State and Region Governments in Myanmar

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Of course, any faults in substance or analysis rest with the authors.

A note on names

In 1989 the State Law and Order Restoration Council (SLORC) Government in Myanmar (Burma) adopted new transliterations and pronunciations of key place names, including that of the country itself. This report adopts these new spellings when referring to contemporary locations for consistency with current practice inside Myanmar, while making reference to alternative usage in the first instance. In reference to earlier historical eras it adopts the common historical usage. No position on the "correct" Anglicization of Burmese names is implied.

In order to avoid confusion, government entities are capitalized only when a specific organization or actor or a formal title is denoted.

Glossary

Amyotha Hluttaw	Nationalities Assembly: upper house of national parliament
Chief Minister	Chief Executive of state or region government
Decentralization	The transfer of authority and responsibility for public functions from the central government to subordinate or quasi-independent government organizations
Deconcentration	Form of decentralization involving distribution of functions to lower tiers of central administrative units on a sectoral or territorial basis, while retaining accountability upward to the central institution
Devolution	Form of decentralization involving transfer of powers and responsibilities to units of local government with corporate status and some degree of autonomy, often elected
Hluttaw	Council or assembly. Historically a council of ministers, now denotes legislative bodies at national and state/region level
Pyidaungsu Hluttaw	Union Legislative Assembly: a joint session of upper and lower houses of parliament
Pyithu Hluttaw	People's Assembly: lower house of parliament
Tatmadaw	Myanmar army
Union Government	Central government of Myanmar

Acronyms

88 GSY	The 88 Generation Student Youths
AMRDP	All Mon Region Democracy Party
CESD	Centre for Economic and Social Development
CNP	Chin National Party
CPP	Chin Progressive Party
CSO	Civil Society Organization
DPM	Democratic Party (Myanmar)
EITI	Extractive Industries Transparency Initiative
ENDP	Ethnic National Development Party
FESR	Framework for Economic and Social Reform
GAD	General Administration Department (Ministry of Home Affairs)
KIA	Kachin Independence Army
KNP	Kayan National Party
KNU	Karen National Union
KPP	Karen People's Party
KSDDP	Karen State Democracy and Development Party
LNDP	Lahu National Democratic Party
MDRI	Myanmar Development and Resource Institute
MIMU	Myanmar Information Management Unit
NDF	National Democratic Force
NDPD	National Democratic Party for Development
NLD	National League for Democracy
NUP	National Unity Party
PNO	Pa-O National Organization
PSDP	Phalon Sawaw (Pwo-Sgwaw) Democratic Party
RNDP	Rakhine Nationalities Development Party
SEE	State Economic Enterprise
SEZ	Special Economic Zone
SLORC	State Law and Order Restoration Council
SNDP	Shan Nationalities Democratic Party
SPDC	State Peace and Development Council
TPNP	Taaung (Palaung) National Party
UDPKS	Unity and Democracy Party of Kachin State
UNCDF	United Nations Capital Development Fund
UNDP	United Nations Development Programme
UNFC	United Nationalities Federal Council
USDP	Union State and Development Party
WDP	Wa Democratic Party

Executive Summary

Subnational governance institutions and central-local relations are critical to the future of Myanmar, and they are undergoing significant change. This report aims to inform policy-makers, political actors, donors, and other stakeholders about the new state and region structures created under the 2008 Constitution, and their relationship with broader governance, peace and decentralization processes.[1] These new subnational governments have started to open political space, but they face significant limitations. While the presence of partially-elected bodies at this level is a major reform, these *hluttaws* face capacity constraints. The executive at state and region level is still dominated by a top-down appointment process, and ministers have little control over the administrative apparatus, limiting the effectiveness of the new governments. State and region budgets are as yet small, and prepared in a way that reinforces central influence. Further reforms are needed to align the new political structures with administrative and fiscal arrangements, broaden the scope of decentralization to more significant areas, and link it with wider democratization, peace and public administration reform processes.

This research is the first phase of an ongoing collaboration between The Asia Foundation and the Centre for Economic and Social Development of the Myanmar Development Resource Institute (MDRI-CESD) on a range of subnational governance issues. The study aims to answer three broad questions:

- What is the constitutional, legal and institutional framework for state and region government, and what is the policy direction of decentralization reform?
- What are the outcomes of these reforms in the states and regions, and how do they vary?
- What challenges, opportunities and ways forward are there to improve subnational statebuilding, service delivery and conflict management?

Structure of state and region governments under the 2008 Constitution

State and region governments consist of a partially elected unicameral *hluttaw*, an executive led by a Chief Minister and cabinet of state/region ministers, and state/region judicial institutions. The *hluttaw* is composed of two elected members per township, representatives for "national races", and appointed military representatives equal to one quarter of the total. The Chief Minister is selected by the President from among elected or unelected *hluttaw* members, and confirmed by the *hluttaw.*

The Chief Minister selects the civilian ministers from among *hluttaw* representatives or other candidates, and these are assigned portfolios by the President. The state/region Minister for Border and Security Affairs is a military officer nominated by the Commander-in-Chief. In general, judicial appointment procedures and structures are centralized and limit judicial independence. The President, in

[1] States and regions are constitutionally equivalent.

consultation with the Chief Justice of the Union, nominates the state/region Chief Justice. There is a state or region Advocate General, nominated by the Chief Minister. A Constitutional Tribunal of the Union considers constitutional disputes between regions, states and the union.

Schedule Two of the Constitution lists areas over which the state or region government has legislative powers; it also assigns the states and regions executive or administrative authority over the same areas, and new responsibilities may be added under union law. These areas are divided among eight sectors, each with specific responsibilities, and several of which are deferred for further definition. In most of the sectors the specified responsibilities are quite narrow, and they also exclude certain major areas such as health and education.

This report analyses state and region government in terms of its political, administrative and fiscal dimensions.

Box 1: Foundation of Analysis

Political decentralization involves the transfer of decision-making power and accountability to local levels. It often involves *devolution*—the transfer of responsibilities to local governments with significant autonomy.

Administrative decentralization focuses on distributing managerial responsibilities among different levels. Administrative decentralization can take the form of *deconcentration*, whereby lower administrative levels are given more authority or discretion but remain accountable to the centre, or devolution in which executive authority is given to full-fledged local governments that are more autonomous from the centre.

Fiscal decentralization describes the way in which expenditure responsibilities and corresponding financial resources are provided to subnational levels. Some discretion over resources may be deconcentrated to lower tiers of central ministries, or more complete control devolved to local government with a system of planning and budgeting, local revenue, central-local transfers, and borrowing.

The administrative dimension

The division of responsibilities defined by Schedule Two has created a blurry distinction between those state and region departments that are meant to report to the state/region government, and the state/region-level offices of union ministries that do not. The formally decentralized state and region departments have an ambiguous (and changing) relationship with both their "parent" union ministries, and the new state/region government. They do not form standalone administrative units, and they do not correspond neatly with the state/region ministerial portfolios. The status of their civil servants is ambiguous, with human resource management still being handled by the corresponding union ministry and the national civil service organization.

In effect, the state and region government has ministers, but does not yet have its own ministries. The General Administration Department (GAD) of the military-led Ministry of Home Affairs forms the administrative Office of the Region/State

Government, and the workings of the state/region government are dependent on the support of this unit. Recent reform directives from the President are aimed at resolving some of these ambiguities, but significant challenges remain in bringing clarity to the accountability relationships involved.

Alongside these state/region departments, many of the more significant departments and ministries remain centralized, although many of these union ministries are pursuing significant reforms to give more authority to their state/region offices. The lack of political and fiscal devolution of these areas means that issues of clear, local concern—responsive delivery of services, ethnic identity, and the management of natural resources—are outside the political framework of state and region government.

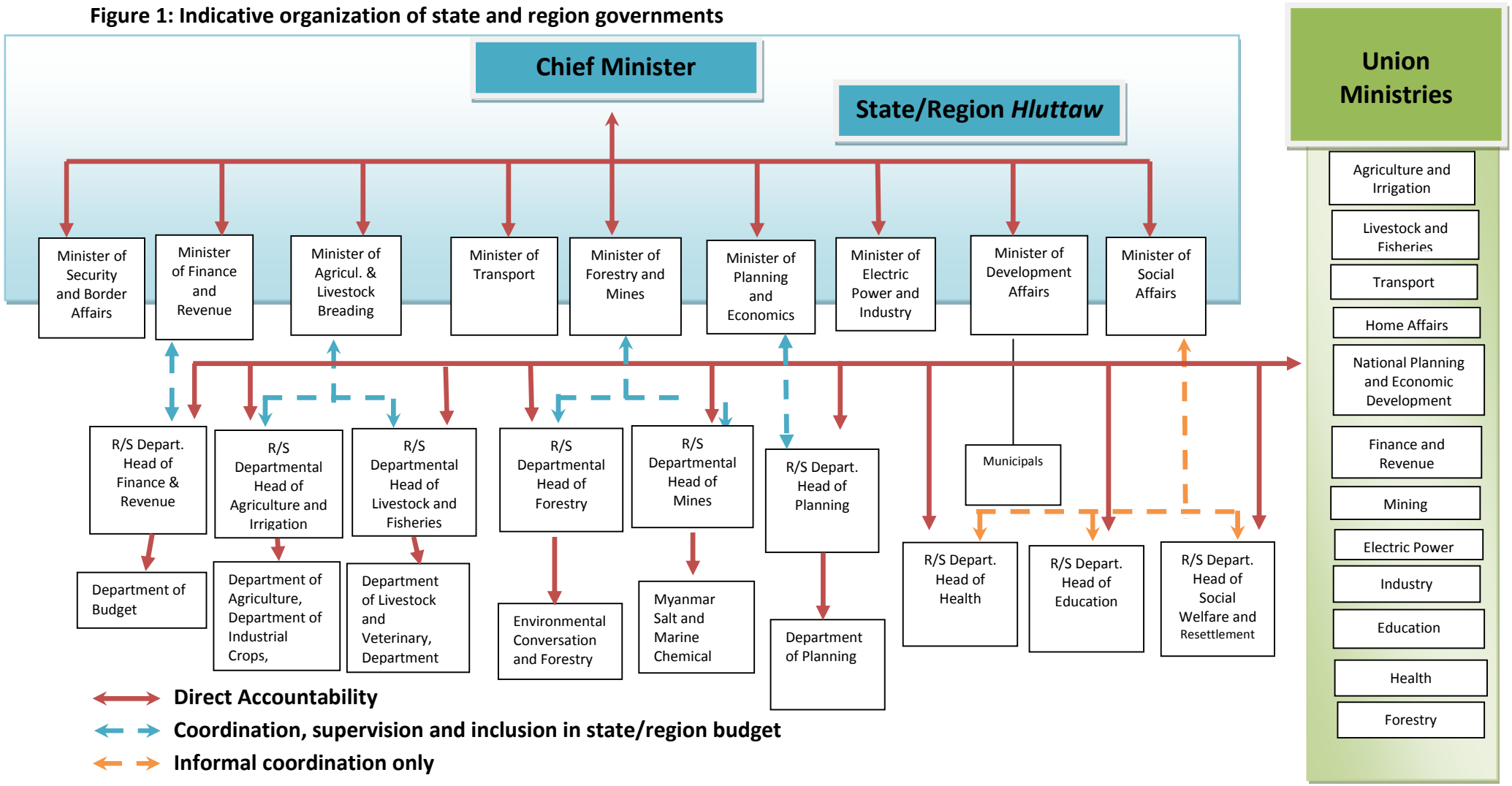
The fiscal dimension

Fiscal decentralization is taking place in a mixed and limited way. There is a state/region budget that comprises the income and expenditures of those departments and state economic entities that are associated with the state and region government. The scope of this budget remains small—probably under five percent of public spending when both transfers and local revenues are included. This state/region budget is also not fully devolved, in the sense that control over budget composition and priorities is still limited and centralized. There is limited scope for the state/region to prioritize between sectors, and the budget is subject to central review in the Union Financial Commission.

The current state/region budgeting system introduces a high degree of central discretion and control over the amounts that states/regions receive for their budgets, which themselves represent only a small portion of public spending. On the other hand, the development of more predictable, transparent, and rule-based intergovernmental fiscal institutions can go a long way towards strengthening fiscal autonomy. States and regions are already collecting significant revenues, but local tax policy and administration is still underdeveloped and there is room to support further improvements.

