. Under this authority, states and regions have passed a number of laws relevant to private business.¹⁶ Examples include:

- Kachin State Service Business Law
- Kayin State Domestic Business Development Law (6/2016)
- Kayin State Loan Business Law (7/2016)
- Chin State Domestic Industrial and Other Business Law (3/2017)
- Rakhine State Opera House, Cinema, and Video Business Law (1/2018)
- Shan State Domestic (Small) Industrial Business Law (6/2016)
- Sagaing Region Private Water Taxi Systemic Running Law (5/2017)

However, while there are examples of sub-national good practice in the legislative and regulatory framework, they are relatively uncommon. Instead, there is a high level of homogeneity among the legislative and regulatory frameworks of the states/regions. There are a number of reasons for this. One is simply the lack of subnational experience in drafting legislation and regulations. Myanmar's state and region parliaments are new, and the vast majority of MPs have no experience

writing laws. Similarly, many state and region government officials lack experience drafting regulations. This lack of experience is compounded by a history of centralization, in which the departments and functional areas now under the control of state/region governments were previously under Union control and therefore governed by Union laws and regulations. Often, when writing state/region legislation and regulations, these old, centralized laws and regulations are used as a reference point. This contributes to homogeneity among the laws and regulations of Myanmar's states and regions. Sometimes, these laws and regulations will contain exactly the same provisions, word for word, even though they are from different states/regions and approved by different state/region parliaments. For example, the DAO laws from Magwe, Bago, and Ayeyarwady all contain the exact same provision regarding the appeal of a committee decision. They state:

If anyone is not satisfied with the committee's decision, they can appeal to the DAO Director within 30 days... If the Director's answer is not still acceptable, they can appeal to the Minister within 60 days. The Minister's decision is final.

Despite the homogeneity of state and region laws generally, there are examples of legislation and regulations that state/region or township officials have adopted or altered based on local circumstances or other factors. Variation can occur in the content of the laws and regulations, the procedures and specifications that fall under the law, and the degree of codification (some laws lay out specific requirements, while others delegate authority to a committee).

In some states and regions, there is limited scope for township-level variation in the bylaws

of DAOs. In Bago, for example, the region's DAO law notes in Article 97 that each township can shape parts of their own bylaws, which are then submitted to the regional government for approval.¹⁷ The DAO law requires that these bylaws "are not overriding the DAO law and are in line with the DAO law."¹⁸ According to officials from Oktwin, they developed draft bylaws based on previous township bylaws but including updates and findings from township-level consultation.¹⁹ The process involved

the TDAC (which has elected members) and provided an opportunity for public comment, though it is not clear how inclusive this was in practice. The regional government made comments on the bylaws, noting, for example, that the DAO should not give licenses to businesses that use underage labor.²⁰ After the comments, and incorporating township officials' decisions in some areas such as setting license rates, the state/region government issued the bylaws.

CASE STUDY 2

Variation in market bylaws—comparing Ayeyarwady and Tanintharyi Regions

The bylaws for town markets, which are administered by DAOs, are under the full control of state and region governments. They may draft bylaws in any way they choose, customizing procedures, timelines, etc., as they see fit. While in some areas there is little variation in the legal and regulatory framework from place to place, there is some variation in DAO bylaws. In table 2, we compare and contrast DAO bylaws from two different states/regions: Ayeyarwady and Tanintharyi. One of the most notable findings is the difference in details contained in the bylaws. The Ayeyarwady bylaws contain numerous procedural details that help make processes like applications and auction procedures for a market stall clear and consistent. In Tanintharyi, the bylaws leave these matters to a committee to decide. In practice, procedures in both Ayeyarwady and Tanintharyi could function similarly; however, without written rules, it is difficult to assess. The specificity of the Ayeyarwady bylaws does create certainty and reduce the scope for corruption, and as such they are an example of good practice in increasing transparency and consistency in the administration of DAO markets.

TABLE 2

Comparison of Ayeyarwady and Tanintharyi market bylaws

	Ayeyarwady Region	Tanintharyi Region
Document name	Ayeyarwady Region government Municipal Affairs Ministry Bylaws on Ayeyarwady Region market construction, renovations, maintenance, and supervision	Tanintharyi Region government Regulations on DAO markets, private markets, and street/ vendor markets
	Executive Order 5/2015 November 13, 2015	Executive Order 1/2013 August 1, 2013

Application requirements for market stall rental	<p>If there is a vacancy in the market, applicant should submit the following information:</p> <ol style="list-style-type: none"> 1. Name 2. NRC 3. Father's name 4. Address 5. National or not 6. Business type 7. Working capital 8. Work experience 	<p>Generic language only:</p> <p>"Committee has the right to do market-related management for each fiscal year."</p>
Procedure for market stall allocation	<p>If a market stall becomes vacant, the committee has responsibility to announce the vacancy to the general public at least two weeks in advance of award.</p> <p>If there is more than one application for a shop, there will be an auction for the stall:</p> <ol style="list-style-type: none"> a. The highest bidder will receive the stall. b. If the highest bidder cannot make the payment immediately, the second-highest bidder will receive the stall. c. If the second-highest bidder rejects the offer, the auction will restart. 	<p>Generic language only:</p> <p>"Committee has the right to do market-related management such as auction for each fiscal year."</p>
Timeframes for procedures and licenses	<p>The Ayeyarwady bylaws contained numerous provisions outlining timeframes for procedures, license durations, and other specifics. Examples include:</p> <ol style="list-style-type: none"> a. If the owner wants to change a shop's ownership title, the committee will publicly announce the case and allow 15 days to receive any complaints. b. A labor license (to provide manual labor services in a DAO market) will be issued for one year by the committee, with renewable conditions. Those who do not register cannot work in the market as a laborer. The application requirements are: (a) name, (b) NRC, (c) age, (d) father's name, and (e) address. 	<p>No important timelines mentioned for any actions in the whole bylaw.</p>