The introduction of a cross-sectoral “poverty reduction” grant has been an important innovation that creates a need for planning and prioritization within states and regions. At this early stage implementation of the grant has varied, and currently there is no real rational basis for its allocation across the country, other than giving an equal share to most states/regions. However, this grant creates an opportunity for both central and state/region stakeholders to work together to develop a sound, transparent, and rule-based inter-governmental fiscal system linking the centre with the states and regions.

Figure 1: Indicative organization of state and region governments



The political dimension

The formation of state and region governments is a major development. However, a centralized executive appointment process limits the political autonomy of these new governments. Chief Ministers participate in the state/region *hluttaw*, but they are accountable ultimately to the President, not to their assemblies. They also choose their cabinets. On the other hand, the establishment of *hluttaws* in states and regions has created new opportunities for debate and discussion. In ethnic states, regional and ethnic parties have gained significant representation, but the impact of appointed military representatives is, as yet, unclear. So far representation in state/region government has been limited almost entirely to men.

In general then, this potential political space for meaningful and peaceful contestation has remained very limited. Most states and regions have passed very few laws dealing with local issues. *Hluttaws*, particularly in smaller states and regions, tend to be marginalized by the cabinet and relatively inactive. Hampered by administrative and fiscal limitations, the potential for state/region representatives to be a conduit for local priorities, a check on central and local executive power, and a channel for grievances, is still underdeveloped.

Assessing decentralization to Myanmar's states and regions

In sum, the actual reach of administrative responsibilities and confusion over executive structures, the small size and central oversight of the budget, and the restrictions on political autonomy, all mean that Myanmar is still a very centralized country. Second, there are imbalances in the degree of decentralization across the administrative, fiscal and political dimensions. While political decentralization faces limits due to continued top-down influence and the participation of appointed military officials, it also shows real potential to channel political participation. Some of most important factors limiting this space for political action in states and regions are related to weaknesses in the administrative and fiscal dimensions. A danger is that this imbalance results in inadequately empowered local governments and contributes to a crisis of public expectations.

It is still early in the decentralization process, and the emergence of new local political and institutional space is already increasing the awareness and interest of diverse groups in further decentralization. This interest is not limited to ethnic minority or regional parties, but is shared by local branches of national parties and local officials themselves. Increasingly, civil society organizations and the local media already openly discuss subnational governance issues.

Reform environment

The political economy of further decentralization to states and regions depends on contestation over constitutional issues. Does the Constitution provide the final word on the structures and the responsibilities of state and region government, with the remaining work being to flesh out these provisions in law and regulation, and support the capacity of the relevant institutions? Or is there space for substantial

reinterpretation and amendment of the Constitution, allowing for adjustments to the basic direction of decentralization policies? Or, even further, is the Constitution unable to address the most important issues facing the system, and therefore in need of renegotiation?

The restrictive provisions for amendment of the Constitution suggest that the drafters intended that the current distribution of authority would be an end, rather than a starting point. However, there is significant and growing interest in further strengthening of subnational governance institutions from many sides of the political spectrum, and many possibilities for deepening reform and even constitutional change.

Within the President's Office, there are six "President Office Ministers", and Minister U Hla Tun generally acts as the President's representative on matters regarding decentralization. The stated intentions of President Thein Sein's subnational governance policies have been to spur economic development, focus administrative reforms on state and region governments, and enable political reforms to support nascent peace processes with ethnic armed groups.

The government's Framework for Economic and Social Reform (FESR) emphasizes development of laws and regulations surrounding decentralization, the possibility of adding areas to the existing list of state/region responsibilities, and stresses the need for a more "comprehensive" policy on decentralization. In August 2013, the President announced five significant public administration reform initiatives to bring more order to the confused accountabilities among state and region departments, ministers and *hluttaws*. These include increasing state/region influence over human resources and further deconcentrating major union ministries,

On the legislative side, in March 2013 the *Pyidaungsu Hluttaw* unanimously approved a "Constitutional Review Committee" to examine the Constitution carefully and to submit which articles should be amended, annulled and substituted. Committee membership is proportional to party representation in the *Pyidaungsu Hluttaw*. The openness with which the question of constitutional amendment is being discussed is, in itself, remarkable, and if the committee is empowered, it could potentially become an avenue to help break the deadlock over the Constitution among the main political currents in Myanmar.

The union parliament has also passed a new Region or State *Hluttaw* Bill replacing the 2010 State Peace and Development Council (SPDC) law. The 2013 law introduces potentially significant changes, including permitting a state/region *hluttaw* office that is not necessarily GAD controlled, allowing for public attendance at *hluttaw* sessions, and proposing that representatives should have constituency funds and independent representative offices. These latter two changes are viewed as unconstitutional by the President, as is the right to create bodies of *hluttaw* members and others to address "other matters" not prescribed in the Constitution. These points of contention are interesting echoes of national controversies over the autonomy and influence of the legislative branch.

Decentralization and the peace process

The attitude of the armed actors in the country—on all sides—towards the potential and perils of further decentralization will be central to the success or failure of Myanmar's transition, and state and region governance cannot be addressed without considering its impact on the peace process. The government peace roadmap involves armed groups joining the political process as parties under the constitution, while opposition proposals envision a fundamental renegotiation of the relationships between groups. Decentralization to states and regions within current constitutional constraints cannot provide the degree of political autonomy, security, or share of national wealth that the non-state armed groups in conflict or cease-fire with the government desire in order to agree sustainable peace agreements.

The need to negotiate these "big picture" questions does not mean that strengthening state/region governments cannot influence the peace process. Issues such as education policy, oversight of development projects, and management of mining concessions are important dimensions of conflict in Myanmar. However, these significant ethnic and identity issues and state/region level influence over major resources or development projects currently remain outside the framework of decentralization to states and regions.

Broadening the scope of state/region responsibilities and strengthening the role of state and regional governments are priorities that may be partly shared between state/region governments themselves, ethnic and regional parties, and non-state armed groups. State level discussions about these issues may support the broader peace process by suggesting solutions to problems that are specific to a given area, and build confidence and trust. Many conflict areas have some form of shared or contested authority and non-state service delivery regimes. Discussions to connect the state service sector with these regimes could potentially relieve conflict-affected communities, while building confidence and trust among the parties.

Such actions have to be carefully considered in terms of their impact on the negotiations, and in general, subnational governance reforms and international programmes should be carried out in coordination with the stakeholders in the peace process. On the other hand, should progress occur in the peace process, all stakeholders need to be ready for the changes this might imply for subnational governance reforms.

Recommendations

There is a broad consensus among the civilian central government and the parliament, state/region governments, political parties, and civil society that further development of decentralization reforms to states and regions is needed. The research presented in this report suggests areas that need to be prioritized if further improvement is to occur. Given the range of challenges and the political significance of many of these reform areas, it is crucial that processes emerge to foster a more detailed and broader-based consensus on the direction of decentralization policy and strategy. These processes must have national and subnational representation, as

well as diverse governmental and non-governmental participation, and need to connect with the parliament's constitutional review, and to the peace process.

Table 1: Summary of recommendations

Rationalize state and region government administration and human resources
• **Further clarify the roles and responsibilities of the state and region departments** • **Separate state/region departments from union ministry structures; create programmes and incentives for relocating civil servants** • **Consider creating state/region civil service organizations** • **Support state and region ministers' and departments' independence from the General Administration Department**
Deepen the deconcentration process within union ministries
• **Policy framework for line ministries to further deconcentrate responsibilities across administrative levels** • **Capacity support to line ministries as they deconcentrate, and to state and region ministry offices as they take on new tasks** • **Ensure resources for functions at state/region level are available and transparent; modest budget deconcentration** • **Ensure offices engage in participation and outreach with state and region governments and *hluttaws*, as well as civil society and communities**
Broaden the scope of state and region government responsibilities
• **Consider including aspects of education policy and provision, including hiring and language of instruction in state/region legislative or administrative list** • **Foster more state and region participation in the management of significant natural resources, and approval and oversight of natural resource concessions and projects, possibly involving state and region authorities in EITI**
Strengthen public expenditure management, budgeting and resource allocation
• **Strengthen tax policy and administration at state and region level** • **Improve union public financial management capacity for fiscal projections** • **Revise allocation of the Poverty Reduction Fund & develop intergovernmental fiscal arrangements** • **Ensure donor programmes support state and region planning, budgeting and monitoring capacities** • **Support Union Financial Commission to develop and apply transparent fiscal policies** • **Improve clarity of national accounting standards and budget presentation**
Develop a transparent and rules-based intergovernmental fiscal system
• **Consider wealth sharing arrangements including what should be included, who collects, and the formula** • **Consider the overall transfer system, including what functions must be financed, what equity and policy goals are important, and what will encourage good governance, revenue and service performance.** • **Policies for management of foreign financial flows in relation to states and regions**
Strengthen the political autonomy of the state/region government
• **Support state and region *hluttaws* to function more effectively in legislative and oversight roles, especially for small *hluttaws*** • **Consider how to increase the Chief Minister's accountability to state/region** • **Comprehensive communication and constituency engagement strategies at the state/region level**

ONE: Introduction

Subnational governance institutions and central-local relations are critical to the future of Myanmar. They are also, like so much in the country, experiencing rapid and significant change. The 2008 Constitution clarifies some formal division of responsibilities and powers between the central Union Government and new state and region governments, while also confirming the military's role in politics.[2] Myanmar's Union Government, under the leadership of President Thein Sein, is pursuing improvements to the effectiveness of subnational service delivery, but long-standing issues over state structure remain unresolved between the centre and ethnic parties, as well as with numerous non-state armed groups. Reforms, such as increased political participation by the National League for Democracy (NLD) and renewed cease-fire efforts, have also opened opportunities for broadened engagement by non-governmental organizations, international financial institutions, the United Nations, and donor agencies—opportunities that these partners are eagerly taking up, including in the areas of decentralization and subnational governance.

Given the importance of subnational governance to Myanmar's transition, there is a pressing need for up-to-date, politically- and technically-grounded analysis to inform both Myanmar's policy-makers and the country's development partners. As international support increasingly turns towards good governance, public service delivery and peacebuilding, it is crucial that these development partners understand Myanmar's administrative, political, and fiscal institutions and their attempts to reform. Both the central government and development partners also need to consider the potential impact that decentralization and changes to service delivery may have on conflict and state-society dynamics.

Background and objectives

This report aims to inform Myanmar policy-makers, political actors, donors, and other stakeholders about the new state and region structures created under the 2008 Constitution and governance, peace and decentralization processes in the country. The report is based on fieldwork and secondary research undertaken in late 2012 and early 2013. The study is the first phase of an ongoing research and policy collaboration between The Asia Foundation and the Centre for Economic and Social Development of the Myanmar Development Resource Institute (MDRI-CESD) on a range of subnational governance issues. The objectives of the CESD-Asia Foundation research collaboration are as follows:

[2] States and regions are constitutionally equivalent in Myanmar, but have differing historical roots. The states primarily cover areas with large ethnic minority populations and are located along Myanmar's more mountainous borders. The regions encompass majority "Burman" areas and generally located in the centre.

- Develop an empirical baseline assessment of subnational governance dynamics that focuses on political transition, ethno-national conflict, peacebuilding, service delivery, and public administration.
- Contribute to improved and shared local and national stakeholders' understanding of the key political, administrative and fiscal challenges facing the national and subnational governments with regard to development planning, peacemaking, and governance reform.
- Improve the design, implementation and monitoring of international assistance projects in Myanmar, with emphasis on border areas.

The research is a public resource intended to contribute to improving knowledge, dialogue, and policy making for all actors involved in Myanmar's current transition. Future research will encompass a wider range of topics, including governance at local levels (districts and below), in areas where government authority is contested or weak and key governance and technical issues in specific sectors.

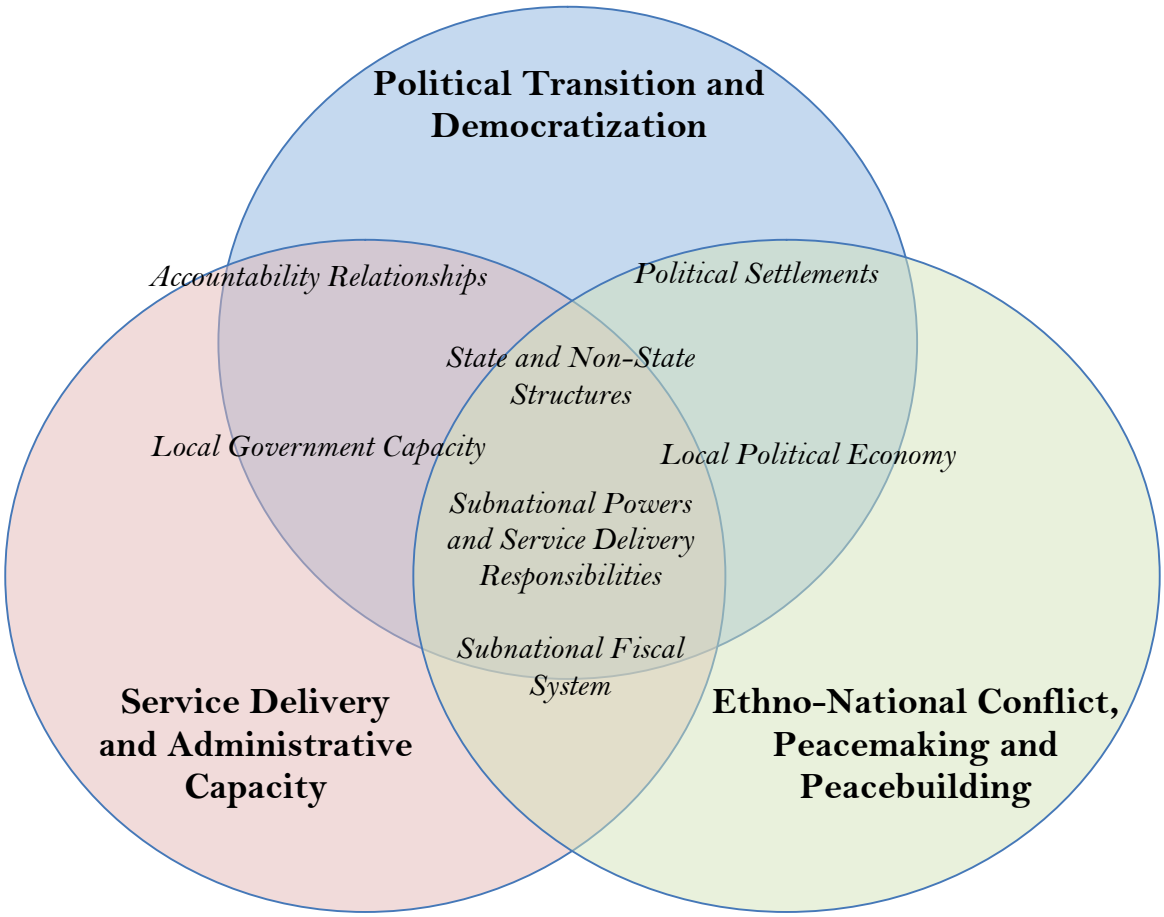
Table 2: Audiences for this research and their interests

Audience	Interests
International donors	• Improve situational awareness • Conflict sensitivity • Needs assessment • Improved donor policy and programmes
National government	• Inform national development planning and governance reform • Improve development effectiveness • Consolidate peace processes
State and region governments	• Influence evolution of subnational systems • Linkage and interaction with central and international actors and debates
Ethnic groups and political parties	• Inform peace processes on subnational situation and issues

Conceptual framework

The research adopts a systems approach to subnational governance, suggesting that issues of political transition, statebuilding and service delivery, and ethno-national conflict cannot be separated from each other. Figure 2 illustrates this interconnected subnational governance arena.

Figure 2: Overlapping issues for Myanmar's subnational governance



Research questions

This first phase of research focused on region- and state-level institutions and was guided by three general questions:

- What is the constitutional, legal and institutional framework for state and region government, and what is the policy direction of decentralization reform?
- What are the outcomes of these reforms in the states and regions, and how do they vary?
- What challenges, opportunities and ways forward are there to improve subnational statebuilding, service delivery and conflict management?

The study seeks to understand the policy direction and the constitutional, legal, and institutional framework for relations between Myanmar's Union Government, and its states and regions. It also asks how this framework is actually functioning at the state and region level. In this sense, the study both analyses the decentralisation process, and draws conclusions about state and region governance capacity.

Assessing decentralization and local governance capacity

Decentralization is typically defined as the "transfer of authority and responsibility for public functions from the central government to subordinate or quasi-independent government organizations."[3] It is a process rather than an end product, and it involves both changes in local governance structures, and in relationships between them and the centre. Decentralization is increasingly common worldwide, and in each context driven by a variety of political and economic factors. Some common ones include: improving the responsiveness and/or efficiency of public services to accommodate the demands of specific regions or ethnic groups, bolstering the legitimacy of a troubled central government, stimulating economic growth, and even satisfying the demands of intrusive donors. These widely varying reasons for decentralization can be analysed according to their political, administrative and fiscal dimensions (See Box 2).

Box 2: Dimensions and forms of decentralization

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

Administrative decentralization focuses on distributing managerial responsibilities (for example, for delivering a given public service*)* among different levels of government or administration. It may also take the relatively modest form of *deconcentration* in which officials at lower levels are given more authority or discretion, but remain accountable to their chiefs at the centre. Decentralization could also be combined with the devolution of executive authority to local governments. *Delegation* is the shifting of functions to semi- or wholly-independent organizations outside the core government sector (for example to independent authorities, or in *privatization*, to private firms.

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

Based on these analytical considerations, this report provides an assessment of Myanmar's decentralization across these three dimensions.[4] Some typical political indicators include the structure of the subnational government, and the strength of the subnational electoral and party system. In the administrative domain, key indicators include local control over human resource management, responsibility for social services, and autonomy in planning and regulating physical space. Fiscal indicators include the autonomy of local public financial management processes, the

[3] Litwack and Seddon, eds. (1999): 2.

[4] This framework draws on the Local Public Sector Initiative but similar indicator lists are also found in other discussions: Boex (2012) and www.localpublicsector.org; see also Shah and Thompson (2004), Appendices 1-3.

extent of expenditure responsibilities held locally, and support from revenues, transfers and borrowing.[5]

This study has also been loosely guided by frameworks for assessing local governance and public administration capacity. Rigorous assessment of the governance capacity of Myanmar's states and regions is needed, and many tools are available for this purpose.[6] However, pilot research in July 2012 suggested that too little was known about states and regions and their policy, political economy contexts to effectively apply a highly structured tool for assessing local governance. Instead, this study draws on the Local Governance Barometer, a flexible framework that analyses local governance effectiveness, rule of law, accountability, participation, and equity, as well as the Capacity Assessment Framework of the United Nations Development Programme (UNDP).[7]

Table 3: Decentralization and local government capacity analysis

Level/ Dimension	Administrative	Fiscal	Political
Enabling Environment (Centre-Local Relations)	- Constitutional & legal framework - Service delivery mandate - Cultural factors: authority, hierarchy - Infrastructure: transport, electricity, communication	- Extent of expenditure responsibilities - Subnational fiscal system (transfers, own source revenues, borrowing) - Public Expenditure Management rules & controls	- Constitutional framework & legislative lists - Elected local government - Electoral & party system - Civil society relationships - Oversight & central coordinating institutions
Organization (State & Region Government)	- Organizational culture & structure - Clear mandates & incentives - Results orientation - Information systems - HR management	- Planning, budgeting and accounting processes - Budget transparency - Public sector pay scales	- Inclusion: ethnic & gender composition - Participation - Procedures, rules of order
Individual	- Leadership & managerial skills - Clear job descriptions	- Accounting skills - Public service ethics	- Political & strategic skills - Budget literacy - Drafting skills

Drawing from these frameworks, Table 3 presents the issues targeted for study according to the three decentralization dimensions and the levels of the local

[5] Some experts question the utility of this three dimensional framework, arguing that it is imprecise and duplicates concepts of devolution, deconcentration and delegation. Instead, they propose analysis of the political economy, legal, institutional, finance, human resources, and accountability factors that shape the reform process. This study analyses these aspects of central-state/region relations, using political, fiscal and administrative dimensions to organize the findings. See Tidemand and Steffensen (2010), 4.

[6] For a selection of local governance assessments and guidance on choosing among them see UNDP (2009).

[7] Bloom, Sunseri and Leonard (2007): 11. The UNDP capacity development framework assesses core competencies including leadership, policy and legal frameworks, mutual accountability, public engagement, and human, financial, physical, and environmental resources across the enabling environment, organizational and individual levels: UNDP (2007): 4-5.

governance capacity system. In general, the emphasis has been on the enabling environment and organizational features, and the framework is helpful for clarifying the strengths and weaknesses in state and region governance.

Research methods

The research in this study was primarily qualitative. A literature review was conducted of academic literature, articles in the press, translated legislation, *hluttaw* proceedings, budget documents, rules and regulations, and the weekly government gazette. The research team undertook field research over a period of nine months in four states (Kayin [Karen], Mon, Shan and Chin) and two regions (Tanintharyi [Tenasserim] and Ayeyarwady [Irrawaddy]). These six areas were selected to ensure a comparison of regions with states, as well as variation in governance issues, population, poverty, geography, and conflict histories.

Researchers conducted 77 semi-structured interviews and focus-group discussions with region/state ministers and officials, region/state *hluttaw* members, political party leaders and members, civil society organizations, educational institutions, and private sector actors (See Table 4 below). Researchers also conducted interviews at the national level in Yangon and Nay Pyi Taw. Interviews at the state/region and national level were guided by questions about the political, administrative and fiscal dimensions of decentralization (see framework in Table 3), the functioning of state and region institutions, as well as more open-ended contextual factors. After reviewing and analysing primary and secondary data, the team held a workshop in mid-May 2013 with staff from President's Office Ministry No. 6, Ministry of Planning and Economic Development, and Ministry of Finance to present and discuss initial findings.

Table 4: Interviews conducted in states and regions

Region/ State	When Visited	Interviews/ Focus Groups	# Individuals met			
			Officials	CSOs	Parties	Others*
Chin	Mar./ Apr. 2013	17	11	6	4	1
Ayeyarwady	Mar. 2013	9	9	6	3	1
Kayin	Jul./Nov. 2012	8	6	6	2	-
Mon	Jul./Nov. 2012	11	27	2	2	4
Shan	Dec. 2012	21	15	6	3	-
Tanintharyi	Jan./Feb. 2013	11	9	5	2	2
Totals		**77**	**77**	**31**	**16**	**8**

* Others including journalists, academics, writers, and religious leaders.