CASE STUDY 3

Comparing DAO laws in Mandalay, Magwe, Bago, and Ayeyarwady Regions

DAO laws are under the full control of state and region parliaments, and the resulting laws show some differences from one to the next. All of the laws call for a state/region DAO affairs committee, but with differences in structure. The Magwe Region DAO law also introduces selection criteria, noting that only Myanmar nationals can become committee members. The laws also have differences in their language regarding the tendering process. In this area, the Magwe DAO law demonstrates good practice by including provisions that require advance notice of the public tender and discipline for those who violate the rules of the tendering process.

TABLE 3

Comparison of DAO bylaws in Mandalay, Magwe, Bago, and Ayeyarwady Regions

Issue	Mandalay Region	Magwe Region	Bago Region	Ayeyarwady Region
State/region DAO affairs committee structure	At regional level, a seven-member DAO committee, with chair being the minister for municipal affairs and the secretary being the DAO executive officer.	Myanmar nationals are eligible to become members of the committee. The chair is selected once the committee is formed. The DAO executive officer shall be secretary. The election process will be decided by the region government.	At regional level, a seven-member DAO committee, with chair being the minister for municipal affairs and the secretary being the DAO executive officer.	At regional level, a five- to nine-member body, with the chair selected at the same time.
Tenders	The committee has the right to manage the tender process for those lands and buildings owned by DAO (unclear whether this follows president's tendering directive 1/2017).	No mention of tenders in the DAO law.	Separate chapter called "tender and auction management": <ul style="list-style-type: none"> a. To announce 30-day advance notice to the public about tender or auction. b. Submit the discipline note to the minister about the tender or auction. c. Take punishment actions for those who violate tender discipline, including blacklist. 	No mention of tenders in the DAO law.

5

Good practice in the administration and implementation

Good practice in policy implementation

Because of Union dominance of the legal and regulatory framework, subnational good practice is more commonly found in administration and implementation, where there is greater flexibility. Subnational agencies administer both the Union legal and regulatory frameworks and those of the states and regions. While channels of accountability connect the state/region governments both to the Union government and to the citizens of those states or regions, the state/region leadership still has flexibility and control over the quality of implementation.

In interviews, government officials repeatedly noted how good outcomes were due to factors such as “initiative,” “leadership,” and “good collaboration.” While some laws and regulations lay out timelines for work to be completed, others do not, and state/region ministers have the authority to set and enforce deadlines, as they do for extraordinary cases that fall outside of legally established procedures. The situation is much the same for work-product quality, given the challenge of encoding these outcomes in law, and state/region leaders have the authority to set and enforce quality standards for staff output.

State and region governments have the power to improve implementation through the effective recruitment, hiring, and management of civil servants. State and region governments control the recruitment, hiring, management, and training of DAO staff at all levels, including the levels of staff officer and above, which are

managed by the Union Civil Service Board for all government departments other than DAOs. They also have responsibility for the recruitment and management of nongazetted staff, who comprise the vast majority, about 90 percent, of all civil servants in Myanmar.²¹ These staff are recruited by each ministry, not through the Union Civil Service Board, which manages recruitment of higher-ranking, gazetted officers. Nongazetted staff are recruited locally, through labor exchange offices under the Department of Labor. In many areas, government departments complain that they are understaffed and can’t find qualified local hires. While labor-market conditions play a role, state and region governments have room to improve recruitment through targeted efforts, as well as by improving the staff working environment. States and regions cannot change other aspects of civil service management, such as pay or pension obligations, even for staff at the DAO.

Lastly, there is variation in informal or customary practice. It is not possible for government offices in Myanmar, or any jurisdiction, to have specific written procedures for every eventuality. Some subnational offices have sought to institutionalize positive practices despite the absence of any written requirement to do so. Committees play an important role in decision-making, but formal laws, rules, and departmental procedures often provide limited guidance in individual cases. Because of this, committees also have the flexibility to engage in informal or unwritten good practice, such as inviting businesses to committee meetings to present information or share their views on a particular case.

CASE STUDY 4

Road development in Magwe and Phyu

In Magwe Township, over 70 percent of businesses said the roads were good or very good, placing it among the top 10 townships in the country on this metric. A number of factors contributed to the high score, but key among them was the Magwe regional government's push to prioritize the road network in Magwe City, the government seat, the region's economic hub, and a strategic crossroads between the north-south corridor along the Ayeyarwady River and the east-west corridor connecting Rakhine State to the rest of Myanmar.²² This type of budget prioritization makes this case study an example of good practice, not just in implementation, but in creating the legal and regulatory framework.