Scope and limitations

As noted already, research in this initial round was largely limited to institutions at the state and region level, and therefore did not provide much insight into governance at lower administrative levels. However, this report refers to recent research on lower levels of governance. The second phase of this collaboration

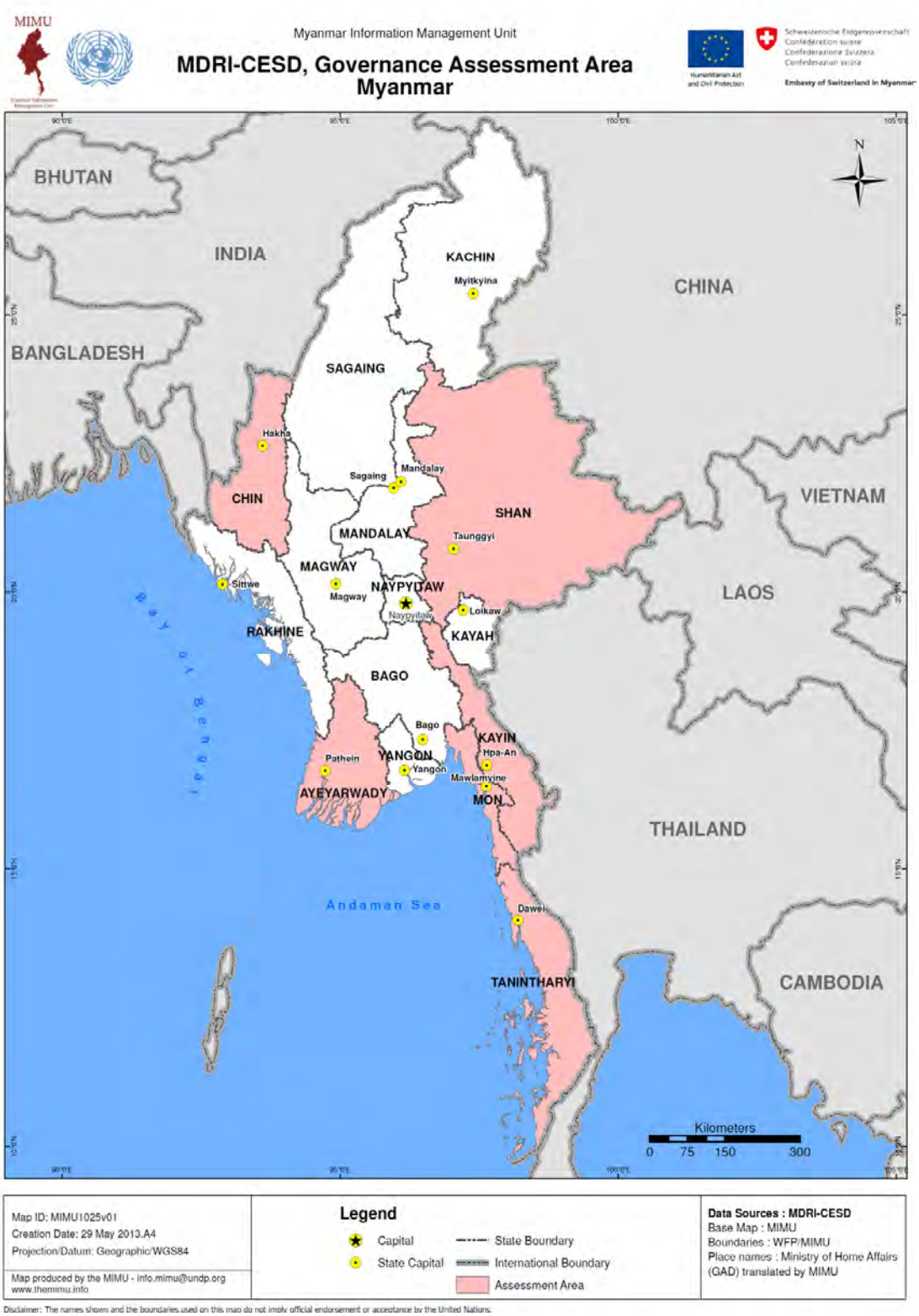
between MDRI-CESD and The Asia Foundation will also look at other administrative tiers, such as townships.

A second, and perhaps more serious limitation of this study, is that it does not look closely at competing or alternative governance institutions. State weakness has shaped the history and institutions of post-independence Myanmar, and lack of state strength and penetration are key factors that continue to influence the country's transition.[8] In Myanmar, there are large geographic areas of contested or "hybrid" authority in which other actors such as customary leaders, non-state political actors, and non-state armed groups play key roles in local governance. The interaction of state and region institutions with peace processes is discussed briefly in the concluding chapter of this report, but is largely left out of the main analysis. These are themes that are taken up again in the second phase of the research programme.

A final and related limitation of the study is that it focuses largely on the "supply-side" of state and region governance; namely, it emphasises the structures, systems, and individuals involved in state and region governance more than the perspectives of the ordinary citizen. While civil society and private sector perspectives on the strengths and weaknesses of new governance institutions are included, there is still need for a systematic examination of public attitudes towards Myanmar's state and non-state governance institutions.

[8] Englehart (2005).

Figure 3: States and regions in the subnational governance assessment



Source: Myanmar Information Management Unit

TWO: The State and Region Governance Framework

This chapter provides an introduction to the current subnational administration of Myanmar and describes the formal institutional arrangements in the 2008 Constitution and other legal instruments concerning the formation, roles, responsibilities, and functioning of state and region governments. Finally, it discusses the current reform environment surrounding decentralization in Myanmar.

Myanmar's subnational administrative structure

The Republic of the Union of Myanmar comprises seven states and seven regions named in the 2008 Constitution, six self-administered zones or divisions, and one union territory containing the capital Nay Pyi Taw and surrounding townships.[9] The smallest formal administrative unit is the village, with several grouped together into village tracts. Urban wards, towns and village tracts are grouped into townships, where the lowest levels of government offices are generally located. Collections of townships are organized as districts, which in turn form the region or state.[10]

At the time of writing, most villages and village tracts had already, or were in the process of indirectly electing village heads to replace centrally-appointed village administrators.[11] Township administrations are headed by the senior official of the General Administration Department (GAD) of the Ministry of Home Affairs, and do not yet have a body of elected representatives. Nevertheless, it is at the township level that many key functions of government take place such as birth registration, land registration, and most forms of tax collection. Districts form a middle tier of administration connecting state/region governments to townships, and are also headed by a senior official from the GAD.

States and regions, despite the terminology distinguishing historically "ethnic" states from majority *Bamar* regions, are constitutionally equivalent. Five self-administered zones and one self-administered division have a constitutional status similar to that of a region or state, and can form their own indirectly-elected and appointed "leading bodies", headed by a chairperson.[12] An appointed administrative council under the authority of the President manages the Union Territory of Nay Pyi Taw.

[9] The six self-administered territories are the zones of Naga in Sagaing Region, Danu, Pa-O, Palaung, Kokaung, and the Self-Administered Division of Wa (all in Shan State).

[10] Constitution of Myanmar, Art. 49-51. This structure of levels parallels that adopted in the highly centralized 1974 Constitution.

[11] For details of this process, see Ward or Village Tract Administration Law, Ministry of Home Affairs Chapter IV, Art. 7-9. For more on institutions of village and village tract governance, see Kempel (2012).

[12] Constitution of Myanmar, Art. 275-6. Most of the self-administered zones cover areas controlled by cease-fire groups under conditions previously described by Callahan (2007) as "near-devolution".

There are 325 townships and 67 districts in Myanmar's states and regions (See Table 5).[13]

Table 5: Administrative units, population and land area of Myanmar's states and regions

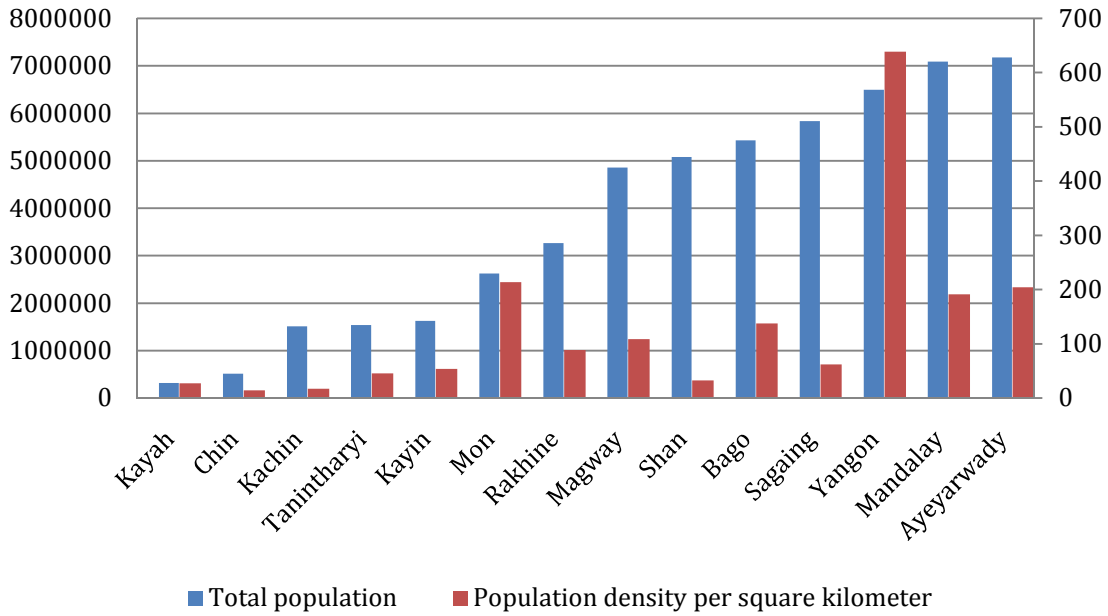
States and Regions	State Structure		Population Estimates			Land Area (Km2)	Population Density
	Districts	Town-ships	MIMU	Planning Dept.	Mean		
Kachin	4	18	1,442,235	1,579,000	1,510,618	89,041	17
Kayah	2	7	277,428	356,000	316,714	11,733	27
Kayin	3	7	1,431,977	1,816,000	1,623,989	30,381	53
Chin	3	9	475,987	554,000	514,994	36,019	14
Sagaing	8	34	5,132,058	6,541,000	5,836,529	94,623	62
Tanintharyi	3	10	1,365,467	1,714,000	1,539,734	33,748	45
Bago	4	28	4,848,206	6,008,000	5,428,103	39,404	138
Magway	5	25	4,093,406	5,623,000	4,858,203	44,820	108
Mandalay	7	29	5,759,158	8,422,000	7,090,579	37,024	192
Mon	2	10	2,115,207	3,137,000	2,626,104	12,297	214
Rakhine	4	17	3,222,461	3,306,000	3,264,231	36,778	89
Yangon	4	45	5,961,955	7,023,000	6,492,478	10,171	638
Shan*	12	40	4,493,308	5,660,000	5,076,654	155,801	33
Ayeyarwady	6	26	6,316,999	8,041,000	7,179,000	35,138	204

* Shan population excludes 6 townships with no available data.
Source: Myanmar Information Management Unit (2011); Myanmar Statistical Yearbook (2011); and Ministry of National Planning and Economic Development.

Population data are unreliable and contested in Myanmar but do show wide variation in the populations of different states and regions from about seven million in Mandalay to only a few hundred thousand in Kayah (Karenni). Land area, and consequently population density, also varies greatly from place to place, with a few tens of inhabitants per square kilometre in highland states such as Chin or Kachin, and many hundreds in Yangon. On the whole, the states tend to have a lower population and population density than the regions, reflecting the situation of states in the "hills" that form the historical borderlands of Myanmar.

[13] *Statistical Yearbook 2011*, Central Statistical Organization, Ministry of National Planning and Economic Development Nay Pyi Taw, Myanmar (2012): 20. There are two districts contained within the self-administered zones.

Figure 4: State and region populations and population densities



Structure of state and region governments under the 2008 Constitution

State and region governments consist of a unicameral, partially elected state/region *hluttaw*, an executive led by a Chief Minister and a cabinet of state/region ministers, and state/region judicial institutions.

Box 3: Constitutional roles and duties of state and region government

Art. 188. The Region or State Hluttaw shall have the right to enact laws for the entire or any part of the Region or State related to matters prescribed in Schedule Two of the Region or State Hluttaw Legislative List.

Art. 249. Subject to the provisions of the Constitution, the executive power of the Region or State Government extends to the administrative matters which the Region or State Hluttaw has power to make laws. Moreover, it also extends to the matters which the Region or State Government is permitted to perform in accord with any Union Law.

Art. 252. The Region or State Government shall, in accord with the provisions of the Constitution, submit the Region or State Budget Bill based on the annual Union Budget to the Region or State Hluttaw concerned.

Art. 254.
(a) The Region or State shall collect the taxes and revenues listed in Schedule Five in accord with law and deposit them in the Region or State fund.

(b) The Region or State has the right to expend the Region or State fund in accord with the law.

Art. 256. The Region or State Government:

(a) shall, in carrying out the functions of the Region or State Ministries, their subordinate governmental departments and organizations, manage, guide, supervise and inspect in accord with the provisions of the Constitution and the existing laws;

(b) may, relating to the performance of the civil service organizations discharging duties in their Region or State concerned, supervise, inspect and coordinate in accord with the law.