Often, DAO roads are funded by revenues raised within the town. Some states and regions transfer monies among their DAOs, but never across state/region boundaries. The Magwe DAO, however, received additional funds for road development in Magwe City from the regional minister of development affairs. Before the budget increases came, the Magwe DAO had already developed and costed road projects, based on instructions from the regional minister of development affairs. The regional minister also had prior expertise in the area, including a background in engineering, and was closely involved in road planning and monitoring construction. According to one interviewee, this was the biggest driver of Magwe's improved roads. They noted that "the minister monitors closely in Magwe, on a daily basis, because he is here."²³

Road development in Magwe also benefitted from some other factors. According to interviewees, the local geography makes road construction easier. The weather is mild, and there are no large mountains requiring heavy excavation or elaborate drainage systems. Magwe has ready access suitable raw materials and skilled labor. The DAO also benefits from community contributions, which account for 40 percent of the road budget (the remaining 60 percent comes from the DAO).²⁴ In Magwe, citizens are wealthy enough to afford these contributions, significantly expanding the overall budget for road construction.

In Phyu, a town in the Sittaung Valley of Bago Region, approximately two hours south of Nay Pyi Taw, only 23 percent of businesses characterized the roads as good or very good. Unlike Magwe, Phyu is not a regional hub, and the Bago government has not prioritized road development there. Phyu's urban roads, which are under the authority of the Phyu DAO, are locally funded, but locally raised revenue is significantly less than in Magwe.²⁵ Phyu being a smaller town, its DAO must charge lower fees than DAOs in large cities such as Bago. Because citizens are not as well-off, the DAO struggles to collect voluntary contributions for road construction. These constraints inhibit road development and contribute to local businesses' more negative views of road quality.

CASE STUDY 5

DAO licensing in Hinthada

The MBEI asked businesses how many days it took to get a business license from the DAO. (Townships in Yangon, Nay Pyi Taw, and Mandalay Cities issue business licenses through their CDCs and were excluded from this question.) Across Myanmar, it took an average of 27.5 days to get a DAO business license. Hinthada, however, averaged just 12.3 days, less than half the national average and the fifth quickest in Myanmar.²⁶

One of the most important reasons for Hinthada's efficiency is a longstanding but informal policy of approving most licenses within ten days. This self-imposed time frame has been the rule in Hinthada for over 20 years, according to the DAO, on the rationale that it should not take more than ten days to approve a license. In order to satisfy this schedule, the TDAC meets once every two weeks and reviews applications. Decisions are recorded in the minutes. The Hinthada DAO also noted that experienced personnel are vital to meeting these targets. Both of the key people responsible for DAO licensing have over thirty years of experience, making them efficient at dealing with the community.

There are exceptions to the 10-day policy, however, depending on the type of business. For very small businesses, the process is quick, but if there is a potential fire, health, or noise issue, interdepartmental coordination can lengthen the process. Licenses for some businesses, such as restaurants, may take longer because the fire department is involved. Cases requiring permission from neighbors, unsurprisingly, often take the longest. The DAO also noted that the business community is aware of the 10-day licensing benchmark.

The licensing process in Hinthada is generally similar to that of other DAOs. In the most straightforward cases, an application is followed by an inspection. If no other items are required, the file is sent to the TDAC for approval. While the DAO deputy director sets the licensing requirements (within the parameters of the Ayeyarwady Region DAO law) the Hinthada DAO noted that their requirements are not significantly different than anywhere else. Yet, outcomes were notably better, due in part to the informal 10-day policy. Oktwin DAO, which averaged almost 42 days to grant a license, did not have any formal or informal deadline for issuing licenses.

Good practice in responsiveness and case management

State and region governments and parliamentarians play a key role in responsiveness and managing cases that do not conform to the procedures outlined in Union or state/region laws. In straightforward cases—for example, an application for vacant, fallow, and virgin lands that does not receive any complaints from the general public—the relevant department can normally process the application with limited involvement from outside actors. The outside involvement is often a box-ticking exercise, approving the work of the department or low-level committees.

Many cases are not straightforward, however, and these are generally reviewed by subnational governments in significantly greater detail. These cases are often triggered by complaints, which can stop a normal procedure and require a range of additional steps, such as a field investigation, meetings, or referral of the issue to a higher level of government. Responsiveness almost always includes multiple parts of government, such as one or more departments, the

leadership of the state or region government, and one or more MPs. The review of all cases is guided both by the laws, rules, regulations, and procedures of the relevant department and by other relevant laws, such as those about anticorruption.

Though the majority of complaints come from citizens, businesses can also file complaints with the government. This is important because, like citizens, businesses can suffer negative consequences, such as pollution, from the actions of another business. They have a strong interest in ensuring that laws and regulations are upheld. This is especially the case for small and medium businesses that may not have the political connections of some larger concerns. For these businesses, it is vital that the government respond to complaints of noncompliance in a way that is transparent, fair, and expedient. Of course, it is also important that citizens' complaints about businesses receive a proper response, just as it is important that the government ensure compliance with the law more broadly. For most complaints, the state or region government leadership decides how to address the issue. This is often done by a state/region minister, the chief minister, or the cabinet, with MPs often playing a notable role.²⁷

CASE STUDY 6

Responsiveness of the Ayeyarwady regional government to pollution

Despite earning generally below-average scores on the “environmental compliance” subindex of the MBEI, disaggregated data shows that the Ayeyarwady regional government performs well and is fairly active in environmental issues, especially cases of pollution. As table 4 shows, all six townships in Ayeyarwady rank in the top third of townships in responsiveness to cases of pollution. Another metric, guidance on environmental compliance, suggests that this is not an anomaly. This metric, which reflects the regional government’s level of initiative on the environment, shows that all townships in Ayeyarwady perform well, ranking them in the top half of the survey. These results suggest that there is good practice in this area, and that it is driven by regional government rather than township-level initiative.

TABLE 4

Scores on selected environmental indicators for all townships in Ayeyarwady Region

Township name	<i>Guidance on environmental compliance: township rank (out of 62) and percentage with positive response</i>		<i>In case of pollution, authorities take timely action: township rank (out of 62) and percentage with positive response</i>	
	Rank	Percentage	Rank	Percentage
Wakema	2	65%	4	83%
Hinthada	15	43%	1 (tie)	100%
Pyapone	17	41%	1 (tie)	100%
Maubin	21	38%	11	67%
Pathein	25	36%	7	70%
Pantanaw	31	34%	20	50%

Source: Myanmar Business Environment Index disaggregated data

There are many factors, albeit mostly idiosyncratic ones, that contribute to the strong results, including good coordination between multiple government actors, numerous good practices, strong leadership, and contextual factors. Many government officials in Ayeyarwady explained that strong intergovernmental coordination and collaboration was a key factor to success. Responding to reports of pollution, or more general actions on environmental issues, involves a range of actors, including a number of regional ministers, members of parliament, and departments. The regional minister for agriculture and the environment noted, “it’s all about effective coordination. ECD [the Environmental Conservation Department] alone cannot do it; ECD is one of the components.”²⁸ While different government officials had different views about who was primarily responsible, there was a clear consensus that responsibility was shared and that no one individual or department was solely responsible.

Within the executive branch, the chief minister and cabinet of regional ministers are the most important decision-makers, and their efforts are essential for responsiveness to pollution and many other issues. Within the cabinet, environmental issues are under the portfolio of a regional minister, which in the case of Ayeyarwady is the regional minister for agriculture and the environment. The whole cabinet often plays a role, however, with one government official specifically noting that “the whole cabinet is the driving force”

behind the positive outcomes in Ayeyarwady. At least one cabinet member has taken an important step to improve responsiveness. The regional minister for agriculture and environment opened a phone hotline so that “people can communicate with us easily to take actions in a timely manner.”²⁹ This is an example of good practice to improve communication between government and people and to improve responsiveness.

While they lack authority for decision-making and implementation, MPs also play a vital role in government responsiveness. One MP said that they see themselves as a key force pushing the government to take necessary actions, and that coordination between the regional government and parliament was “important to tackle environmental issues.”³⁰ MPs are the ones who most regularly engage with the public, and they play, according to one MP, a “facilitating role between business and communities as well as the government at different levels.”³¹ They “know the local situations very well” and use that knowledge to report issues to the *hluttaw* and the government so that the latter can take action.³² One MP specifically noted that they were “responsible for providing information to the agriculture minister.”³³ While the involvement of MPs is not always common in regulatory enforcement elsewhere, MPs in Myanmar are the only line of direct accountability between the state/region government and citizens, and therefore MPs sometimes believe that they are accountable within their constituencies even for issues such as this.³⁴

In Ayeyarwady, there was some evidence of good practice among MPs who were described as “more active” in their engagement with ECD.³⁵ Some MPs said they help constituents write letters of complaint.³⁶ They also encourage people to collect evidence and send it to ministers and departments, copying the MP so they can follow up. Because MPs are the only elected members of the state/region government, they also get pressure from citizens to take action. One MP said that people are taking photos and writing complaints on Facebook and “tagging MPs” to share the information with them.³⁷ MPs noted that, given the range of issues they face, they struggle to ask concrete questions about cases, not always successfully.³⁸

Departments also play a role in responsiveness, by providing technical and implementation capacity. For environmental issues, including pollution, the Environmental Conservation Department is primarily responsible. At the subnational level, the primary responsibilities of the ECD are sharing information and responding to cases. While the ECD has the authority to inspect businesses during their initial licensing process, it generally does not conduct regular or unannounced inspections after that. Instead, it inspects solely based on cases and complaints received by the department or other parts of government. ECD also conducts awareness-raising events with the private sector about pollution, but it is unclear how much leverage ECD has to encourage compliance through the available means of withholding recommendation letters for licensing. Beyond the ECD, the regional minister also noted the important overall role of the General Administration Department (GAD), stating, “without GAD at different levels, such as the district and township, working effectively on the ground, it’s not possible at all.”³⁹

The various actors in Ayeyarwady also noted a few other factors that they believe make environmental issues a higher priority in their region. For one, they note that Ayeyarwady has many businesses (especially rice mills) and many people, which government officials suggest may lead to more complaints.⁴⁰ This draws additional attention to these issues, because complaints are often the trigger that puts the wheels of subnational government responsiveness into motion. One MP said that both the parliament and the government were more active on environmental issues because “there is more business activity here, so it’s just generally a more important topic.”⁴¹ Ayeyarwady also has an interest in environmental issues because of the previous “bitter experience” with Cyclone Nargis.⁴²

6

Good practice in consultation and transparency

Subnational levels of government have a vital role to play in consultation as well as transparency, which involves government sharing information with the public.