Art. 257. The Region or State Government may, for enabling the performance of the functions to be carried out in accord with the Union Law for Civil Services and in co-ordination with the Union Government in advance:

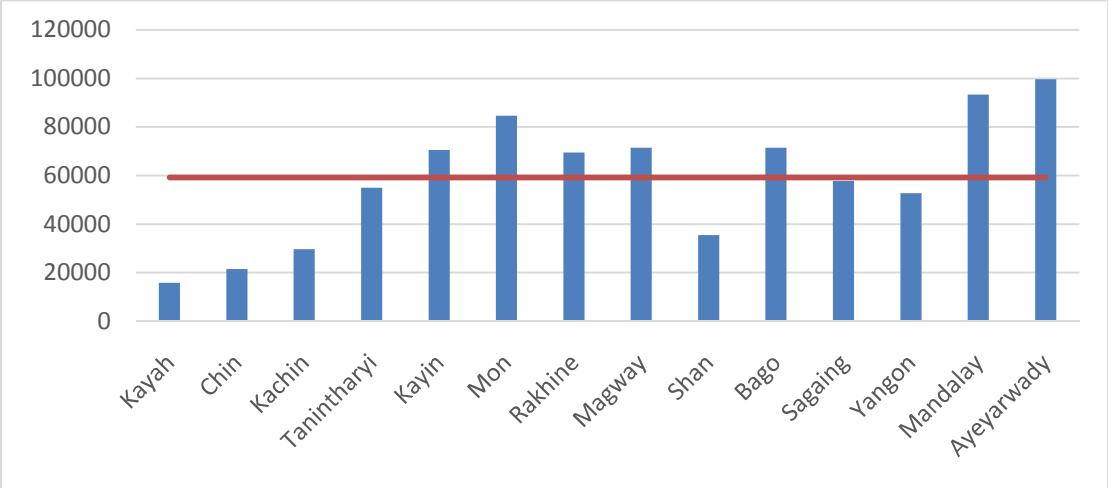
(a) form Civil Services organizations relating to the Region or State as necessary;

(b) appoint the required number of Civil Services personnel.

Legislature

The *hluttaw* is composed of two members elected per township and additional elected representatives for each of the "national races" comprising greater than 0.1 percent of the state/region population, but not already "obtaining" an ethnic state (such as the Karen in Kayin State). The Commander-in-Chief appoints military representatives equal to one-third of these elected members (and thus one quarter of the total), the same proportion as in the national legislative institutions.[14] The *hluttaw* elects from its number, a Chairperson, Speaker, and Deputy Speaker. Figure 5 demonstrates that, due to the differing size of township populations, the township-based constituency system results in a widely varying number of constituents per representative.[15]

Figure 5: Population per state/region *hluttaw* member



Schedule Two of the Constitution lists the areas over which the "Region or State Hluttaw shall have the right to enact laws", establishing a loose basis for a division of powers between the national level (the "Union") and the states and regions (Schedule Two is reproduced in Annex I).[16] These areas are divided into eight sectors,

[14] Constitution of Myanmar (2008), Art. 161.
[15] For a similar analysis of national institutions, see Brand (2012): 20-21.
[16] Constitution of Myanmar, Art. 188.

each with specific responsibilities, several of which are deferred for future definition "in accord with the law enacted by the Union".[17]

In some sectors, such as Agriculture, the assigned responsibilities are broad, while in most they are quite narrow and limited. For example, in "Energy, Electricity, Mining, and Forestry", responsibilities are limited to power generation that is off the national grid, regulation of salt products, polishing local gems (but not mining gems), and firewood. Similarly, the social sector is limited to some areas of traditional medicine, welfare, stevedoring, and cultural heritage preservation, leaving the major areas of education and health excluded.[18]

Executive

The Chief Minister and cabinet ministers are drawn from among the members of the *hluttaw*. The appointment process for chief ministers involves the President selecting a state/region *hluttaw* member possessing the required qualifications, who is then confirmed by the *hluttaw* (Box 4). As a candidate may only be rejected for proven failure to meet the constitutional qualifications, effectively the selection of the Chief Minister is entirely in the hands of the President, with the proviso that he or she is a member of the state/region *hluttaw*.[19] It is important to note that the member selected by the President is usually an elected member, but may also be drawn from the military appointees.

Box 4: Constitutional provisions on appointment of Chief Ministers

Art. 261.
(a) The Chief Minister of the Region or State shall have the following qualifications:

(i) person who has attained the age of 35 years;

(ii) person who has qualifications, with the exception of the age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;

(iii) person whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;

(iv) person who is loyal to the Union and its citizens.

(b) In order to appoint the Chief Minister of the Region or State concerned, the President shall:

(i) select a suitable Hluttaw representative who has the prescribed qualifications from among the Region or State Hluttaw representatives concerned;

[17] Constitution of Myanmar, Schedule Two: The sectors are Finance and Planning; Economic; Agriculture and Livestock Breeding; Energy, Electricity, Mining, and Forestry; Industrial; Transport, Communication and Construction; Social Sector; and Management.
[18] Constitution of Myanmar, Schedule Two. One constitutional analyst has argued that the breadth of Union powers granted in Schedule One of the Constitution effectively overrules what state/region prerogatives are given under Schedule Two: Ghai (undated): 32.
[19] Constitution of Myanmar, Art. 261 (b).

(ii) submit the list of the elected Hluttaw representatives to the Region or State Hluttaw concerned for its approval.

(c) The President shall appoint the Hluttaw representative approved by the Region or State Hluttaw as the Chief Minister of the Region or State concerned.

(d) The appointment of a person as a Chief Minister of the Region or State nominated by the President shall not be refused by the Region or State Hluttaw unless it can clearly be proved that the person concerned does not meet the qualifications of the Chief Minister of the Region or State.

(e) The President has the right to submit again the list with a new name replacing the one who has not been approved by the Region or State Hluttaw for the appointment of the Chief Minister.

The appointment of state/region ministers is largely in the hands of the Chief Minister.[20] There are three different types of ministerial posts for state and region governments. The largest group are filled by persons with the required qualifications, selected by the Chief Minister from among the *hluttaw* representatives or other suitable candidates, and then approved by the President.[21] Unlike these "civilian" ministries, the state/region Minister for Border and Security Affairs is a military officer nominated by the Commander-in-Chief of the Defence Services, who does not relinquish his military post. In addition, where elected ethnic representatives are present (according to the provision for dedicated constituencies for groups with 0.1 percent of the population), these elected *hluttaw* representatives will be appointed Minister of Ethnic Affairs for their ethnicity.

The constitution essentially assigns states and regions executive authority over the same areas as those included in the legislative list, though new responsibilities may be added under union law.[22] State and region cabinet ministers are thus mandated to manage, direct, control, and inspect departments covering these areas in the region or state.[23] As there are more than nine such departments, but typically only nine state and region ministerial portfolios, some ministers cover several domains.

The administrative structure of the state and region is built around the pre-existing General Administration Department, a unit of the national Ministry of Home Affairs. This department automatically forms the "Office of the Region or State Government" and its head is "the ex-officio Secretary of the Region or State Government".[24] The constitution and laws thus fall short of creating separate state and region ministries. In this respect, there is a mismatch between the executive powers of the state and region government and its organizational structure, an issue explored in detail in the next chapter. A final quite crucial point is that the GAD's parent ministry, Home

[20] Constitution of Myanmar (2008), Art. 248 (c).
[21] Law for Region/State Government (SPDC Order No.16/2010), Art. 8 (g). The "Law for Region/State Government" of 2010 sets out in more detail the terms of the Constitution regarding the formation and responsibilities of state and region government, but does not further elaborate the division of assignments in Schedule Two.
[22] Constitution of Myanmar, Art. 249.
[23] Law for Region/State Government (SPDC Order No.16/2010), Art. 31 (a).
[24] Constitution of Myanmar (2008), Art. 260.

Affairs, is one of three union ministries whose minister is constitutionally appointed by the Commander-in-Chief of the armed forces from among active duty military personnel.[25]

Judiciary

States and regions have a High Court consisting of a Chief Justice and between three and seven judges. The High Court supervises subsidiary district, township and self-administered area courts. There is no independent judicial service. The state/region Chief Justice is nominated by the President, in consultation with the Chief Justice of the Union, and the judges by the Chief Minister, also in consultation with the national Chief Justice. The nominations are submitted to the state/region *hluttaw* for approval, but as with other posts, the assembly can only refuse the nominations with "clear proof" that the nominees do not meet the qualifications.[26] However, the state/region *hluttaw* can impeach High Court judges through an investigation and two-thirds vote, but only at the instigation of the President or Chief Minister.[27]

All courts are subordinated to the national Supreme Court, which has final appellate authority over other levels, including resolving "disputes, except the Constitutional problems, between the Union Government and the Region or State Governments".[28] For issues of constitutional interpretation, including constitutional disputes between regions, states and the union, power rests with a separate Constitutional Tribunal of the Union. The President and the speakers of the two national representative bodies appoint the nine members of this body in equal share, and there is no appeal.[29]

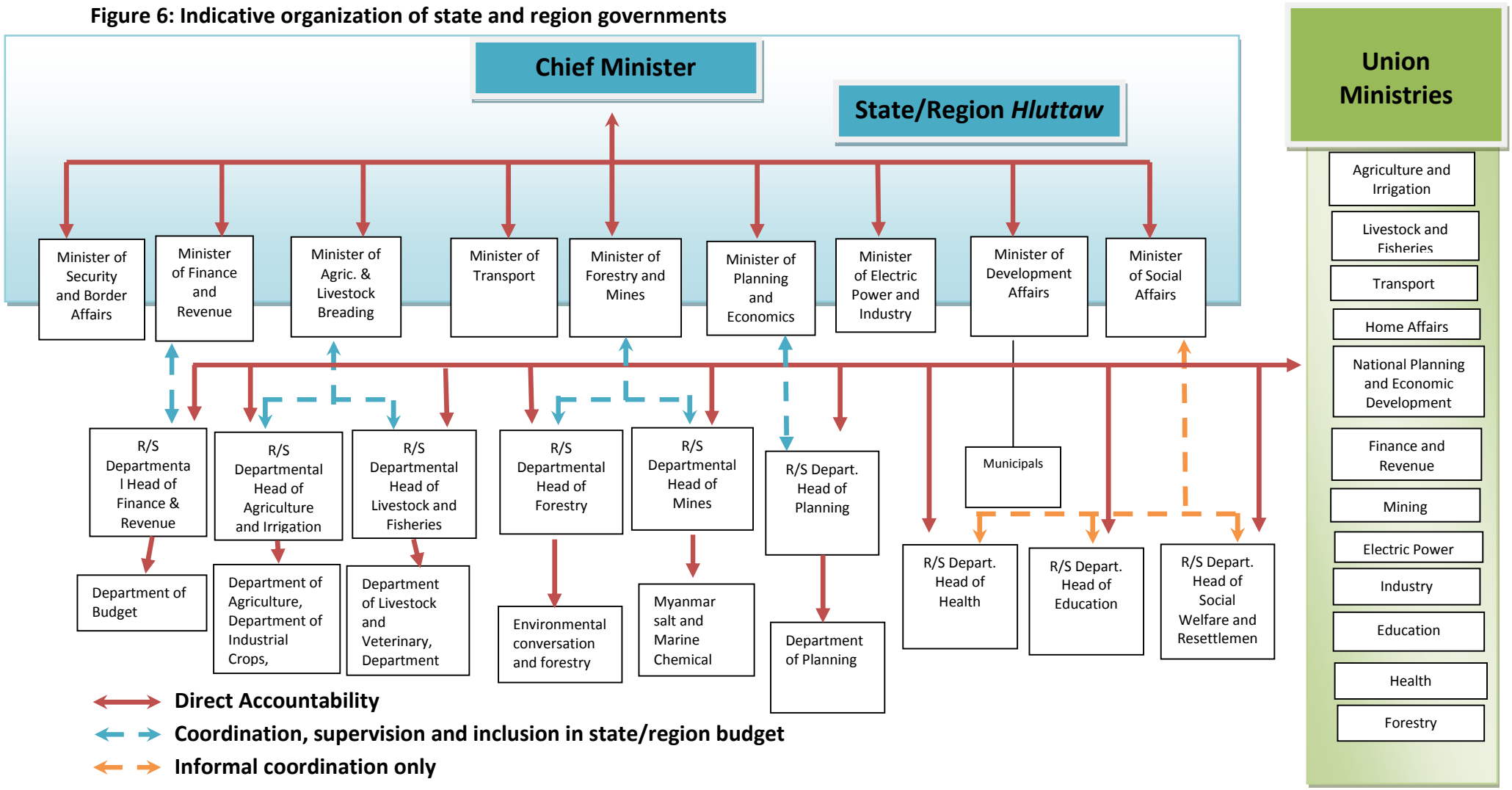
In general, appointment procedures and judicial structures limit judicial independence in Myanmar as a whole, and its states and regions.[30] As Aung San Suu Kyi has pointed out,

> As the advocate general and the chief justice of the union has been appointed by the President, the judiciary pillar is under the executive pillar. That's why the independence and check and balance situation of these three pillars do not exist.[31]

The state or region government also includes an Advocate General, nominated by the Chief Minister (with the same *pro forma* approval by the *hluttaw*) to provide legal advice and guidance. The Advocate General is accountable to both the President and the Attorney General of the Union through the Chief Minister.[32]

[25] Constitution of Myanmar (2008), Art. 232. The other ministries in the military's "gift" are Defence and Border Affairs.
[26] Constitution of Myanmar (2008), Art. 308, 310.
[27] Constitution of Myanmar (2008), Art. 311.
[28] Constitution of Myanmar (2008), Art. 295 (a) ii.
[29] Constitution of Myanmar (2008), Art. 322-4.
[30] Ghai (undated): 30.
[31] Daw Aung San Suu Kyi quoted in *Weekly Eleven* (22 July 2013): 3.
[32] Law for Region/State Government (SPDC Order No.16/2010), Art. 15 (a).

Figure 6: Indicative organization of state and region governments



Financial and human resources

Finances for state/region bodies, such as the High Court and Advocate General, as well as those activities in Schedule Two of the Constitution, are included in a state and region budget. This budget is prepared with participation from the state/region government, including the *hluttaw.* As described in more detail in Chapter Three, there are also offices of union ministries that operate in the states and regions with centrally determined budgets. These include major social sectors such as health and education. Finally, there is a cross-sectoral lump sum grant known as the "Poverty Reduction Fund", which has been distributed in the last two years for priorities determined at state/region level. Revenue comes from three main sources:

- Taxes and fees assigned in Schedule Five of the Constitution (reproduced in Annex III).
- Income from those state economic enterprises delegated to a state/region, a portion of which goes to the state/region fund and a portion of which is retained by the enterprise.[33]
- Transfers from the Union Government in the form of grants, loans (to cover deficits of revenue generating units considered to be state economic enterprises - SEEs), and the cross-sectoral Poverty Reduction Fund.[34]

There is an Auditor General at the state/region level, appointed by the Chief Minister in the same way as the Advocate General. The duties of this post are not specified in the Constitution, but the 2010 State and Region Government law specifies that they are to audit the state/region budget and report to the *hluttaw.*[35] The Auditor General's accountability, like that of the Advocate General, is unclear, as he or she is subordinate to both the President and the Auditor General of the Union via the Chief Minister.[36]

The Constitution states that region or state governments can form civil service organizations as needed, but only according to union civil service regulations and by coordinating with the Union Government in advance.[37] To date there are no civil service commissions in the states and regions.[38]

[33] Law for Region/State Government (SPDC Order No.16/2010), Art. 40; Constitution of Myanmar, Schedule Five.
[34] The distinction between a public sector entity and an SEE can be somewhat ambiguous – for example public works and municipality departments at state and region level are considered SEEs and must balance their budget or receive loans. Loans are said to be repayable at 4% interest, but the research did not determine how much repayment was taking place.
[35] Constitution of Myanmar (2008), Art. 271-274; Law for Region/State Government (SPDC Order No.16/2010, Art. 20 (a).
[36] Law for Region/State Government (SPDC Order No.16/2010), Art. 21 (a,b).
[37] Constitution of Myanmar (2008), Art. 257.
[38] Law for Region/State Government (SPDC Order No.16/2010), Art.45 (a,b).

Interpreting state and region government structures

State and region governments are very recent developments, and part of the purpose of this study is to explore their implications on the ground. Before turning to those explorations, it is worth summarizing a few of the key formal aspects of the structures.

Mixed forms of decentralization

As introduced in Box 2, decentralization can take different forms. In devolution, powers and responsibilities are decentralized to local governments, normally defined as bodies with "corporate status" and significant autonomy. In practice this means the local government should pass and hold its own budget, have its own political leadership (often elected), and enjoy some discretion over its administration and human resources. Deconcentration, often considered a weaker form of decentralization, involves only the passing of powers and responsibilities to lower administrative levels of organizations that are still part of the national administration. These differences are illustrated in Table 6, drawn from the Local Public Sector Project Handbook.[39]

Table 6: Comparing devolution and deconcentration

	Devolution	Deconcentration
Local entity	Local government	Local administration
Legal characteristics	Corporate body (can own assets, engage in financial transactions, sue and be sued in its own name)	Part of national / state administration
Political characteristics	Own political leadership (typically, elected local council and/or local executive); adopts its own budget	No political decision-making power (advisory council, if any)
Admin. characteristics	Local government appoints own officials and has discretion over own human resources	Local staff are hierarchical part of national civil service
Fiscal characteristics	• Has it own budget (separate from higher-level government) • Has own budget accounts; can carry forward balance from year to year • Can raise funds and retains own revenues in own budget • Can incur liabilities by borrowing on its own account	• Budget of jurisdiction is part of national budget as (sub-)organization • Budget is approved by higher-level government (e.g., Parliament) • Finances are part of Consolidated Treasury Account • Any revenues belong to central government

The kind of decentralization pursued in the Constitution does display some elements of devolution, in particular through the formation of state and region governments with partly elected *hluttaws* and political executives. The right to collect some revenue and the existence of a state/region budget, even if it is heavily influenced by the central government, are also steps towards a devolved system.

However, the powers and responsibilities granted under this division of labour are limited, and the executive responsible for implementing them is ultimately accountable to the President, not to the state/region *hluttaw*. The exact nature of

[39] For this table and a fuller explanation of these types of decentralization, see Boex (2012): 11-14.

the state and region budget is also evolving but has some features of a devolved budget, while still being approved as part of the union finances. The status of the executive agencies responsible for state and region activities is also ambiguous. While various ministries have state- and region-level offices, they do not yet form an integral part of the state/region government, which instead is built around the General Administration Department.

In this sense, decentralization is proceeding primarily via deconcentration, in which additional responsibilities and resources are being given to the state and region departments of central ministries (sectoral or "vertical" deconcentration), and to the Chief Minister under the President's authority (territorial, or "horizontal" deconcentration"), but these actors still remain largely accountable to the centre.[40] At the same time, the election of *hluttaws* and the reform trajectory emphasize public participation and bottom-up dimensions to the decentralization process. Deconcentration may allow some more responsiveness and improve the efficiency of public services, but in general it does not promote autonomy and downward accountability. A crucial strategic element of any decentralization policy going forward is to clarify the sequence and relationships between deconcentration and devolution.

Military role in state and region government

A second feature of the new institutions is that the powerful and central role of the armed forces, the *Tatmadaw,* in national institutions is echoed in states and regions.[41] Most obviously, military appointees occupy a quarter of the legislative seats in states and regions, limiting democratic decentralization. In addition to protecting the institutional interests of the military, in ethnic states, this military presence in the *hluttaw* is likely to decrease the share of seats held by ethnic minorities as the latter are underrepresented in the military. As Steinberg has noted,

> With the power structure of the state in *tatmadaw* hands, and likely to remain so for the indefinite future, and since the leadership of that institution is completely in Burman hands, unless there are specific changes within the promotion patterns and power structure of the military, minority representation will likely lag.[42]

Perhaps less obviously, but probably more importantly, the Constitution ensures that active duty military appointees of the Commander-in-Chief lead both the Border Affairs and Home Affairs ministries at the national level. These two ministries have powerful subnational mandates and organizational infrastructures in the form of the General Administration Department for Home Affairs and the Border and Security Affairs responsibilities over policing and immigration. The state and region Minister for Border and Security Affairs is also nominated by the Commander-in-Chief, and acts both as a minister and representative of the Defence Services. Many staff in

[40] On characteristics of vertical and horizontal deconcentration, see Boex (2012): 13-14.
[41] For discussion of the role of the military in the 2008 Constitution generally, see Ghai (undated): 26-28; Pedersen (2011): 53-54.
[42] Steinberg (2012): 233.

these departments are drawn from the ranks of the military.[43] Further research is needed to better understand the implications of military domination of these key ministries.

In sum, the state and region governance provisions of the 2008 Constitution and related instruments only partially devolve a limited set of decision-making powers and administrative functions, while retaining heavy elements of central and military control and oversight.

The subnational governance reform environment

A key unanswered question for the future of subnational governance in Myanmar is to what degree the structures defined by the Constitution and described in this chapter are the last word or are open to continued change and reform. The Constitution has very restrictive provisions for amendment, suggesting that the drafters had little intention that this distribution of authority would be a starting, rather than an end point.[44] On the other hand, there is significant and growing interest in further reform to subnational governance institutions from all sides of the political spectrum in Myanmar. Some recent developments and opportunities include the reform programme of the President, the revision of laws, the creation of a parliamentary constitutional review panel, major donor subnational governance initiatives, and the peace processes.

Presidential leadership

President Thein Sein is a leading influence on the reform environment for subnational governance in Myanmar. The President's Office has acted as a *de facto* hub for setting national decentralization policies, providing guidance to state and region governments, and acting as an information broker and communications channel between state and region governments and union government ministries. Within the President's Office there are six "President Office Ministers", one of whom is dedicated to managing state and region affairs.[45] Minister U Hla Tun has held the portfolio since the beginning of the Thein Sein government and generally acts as the President's representative on matters regarding decentralization.

The stated intentions of President Thein Sein's subnational governance policies have been to spur economic development, focus administrative reforms on state and

[43] Taylor, (2009): 451. In August 2013, the Department of Rural Development was removed from the Ministry of Border Affairs and formed a new Ministry with existing Fisheries and Livestock Breeding Departments, now called the Fisheries, Livestock and Rural Development Ministry.

[44] Constitutional amendments require the vote of 75 percent of the members of the *Pyidaungsu Hluttaw*, giving the military a veto. In addition, amendments in the most fundamental areas including basic principles, state structure, branches of government, and emergency provisions, require a referendum with support from "more than half of those with the right to vote": Constitution of Myanmar (2008), Art. 436.

[45] The other President Office Ministers are 1) Chairman of the Nay Pyi Taw Council and Administrative Work; 2) Hluttaw; 3) Peace Process and Politics; 4) Economic Reform; and 5) Planning. See: http://www.president-office.gov.mm/en/briefing-room/orders/2012/09/07/id-636.

region governments, and enable political reforms to support nascent peace processes with ethnic armed groups. "People-centred development" is the refrain used by the President to articulate his government's rationale for decentralization, arguing it benefits the population through good governance and greater responsiveness.

While state and region governments are the most significant new structures in subnational governance, President Thein Sein has pushed governance reforms further by creating collective bodies of different compositions at the district, township, village tract, and village levels. At the time of writing, these bodies have been established to varying degrees. The President has expressed hope that this "new administrative system … will reduce public grievances caused by the highhanded actions taken by individual administrators."[46]

The Framework on Economic and Social Reform

The 10-point Framework for Economic and Social Reform (FESR) is a reform strategy drafted at the Centre for Economic and Social Development to support the President's policy approach to people-centred development.[47] Public consultations were held in Yangon with civil society organizations, political parties and the private sector in December 2012 to incorporate their views on the FESR. The President introduced the FESR at the third planning committee meeting on 28 December 2012. Specifically, the framework emphasizes development of the laws and regulations surrounding decentralization, and suggests the possibility of adding more areas to the initial list of decentralized responsibilities, to possibly include health and education. FESR also stresses the need for a more "comprehensive" policy on decentralization.

[46] See President Notification 27/2013 (26 February 2013). "Under the new administrative system, the township administrative officer will form a township administrative committee and sub-committees with township level officials from other government agencies, community leaders, and representatives from civil society, business and professional associations to manage law and order, security, the rule of law, and economic and social issues in the township … Similar administrative reforms will be undertaken at the district level as well. At the ward and village level also, village or ward level committees with the village or ward level administrator and community leaders will perform similar functions": President's speech on reforms to improve the management and administrative capacity of the government, given at the Credentials Hall of the Presidential Palace (26 December 2012).

[47] The 10 points are finance and taxation, monetary policy, regulations on trade and investment, private sector development, health and education, agriculture and food sufficiency, the governing system and transparency, mobile communication services and internet systems, infrastructure development, and governance reform.

Box 5: Provisions on decentralization in the Framework for Economic and Social Reform

105. Myanmar inherited a fairly centralized administrative system that went back to the British colonial time. The Government of Myanmar is beginning to address the emerging imbalances between the political, administrative and fiscal dimensions of decentralization that further limit the effectiveness of the new institutions. It is planning to streamline managerial responsibilities between centralized ministries and local departments, clarifying roles and responsibilities between different levels of governance, and is developing appropriate legislative and regulatory frameworks to facilitate devolution and deconcentration of powers and functions of centralized institutions.