Good practice in consultation and transparency cuts across all aspects of governance, from the development and passage of laws, rules, and regulations, to implementation, to the resolution of disputes. Subnational levels of government have a vital role to play in consultation—gathering information and viewpoints from the public—as well as transparency, which involves government sharing information with the public. Subnational levels of government play this role because they are spread across the country and regularly interact with citizens from almost every corner of the country. These levels of government are expected to be the “eyes and ears” of the rest of the bureaucracy. If they do not understand the local situation because there is a lack of consultation, it has knock-on effects throughout

government, from road construction to budgeting. Consultation is even more important in a context like Myanmar, where many high-level government officials at the township and state/region levels are from other parts of the country and unfamiliar with local issues, interests, and individuals.

Many actors in government have a responsibility for consultation and transparency. One key group is members of the state/region parliaments. The Union Parliament Law (2014) gives them the right to “release information and records to the public” unless that information is deemed, by law or the *hluttaw*, not for release.⁴³ MPs also act as a conduit between government and citizens, receiving input and complaints from the public and communicating them to

CASE STUDY 7

Transparency of standard operating procedures in Ayeyarwady Region

In 2018, the Ayeyarwady regional government launched a book containing the standard operating procedures (SOPs) for licensing in the region. The book is available for purchase by the public, including the business community, and aims to help them better understand how licensing procedures work. The SOPs are designed to be user friendly. The single volume helps to inform the public about how they can prepare for a procedure. However, the GAD office noted that there are 37 books that contain guidance on licensing for department staff, so the SOPs are designed to summarize and focus on key issues. Some minor or infrequently used procedures have not been included. The book was an initiative of the regional government and covers all departments. Previously, procedures were the same, but they were not collected in a single volume. The Ayeyarwady government’s first SOP book focuses on licenses and covers most, though not all, areas, while also including some information on inspections.

various parts of government. They can also play a similar role in transparency; for example, by receiving information on the budget from the Budget Department and then allowing MPs to release that information to businesses and others.⁴⁴

Government departments also regularly engage in consultation and even encourage ward and village-tract administrators to help with consultation and transparency. Consultation can take place with many target groups for many reasons and be either formal or informal. Many government officials mentioned the regular, informal consultations they have with businesses to discuss issues and challenges.⁴⁵ Sometimes a consultation will focus on a specific area or need, such as choosing a topic for development of training. These informal consultations are at the discretion of the local training school, and can take the form of meetings, surveys, or other means.⁴⁶ Often, consultation is not targeted at the private sector directly. Instead, businesses have participated in broader public consultations with all citizens, raising their

business-related concerns in those forums. One official noted that private-sector consultation is easier when there is an institutional private-sector counterpart. In Ayeyarwady, one government official noted that their engagement with the town's rice millers was much easier because there was a formal rice millers association in the township.⁴⁷

While government can create requirements to engage in consultation and transparency, their effectiveness depends on the willingness of government officials to listen and honestly communicate with businesses and citizens. Meaningful consultation seems to have a strong relationship with good outcomes in Myanmar. Consultation can also generate other important effects, such as increasing accountability between governments and individuals or encouraging complaints to drive accountability. Officials also view consultation as an important step before taking more forceful measures. They use consultation to educate, in hopes of avoiding alternatives like regulation or force to promote compliance.⁴⁸



***Municipal officials
 visiting Mandalay
 CDC's pumping
 station***

CASE STUDY 8**Budget transparency and outreach by the Shan State government**

While businesses generally judged the transparency of government documents to be poor, the Shan State government was viewed as significantly above average in the transparency of its budget. Of the 60 townships where one or more businesses rated the transparency of the state/region budget, 25 had no business that described the budget as available. The percentage of businesses that said that the state/region budget was available in the median townships was 2.53 percent.⁴⁹ Shan State was an exception to this poor performance. The four townships with the highest proportion of businesses that said the state/region budget was available were all in Shan State. In Taunggyi, a large city where many businesses were surveyed, 50 percent said that the state/region budget was available. This is a notable divergence from the low scores found in many other townships.

The Shan State government has taken active steps to publicize its state budget. Until 2018–19, the government’s strategy was to rely on MPs to disseminate the budget. They recognized that this method had some shortcomings, noting that time and logistics prevent individual MPs from reaching out to everyone.⁵⁰ According to the Shan State Planning Department, they also pioneered an initiative to post the state budget in each township. This initiative, which was taken from an example in India, was proposed by the state government and approved by the Union government, and it has now become common practice across the country.⁵¹ The more positive responses from businesses in Shan State, however, suggest either that their approach to transparency is more mature or that transparency is a higher priority for state officials. Government officials also note that businesses have good accessibility to budget information. They are interested in bidding on tenders, and the government has noticed an increase in tender bids since the transparency efforts started.⁵²

Budget transparency and raising awareness do not begin only after the budget is complete. Instead, government officials say they work to make the budget development process inclusive, seeking buy-in among a wide range of stakeholders during the development process. Government officials said that many departments and committees are involved in the budget process, and that each actor is responsible for some part of the process.⁵³ They also noted that early consultation is important for creating broad buy-in. One official said that good outcomes were partly due to the “collaborative approach” of the Shan State government.⁵⁴ The chief minister delegated to relevant ministers, supporting them when needed but not micromanaging.⁵⁵