106. The Government of Myanmar attaches high priority to developing a participatory process of local budgeting, which should reflect local priorities and needs while corresponding with national policy directions, by delegating decision-making authority over expenditure compositions (between recurrent and capital expenditure) as well as inter-sectoral allocations (between sectors) under the guidance of local parliaments. However, the Government of Myanmar still retains the budgetary controls over health and education expenditure for transitional adjustments, which may be a future subject of decision for fiscal decentralization. In the meantime, the Government of Myanmar plans to ensure that the initial imbalances of decentralization can be corrected through a gradual process of coordination and delegation, which can ultimately reinforce the legitimacy and capacity of the state and regional governments particularly for those that are contributing to parallel process of peace-building and regional development.

107. The Government of Myanmar plans to conduct necessary studies and analyses of the functioning of subnational governance institutions in a range of regions, states and local units, as well as analysis of international experience, to improve Myanmar's decentralization policy. Based on such studies, it will develop a comprehensive policy that can explore ways to bring administrative and fiscal decentralization into closer balance while strengthening the responsibility and responsiveness of sub-national units to the local population.

Source: Framework on Economic and Social Reform

Parliamentary commissions

One of the prominent dynamics of the reform process in Myanmar has been the active role that new national legislative institutions have played in promoting transparency, debate and discussion. The national parliament has been exploring options to strengthen decentralization, and a new state and region *hluttaw* law was enacted on 5 August 2013, after significant exchanges between the President and the *Pyidaungsu Hluttaw.*[48]

Most significantly, in March 2013, formation of a Constitutional Review Committee was proposed to the *Pyithu Hluttaw* by Thura U Aye Myint of the Union Solidarity and Development Party (USDP).[49] The motion was passed unanimously in the *Pyidaungsu Hluttaw* and the committee formed on 25 July 2013.[50] Committee

[48] *The New Light of Myanmar* (8 August 2013): 6-7.
[49] *The New Light of Myanmar* (21 March 2013): 7.
[50] "Constitution Review Committee with 25 military representatives agreed by *Pyidaungsu Hluttaw* with no objections", *Weekly Eleven* (25 July 2013). Available from: http://www.weeklyeleven.com/politics/21499 [Accessed 30 July 2013].

membership is according to the proportion of party representatives in the *Pyidaungsu Hluttaw*: 52 representatives from USDP, 25 from the military, 7 from NLD and representatives from 16 other parties (109 representatives in total). Parties were allowed to nominate their own representatives. The committee will be chaired by the *Pyidaungsu Hluttaw* Deputy Speaker, with the *Amyotha Hluttaw* and *Pyithu Hluttaw* Speakers acting as deputies. The chairperson will appoint a secretary.[51]

The stated purpose of the Constitutional Review Committee is to examine the Constitution carefully and submit articles to be amended, annulled or substituted to the national *hluttaws*.[52] The committee is allowed to take advice from Union Government representatives, ethnic representatives, Chief Ministers, representatives from parties not in the *Hluttaw*, and intellectuals from any sector. At the time of writing, in mid-2013, it was difficult to assess the significance of this committee, but the openness in discussing amending the Constitution is, in itself, remarkable, and somewhat typical of the strong effect that new representative institutions have been having on political discourse. If the committee represents an empowered negotiating effort by the military and other parties, it could potentially become one avenue to overcome divisions regarding the Constitution.

2013 State and Region Hluttaw Law

During the transition period from military to civilian government, the SPDC government promulgated the Region and State *Hluttaw* Law on 21 October 2010.[53] Subsequently, the *Pyidaungsu Hluttaw* submitted a new 2013 Region and State *Hluttaw* bill replacing the 2010 SPDC law, which was sent to the President on 13 February 2013 for signature. However, after reviewing the bill with the Attorney General, legal experts and scholars, the President sent the bill back on 22 February 2013, with nine remarks for amendments. However, the *Pyidaungsu Hluttaw* rejected these amendments and resent the bill to the President for signature.

The 2013 Region or State *Hluttaw* Law has some significant amendments compared with the 2010 SPDC law, including the following:

- Allowance for a state/region *hluttaw* office that is not specified as under the GAD;
- The possibility of the public attending *hluttaw* sessions;
- Proposals for a constituency fund and representative offices (both of which were opposed by the President).

The President's remarks primarily concerned limiting provisions to allow *hluttaw* members to open their own representative offices in townships, undertake development work and receive constituency-based funding. The objection given was that these activities could result in representatives engaging in partisan politics. There is also contention over the right to create bodies of *hluttaw* members and

[51] Latt, W. (2013) "Constitution review committee approved", *The Myanmar Times* (29 July 2013): 9.
[52] "What should be amended in 2008 Constitution", *Weekly Eleven* (29 July 2013): 8.
[53] Law No. (14/2010).

others to address "other matters" not prescribed in the Constitution. The points of contention over this law mirror the overall reform dynamic in the country. They focus on the degree to which the pursuit of political party aims is contrary to the Constitution, and the ability and status of the legislative branch to form new committees and organizations with robust rights.

Another impetus for continued development of subnational governance institutions will be the attention of major donor programmes. The UNDP with its partner organization United Nations Capital Development Fund (UNCDF), and the World Bank are both in the process of designing and initiating large development programmes with subnational governance components. These partner with government and aim to provide resources to township and community levels, while enhancing local capacities for development planning and implementation. Linkage of these projects to the roles and capacity of state and region governments will be important in ensuring they contribute to the broader evolution of the subnational governance structures.

It is difficult to generalize about the situation between the many conflicting parties in Myanmar. Despite the emergence of some important new cease-fire arrangements, the parties remain far apart in their basic positions on central-local relations. However, the pursuit of negotiations is generating a more open discourse surrounding questions of decentralization. For example, many respondents in the study noted that even U Aung Min, the President's Office Minister tasked with managing the peace process from the government side, has begun to openly refer to the option of federal or federal-like structures as an outcome of the peace process.[54]

[54] U Aung Min noted during the 2 March 2013 "Peace Building and Myanmar Transition" seminar at UMFCCI, that conflict would end when the country practiced federalism, autonomy and resource sharing proportionately among the states/regions and self-administered areas. Reported in *Weekly Eleven* (5 August 2013): B.

THREE: The Administrative Dimension

Administrative decentralization entails the assignment of responsibilities and functions to lower level bodies, and is thus related to the structure of executive authority. As described in the last Chapter, this process can occur through deconcentration (in which lower level units of central ministries take on additional responsibilities) or through devolution (where local governments are given assigned functions, usually across several sectors). The 2008 Constitution stipulates the formation of state and region governments and defines their remit in an apparently devolved arrangement, but there are important limits on the executive authority that the new governments enjoy. At the same time, deconcentration of central responsibilities is taking place within some union ministries, resulting in a mixed model of administrative decentralization.

As described in Chapter Two, the basic parameter guiding decentralization to states and regions is Schedule Two of the Constitution (See Annex I). Schedule Two is actually a list of legislative responsibilities, and therefore pertains to the political dimension of state/region authority. However, the Constitution assigns administrative responsibility over the same activities, while allowing for the future assignment of additional administrative powers by the Union. As interpreted in practice by states and regions, the division of responsibilities defined by Schedule Two results in a division between two kinds of departments. Departments corresponding to the functions in Schedule Two form a group of state/region departments, while the remaining group consists of offices of the union ministries that are present at the state/region level but do not correspond to a Schedule Two function.

State/region departments

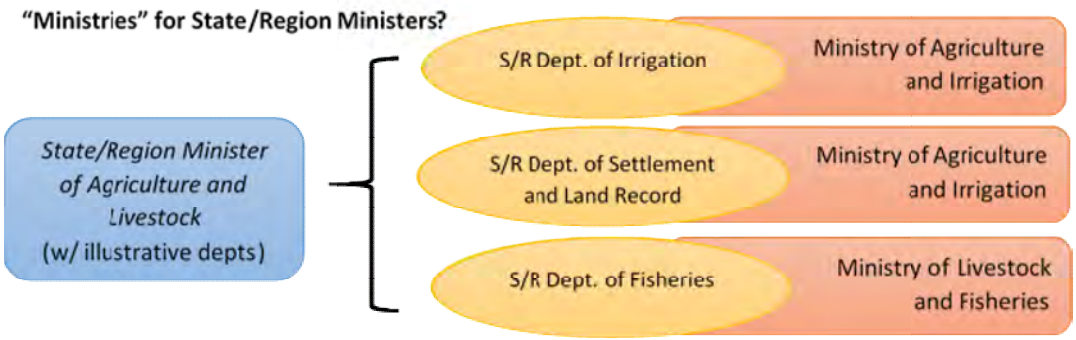
The first group (covering the responsibilities laid out in Schedule Two) thus should fall under the authority of the respective state or region government. There is some ambiguity about which departments this entails, but based on the constitutional division of labour and the areas where there is income or expenditures in a given state or region budget, this group includes between 18 and 24 departments in the six states and regions covered by this study.[55] Despite being formally assigned to state and region government by the Constitution, these departments are not standalone state/region ministries corresponding to the cabinet portfolios of ministers in the state and region governments, nor do they fit neatly within the structure of union ministries. This has occurred, in part, because these state/region departments are not newly constituted administrative units staffed by state/region civil servants. Instead, they are pre-existing departments within the centralized ministerial structure of Myanmar that have been nominally been placed under state/region authority.

[55] Interviews, state and region officials; 2012-13 State and Region Budget Laws.

In most cases the activities in Schedule Two, and therefore in the state/region departments, cover some, but not all of the activities formerly under a given union ministry. For example, in the Ministry of Construction, the state/region government nominally controls the Departments of Housing Development and of Maintenance of Roads, Buildings and Bridges, but not other departments of that Ministry. In another example raised during fieldwork, the state Minister for Forests is responsible for regulation of bamboo, charcoal and small forestry production, yet large timber production is under union authority, while the Environmental Conservation and Forestry Ministry at union level manages both departments.[56] Where union functions require staff and equipment at state/region level, a given union ministry office may even have some units that are nominally under state/region control, and others that remain centralized. One example is the Ministry of Agriculture and Irrigation's office in states and regions—the agriculture department is a state/region unit, but the irrigation department remains with the Union.[57]

In addition to remaining connected to the administrative hierarchy of the union ministries, the state/region departments are assigned to ministerial portfolios at the state/region level. As noted in Chapter Two, in addition to the Chief Minister, there are typically nine sectoral portfolios in the state and region cabinets. However, state/region departments do not correspond on a one-to-one basis with the Ministers of the state/region government. Furthermore, the ambiguity is increased as the state/region ministers are in some cases also informally assigned liaison responsibilities with departments that are not assigned to the state/region by Schedule Two. The most common example cited was the supposed role of the state/region Minister for Social Affairs in coordinating with the Departments of Health and Education, both of which are not included in Schedule Two and therefore remain union government functions. Figure 7 illustrates these ambiguous relationships using the example of the state/region Minister for Agriculture and Livestock. Annex VII provides the full list of departments included in the Shan State Government website, showing both state/region responsibilities and union ministry offices together.

Figure 7: Example of state/region ministerial responsibilities



[56] Interview, Shan State official.
[57] Interview, State Minister of Agriculture and Livestock Breeding. As of August 2013 further devolution of some irrigation responsibility was reportedly being discussed in government.

These overlapping responsibilities result in confusing accountability relationships. A Director or other department head from the civil service, appointed by, and accountable to the union ministry, leads each ministry office at the state/region level. In this sense, the department and its staff are under the direction of the respective union minister. However, the state/region minister is also responsible for directing the concerned departments. Even where state/region-level functions are concerned, because the leaders of the ministry offices at state/region level are still part of a central ministry hierarchy, "[c]entral ministers still see themselves as in control over their whole ministries, but they should not be."[58]

Given these factors, where does true accountability lie? As with many questions of public administration, the answer is likely to be with the authority to hire, fire or promote the staff in question. At the time of writing, this authority remained with the union ministries, even for those departments under state/region control:

> People have a misunderstanding about the recruitment of employees. There is no authority to do recruitment for the state government according to 2008 Constitution.[59]

An essential building block of effective administrative decentralization, particularly if devolution to subnational governments is involved, is human resource management. As emphasized throughout the decentralization literature, "some level of local control of executive staff is essential for the local accountability of staff and thereby autonomous and responsive L[ocal] G[overnments]."[60] While such control does not in itself guarantee local government effectiveness, interviewees widely reported that ambiguous accountability relationships prevented local officials from acting.