Since the MBEI survey was conducted, the Shan State government has continued to take steps to improve the budgeting process and budget transparency. With the support of the Renaissance Institute and The Asia Foundation, Shan State implemented a Citizen’s Budget for the first time in 2018–19. The state government drew inspiration from the Union when considering how to do outreach. They noted that the Union government issued a press release with budget data, so they did their own press release. They noticed on television broadcasts that the Union had debates, so they decided to have debates in the Shan parliament as well.⁵⁶ The Budget Department noted that these transparency efforts were solely the decision of the Shan State Cabinet. They were initiated by the Shan State planning and finance minister, not based on requirements from Nay Pyi Taw.⁵⁷ They provide a strong example of how states and regions can take steps to improve transparency and consultation far beyond what is required by the Union.⁵⁸

7

Recommendations

Subnational levels of government have varying degrees of control over policy, implementation, transparency, and consultation, though in each of these areas there is significant scope for good practice. States and regions have not yet taken full advantage of their power to shape laws and regulations. While accountability has improved, there are still areas where better accountability would contribute to good practice. Implementation of the legal and regulatory framework is an area with significant subnational control, with many opportunities to spread good practice across the country between like levels of government.

Many of these recommendations should therefore include peer-to-peer exchange and learning. Broad recommendations can provide general guidance, but local officials engaged in day-to-day economic governance are the ones best placed to help others understand how to effectively implement recommendations. They are also best placed to review the MBEI's findings and distinguish good practice from other factors affecting economic governance outcomes. Together, these factors make peer-to-peer exchange and learning a valuable tool for spreading good practice in economic governance in Myanmar.

Subnational legal and regulatory framework

For state/region laws that include business registration and licensing procedures, reconsider the need for recommendation letters as a prerequisite for licensing. Currently the number of recommendation letters required is a considerable burden to businesses.

Clarify timelines in state/region laws and township bylaws by introducing maximum processing times where appropriate. These time limits should always provide exceptions for government officials to appropriately review cases that could jeopardize the perception of fairness in the decision-making process.

Codify and/or publicize informal good practice. Many instances of good practice, such as the Hinthada DAO's policy of completing business licenses in ten days, are currently informal. These practices could benefit from being codified in township bylaws. In cases where officials deem that inappropriate, raising awareness of these informal practices could foster public expectations that would insure that the practices continue.

Develop the legislative drafting capacity of state/region MPs. Many MPs lack prior law-making experience. Basic legislative tools and workshops could give them the skills and confidence to localize subnational legislation.

Establish peer-to-peer sharing of good practice. Starting with good practices identified in this report, offer peer-to-peer workshops on implementing good practice. Depending on the interest this attracts, consider establishing regular channels of exchange between peer officials.

Consider new feedback mechanisms to gauge the performance of unelected government leaders. Many township-level officers are both unelected and not native to their jurisdiction. This can lead to ill-informed decision-making. Below the township level, however, are thousands of elected ward and village-tract

administrators. These administrators interact with government officials regularly, and their deep local knowledge can provide insight into the quality of township-level economic governance. The states and regions should devise a feedback mechanism to make insights from ward and village-tract administrators available to state/region political leadership (the cabinet).

Help subnational legislators and DAO officials review and improve consultation and inclusion in the development of laws and bylaws. While consultation is often part of legislating and rulemaking, the consultation process has room to improve, especially by better including micro and small businesses and target groups such as women, youth, and people with disabilities. Launch a review process to identify improvements that can be adopted by the states and regions.

Administration and Implementation

Digitize the workflow process for cases. Myanmar has already taken steps to digitize some aspects of governance. It has developed the e-Government Master Plan and in some areas, such as taxation, has already implemented a digital system.⁵⁹ Digitizing the administrative workflow could yield major dividends in case management, making document transfers instantaneous between offices and adding transparency about the status of cases.

Release descriptive data about cases. Once digital case management is operational, it should yield significant amounts of data about cases that can usefully be shared with the public. For example, state/region governments could require some departments to provide data on the actual time required to complete cases or the number of officials who had to sign off.

Release example cases. Government offices often receive applications for licenses, land titles, etc., that are in some way nonstandard and therefore require more lengthy review. State and region governments could introduce new clarity to the handling of these cases by releasing anonymized case studies to educate the private sector about how the government deals with cases. It could also create some accountability and promote consistency among decisions at the state/region level.

State and region DAO offices should conduct a study comparing and contrasting DAO bylaws from each of their townships, highlighting good and unique ideas. Based on these findings, conduct a state-level workshop where members of the DAO from each township share the best features of their bylaws and their experience implementing them. Areas of focus might include:

- Townships that have reduced the number of recommendation letters needed to obtain a DAO license.
- Townships that have developed clear procedures for handling neighbors' objections to business licenses.
- Townships that have released information clarifying licensing procedures.
- Townships that have adopted formal or informal policies establishing how long a license approval should take.
- Townships that have developed bylaws through significant consultation, where the result represents a "good practice" outcome.

State and region development affairs offices should meet and exchange good practices for targeted areas. The information exchanged in these meetings should draw on the state/region-level meetings described above.

State and region governments should review the use of committees in economic governance. This review should assess the functioning of committees and their effect on businesses and government officials. For businesses, the review should assess the transparency, efficiency, and fairness of committees. For government, the review should assess the efficiency of committees and the time burden imposed by their work, with a view to streamlining them. It should identify areas where committees are appropriate and areas where committees are unnecessary. It should suggest ways to democratize and localize committees by including more locally elected representatives.

Consider technical assistance to help government give better operational guidance to committees. At present, most notifications that establish committees include a list of members and a description of duties and responsibilities. Implementation instructions and procedural rules are not included. Including these could help improve committee function and promote better public understanding of how committees should work.

Transparency and consultation

Commission a detailed study of the legal framework governing the transparency and consultation obligations and opportunities for subnational government leaders, including the chief minister, the state/region minister, and MPs. While union laws require transparency and consultation in numerous areas, states and regions do not face any restrictions on doing additional work in these areas. Further study should seek to identify specific areas for increased transparency and consultation, then codify that in state/region law or promote it through consistent practice.

Promote transparency of township management committee meeting notes. Many important decisions at the township level are made in management committee meetings. Minutes should be publicly available, and increased dissemination could raise public interest in township affairs. Digital dissemination, through Facebook or another digital platform, is a good and inexpensive first step to bolster the transparency of these meeting minutes.

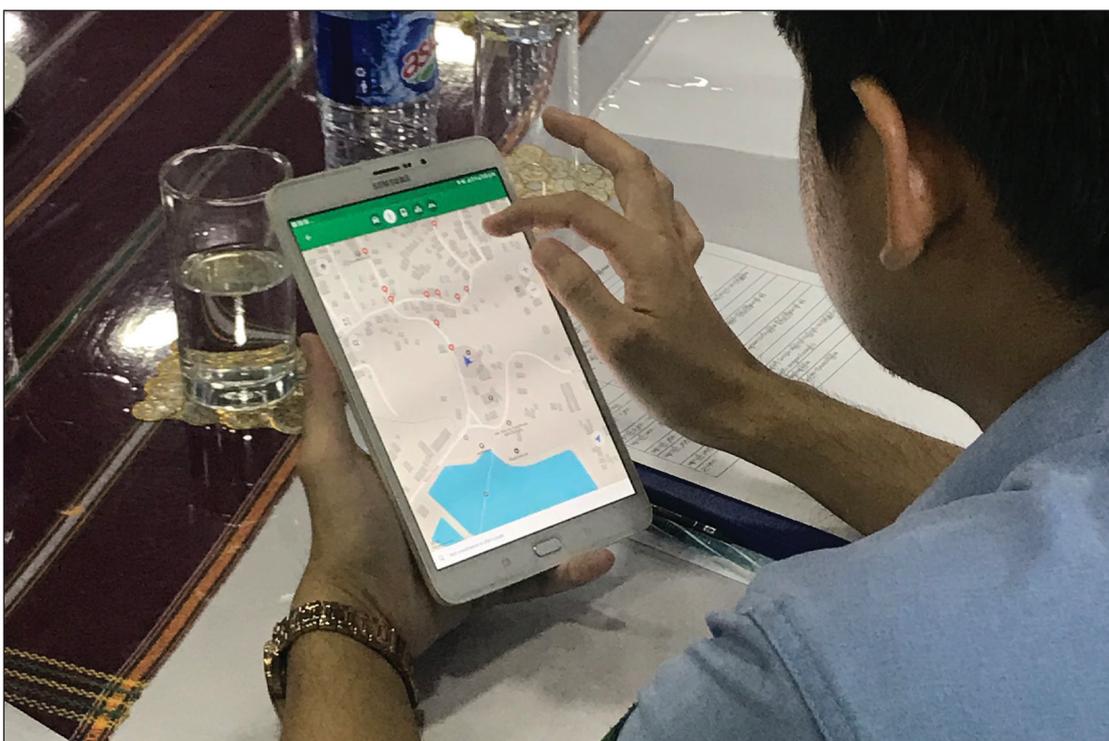
Ensure that fee schedules, operating procedures, and other key documents are publicly available and accessible to the private sector. While many departments publicly post fee

schedules, requiring this of all departments and all fees is an easy step to improve transparency. Using common formats would make fees more easily intelligible to the public. Posting details of key procedures and other documents, either in hard or soft copy, could also improve transparency.

Hold local, private-sector consultations to identify additional transparency needs. In each township, hold a consultation meeting with the private sector to identify additional fee schedules, procedures, forms, or other documents that should be made public.

Private Sector

Develop and strengthen township-level private-sector organizations to serve as a counterparty and point of contact for local government. Private-sector organizations can help ease information dissemination and serve as a point of contact for government when they want to engage in consultation or information sharing. Developing these organizations further, especially at the township level, could help improve economic governance outcomes. In townships with smaller business communities, organizations can be broad based and multisectoral. Businesses should strive to form organizations that are representative and inclusive.



Municipal staff testing the usage of a mapping application for collecting location data

ANNEX 1

List of indicators examined, by subindex

Subindex	Indicator
1	Entry costs Days to get company operating license (DAO)
2	Land access and security Length of title-acquisition process
3	Post-entry regulation Number of Inspections for all agencies (count)
4	Informal payments Share that pay less than 2 percent of revenue in bribes Share of firms that believe they do not have to make informal payments
5	Infrastructure Roads are good or very good (percent) Hours of lost power in last month
6	Transparency Access to planning and legal documents: forms required by regulatory procedures Access to planning and legal documents: state/region budget
7	Favoritism No favoritism by local authorities toward businesses with strong connections (percent)
8	Environmental compliance In case of pollution, authorities take timely action (percent) Guidance on environmental compliance (percent)
9	Labor recruitment Labor recruitment easy—rank-and-file manual laborers (percent) Labor recruitment easy—technicians (percent) Labor recruitment easy—accountants (percent)
10	Law and order State courts judge economic cases by law (percent) State courts resolve economic cases quickly (percent) Court judgements are enforced quickly (percent) Victim of a crime last year (percent)

Note: These indicators are drawn directly from the 2019 Myanmar Business Environment Index, which contains additional information on the indicators and sub-indices. The number of indicators per subindex does not reflect the total amount of interview time spent on each. In some cases, multiple indicators from a subindex showed similar results and as such were addressed collectively during the field research process.

Endnotes

1. Edmund Malesky, Dean Dulay, and Jon Keesecker, *The Myanmar Business Environment Index 2019: Measuring Economic Governance for Private Sector Development* (Yangon: The Asia Foundation, 2019); and Bissinger, Jared, *Myanmar's Economic Governance Actors*, (Yangon: The Asia Foundation, 2019).
2. For more information on the methodology of the MBEI, see Malesky, Dulay, and Keesecker, *Myanmar Business Environment Index* (note 1).
3. The survey team faced a number of challenges during the fieldwork that affect the overall quality of the work. Though meeting requests were sent in advance, it was sometimes difficult to obtain meetings with government officials. A number of meetings planned by the research team did not materialize. On a few occasions, the interviewees were not the parties primarily responsible for the economic governance issue in question. There were multiple reasons for this, including the unavailability or misidentification of key authorities. Some departments were fairly new, and their staff therefore had limited insights into the issues. Lastly, due to staff transfers, some interviewees were recent appointees and, again, had only limited insights to offer.
4. Malesky, Dulay, and Keesecker, *Myanmar Business Environment Index*, p. 74 (note 1).
5. Interview 03.
6. Ministry of Agriculture and Irrigation (MOAI), "Vacant, Fallow, and Virgin Lands Management Rules," Government of the Republic of the Union of Myanmar, Notification 1/2012, August 31, 2012, p. 4, http://www.burmalibrary.org/docs14/VFVM_Rules-en.pdf.
7. MOAI, "Vacant, Fallow, and Virgin Lands," p. 5 (note 5).
8. Interview 19.
9. Interview 20.
10. Constitution of the Republic of the Union of Myanmar, Article 198 (b).
11. A full list of additional schedule 2 and schedule 5 authorities in the 2015 amendments is available in annex D of *The Asia Foundation, State and Region Governments in Myanmar*, (Yangon: The Asia Foundation, 2018).
12. Interview 02.
13. Interview 01
14. Constitution Article 248 (c)
15. DAO officials are an exemption as they do not rotate between states and regions.
16. For a partial list of the laws passed, see annex E, "Laws passed in state and region hluttaws—second term (February 2, 2016 to April 24, 2018)" in *The Asia Foundation*, 2018, p. 104 (note 10). A more comprehensive list is available online through the Myanmar Law Information System, https://www.mlis.gov.mm/lsc.do?menuInfo=4_1_1&query=
17. Interview 32.
18. DAO law Bago, Article 97.
19. Interview 32.
20. Interview 32.
21. World Bank and Ministry of Planning and Finance, *Myanmar Pay, Compensation, and Human Resource Management Review*, (Yangon: World Bank, 20), pg. 38.
22. Interview 29.
23. Interview 29.
24. Interview 27.
25. Interview 35.
26. The four townships with the shortest time to get a DAO license were either small towns, towns with sample sizes that did not meet minimum criteria, or towns that were logistically not possible to visit.
27. Ayeyarwady Hluttaw member.
28. Ayeyarwady agriculture minister.
29. Ayeyarwady agriculture minister.
30. Ayeyarwady Hluttaw member.

31. Ayeyarwady Hluttaw member; Ayeyarwady Hluttaw member 2.
32. Ayeyarwady Hluttaw member 2
33. Ayeyarwady Hluttaw member 2
34. Ayeyarwady Hluttaw member 2.
35. Interview 04.
36. Ayeyarwady Hluttaw member.
37. Ayeyarwady Hluttaw member.
38. Ayeyarwady Hluttaw member 2.
39. Ayeyarwady agriculture minister.
40. Interview 04.
41. Interview 04.
42. Ayeyarwady agriculture minister.
43. Government of the Republic of the Union of Myanmar, Union Parliament Law, Article 84 (a), 2014.
44. Interview 12.
45. Interview 01, 03.
46. Interview 02.
47. Interview 01.
48. Interview 01.
49. An average of the two median townships was taken. The respective scores for each of the two median townships were 2.50 percent and 2.56 percent.
50. Interview 13.
51. Interview 13.
52. Interview 13.
53. Interview 12.
54. Interview 12.
55. Interview 12.
56. Interview 12.
57. Interview 12.
58. The constitution requires that laws, including budget laws, passed by the state/region parliaments be published in the government gazette. See: Constitution of the Republic of Myanmar, Chapter 4, no. 107 and no. 196 (c).
59. Ministry of Transport and Communications, "Myanmar e-Government Master Plan (Draft) 2016–2020," (Nay Pyi Taw: Government of the Republic of the Union of Myanmar, January 6, 2017), <https://www.motc.gov.mm/my/news/myanmar-e-government-master-plan>



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