During 2013 there was discussion of an Executive Order to move some responsibility for managing the human resources of state/region departments to state and region governments.[61] However, none of the officials interviewed for this study knew of the change, and as of mid-2013, it was unclear if any shift in responsibilities had been achieved. To be more than symbolic, such a change would mean that the state/region level requires the capacity to supervise civil servants and manage their hiring, firing and advancement. More recently, the President has proposed that "region/state governments … compile [a] civil servants performance evaluation report and submit [it] to Union government and present copies to Union ministries" and that "promotion and transfer [are] to be decided [based] on [this] performance evaluation report."[62]

The Constitution does allow for the creation of "civil service organizations" at the state/region level, but in 2012 the UNDP noted that there has been "no plan to

[58] Interview, State Chief Minister.
[59] Interview, state Finance and Revenue Minister.
[60] Tidemand and Steffensen (2010): 17-18.
[61] Personal Communication, international donor official.
[62] President U Thein Sein's speech at a meeting with Union ministers, region/state chief ministers, and deputy ministers; Nay Pyi Taw (9 August 2013): http://www.president-office.gov.mm/en/briefing-room/speeches-and-remarks/2013/08/11/id-2536 [Accessed 13 August 2013].

establish Regional or State Civil Service Board Offices" nor independent civil service organizations.[63] On the contrary, region/state ministers noted during the interviews that since there is no state or region civil service commission, appointments and promotions continue to be "biased towards Nay Pyi Taw-based persons."[64]

The fundamental point here is that, while there are state and region ministers, there are, as yet, no state and region *ministries* for them to lead. The administrative structure for carrying out the responsibilities given to states and regions by Schedule Two is still situated broadly within the union ministries. The result, as observed by one Chief Minister, is that

> [s]tate level ministry departments do not have a stake in local development, [and] don't go out to assess, [and] monitor. But state level government does have a stake.[65]

There is already some recognition of this issue. In order to buttress the authority of state ministers, one Chief Minister has asked union ministries to issue directives to staff via his state ministers, rather than through the union ministries' chains of command. However, he noted, this has not been consistently implemented.[66] In a major reform speech in August 2013, the President placed renewed emphasis on bringing the state/region departments under the authority of the state and region ministers, but exactly what steps are to be taken towards this goal was unclear.[67] On the whole, the state/region ministers charged with executive and administrative responsibilities remain outside the existing sectoral administrative structures and continue to have difficulty asserting the authority needed to breathe life into the process of devolution.

Union ministry offices at state and region level

A second class of departments consists of those units that, despite being physically located in the states and regions, remain directed by, and accountable to, their corresponding union ministry due to their exclusion from the Schedule Two legislative list. Three of the most important examples include the Health and Education Departments, which have the greatest number of staff and facilities in the states and regions, and the mining sector, an important sector in three of the states and regions studied.

As the state/region government has no formal authority over these sectors, any interaction between it and the concerned union departments is informal. This does not mean, however, that the state/region government does not attempt to influence or interact with these departments. For example, in some regions or states, these

[63] UNDP (2012): 43.
[64] Focus group discussion, state ministers.
[65] Interview, State Chief Minister.
[66] Interview, State Chief Minister.
[67] President's Office, "President U Thein Sein delivering speech at the meeting with Union ministers, region/state chief ministers, and deputy ministers" (9 August 2013): http://www.president-office.gov.mm/en/briefing-room/news/2013/08/11/id-2533. [Accessed 13 August 2013].

departments provide reports to the state/region government on an "ad hoc" basis, and the state or region ministers make suggestions and proposals to these departments.[68] For example, one regional Minister for Social Affairs proposed that specific clinics or schools be repaired or constructed:

> When we want to build a school, we need to submit forms to the centre and if the centre approves, they will give the budget and we can build the school, and same goes with clinics and hospitals. The budget comes from the centre but the responsibility and management is with the region minister.[69]

In another state, ministers confirmed that such feedback is sent upward to central ministries:

> State ministers can propose to … departments, but these are still channeled to the central ministries, and when approved, it is different from the proposal.[70]

From the point of view of the department, this makes sense. One regional director noted that he "is departmental staff, with guidelines from the central ministry" and therefore asks the region government to submit requests by letter to the respective union ministry in Nay Pyi Taw.[71] However, this process has led to frustration and a perception inside the region government that it is not trusted or respected by the department. In general, the directors of several union departments at the state/region level felt that state and region governments "don't know the rules and regulations of the departments" and therefore had unrealistic expectations of how responsive they could be.[72] Where relationships were reported to be functioning well, it was because of good personal relations between state or region ministers and the departmental leaders in state or region offices.[73]

It is important to note that these departments also do not necessarily oppose a closer relationship with state/region governments. In fact, the same department head stated that there "should be a dedicated education minister" in the region to strengthen the region's involvement with education issues. In addition, even though they fall outside the framework of state and region government, some of these union ministries are pursuing significant decentralization through deconcentration.

Administrative deconcentration in health and education ministries

Several health and education department heads observed that there is a need for increased state- and region-level management and more bottom-up input into planning and budgeting for those services.[74] Education officials noted that under the previous regime, the central ministers–mainly military or ex-military personnel and

[68] Interview, Region Education Director.
[69] Interview, Region Social Affairs Minister.
[70] Focus group discussion, state ministers.
[71] Interview, Region Education Director.
[72] Interview, Region Education Director.
[73] Interviews, State Health Department Director.
[74] Interviews, department directors.

did not know much about education–set arbitrary expenditure and performance targets. As a result, local staff would change or fabricate results to meet them. Some staff referred positively to earlier periods, when educational appointments were made by the local administrations.[75]

However, recently there have been active efforts to deconcentrate these union ministries. One education director described the changes to the responsibilities of the regional education department, saying that "[b]efore it was top down and we had to implement orders and directives from above. Now, the system is more bottom up."[76] The structure of different sized state and region departments has been rationalized, region and state heads have increased in rank from Assistant Director to Director, and staff numbers have gone up. In terms of human resource management, the authority to promote and transfer different levels of staff is now deconcentrated to districts (for middle and high school heads and township education officers), and townships (for primary and middle school teachers). Township education officers are also asked to contribute to planning and budgeting by identifying staffing and school facility needs, a process aided by increases in the education budget and the introduction of new information management systems. However, authority to hire and fire staff, and for procurement and budgeting (including for operating expenditures) still rests with the union ministry.

State and region health departments also reported being given greater responsibilities. One regional department described similar arrangements with respect to human resource management: the ability to promote and transfer but not hire and fire. Increases in staffing have been approved, but only about two-thirds of the new posts have been filled. The director noted that staff capacity would need to be developed if the department were to take on greater responsibilities. One significant difference between the health and the education department, at least in this region, was that the health department had managed the tendering of one construction project and so is involved in procurement.[77]

To some degree this deconcentration may be interpreted as simply a result of the general increase in attention to the social sector from an extremely low baseline, and driven by an overall increase in social spending by the Government of Myanmar. However, the President has also specified further deconcentration reforms in health and education. In education "primary education…appointments are to be made by region/state governments", while the "Health Ministry is to make coordination with region/state governments in assigning [nurses and midwives] to their home regions" and "appoint medical staff in remote regions through vacancy announcement in newspapers as the direct appointment by the Health Ministry doesn't work."[78]

[75] Interview, state higher education official. Educational officials made largely positive references to policies followed up to the early 1970s, before the Burma Socialist Programme Party constitution of 1974 was introduced.
[76] Interview, Region Education Director.
[77] Interview, Region Health Director.
[78] President U Thein Sein speech at meeting with Union ministers, region/state chief ministers, and deputy ministers; Nay Pyi Taw, 9 August 2013, http://www.president-office.gov.mm/en/briefing-room/speeches-and-remarks/2013/08/11/id-2536.

Ironically, some *hluttaw* members perceive more decentralization in these deconcentrating union ministries than in the state/region departments themselves.

One area cited as an important gap in state/region authority in the three states and regions covered by this study (Shan, Chin and Tanintharyi) was mining. The authority to grant mining concessions is under union control, and this is seen as an important limitation on issues that are of direct state and region concern. Sharing of the proceeds from mining is a contentious issue in centre-local relations, as well as in the ethnic conflicts in Myanmar. The concerned state/region governments are unable to monitor and respond to the many grievances arising from mining activity.[79] Civil society organizations have also expressed frustration that they cannot pursue problems related to mining activity with a state or region government. In one case of people being displaced in relation to a mining project, a local lawyer's organization noted that the local government was sympathetic, but unable to act due to the union authority over mining.[80]

A general observation about these three important sectors that remain under central control is that they are precisely among the sectors in which state and region stakeholders say they have the most interest. Health and education are wide-ranging services that usually benefit from local input into planning and budgeting. The large staff numbers involved suggests state and region management of human resources may be more efficient. In addition, education is one of the areas with major implications for the protection of cultural and ethnic identity, and was raised in several states as a desirable area for further devolution. Finally, major resource sectors such as mining and timber are perceived as unfairly dominated by the centre, and not just by ethnic political groups but also by state governments themselves. In other words, the current division of power between state/region governments and the centre leaves some of the most politically relevant areas of activity outside the state and region government framework.

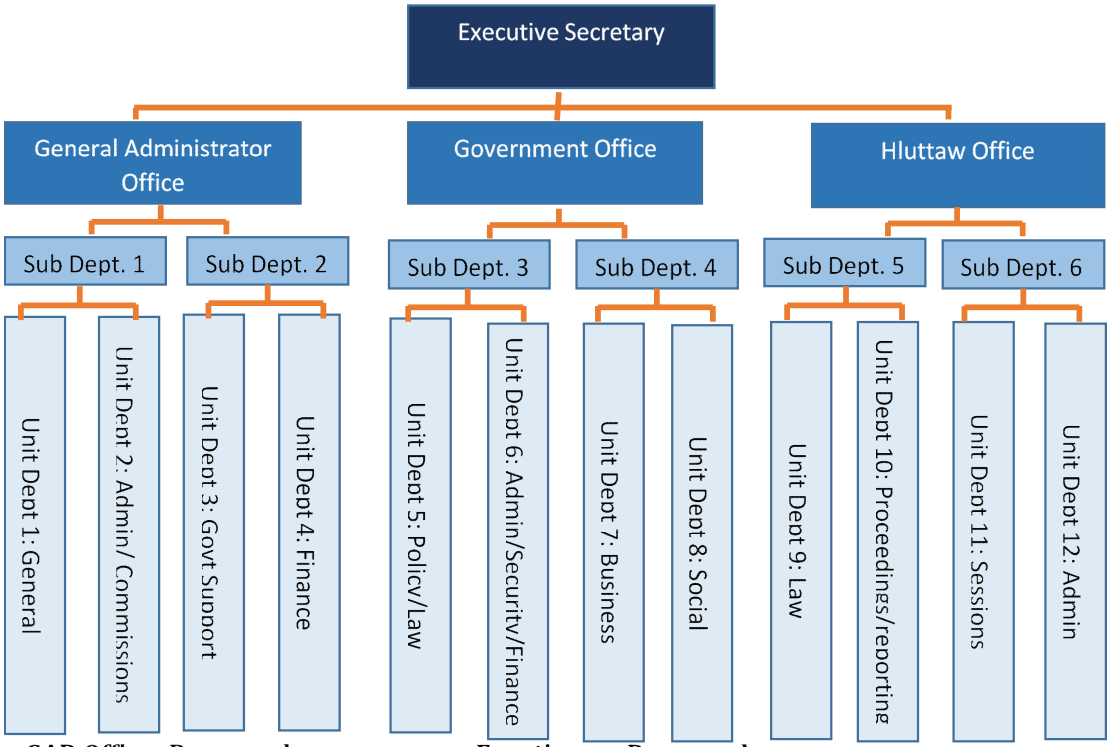
Myanmar's administrative backbone: The General Administration Department

As described above, there is not a clear structure of independent state/region ministries. Instead, there are departments with mixed accountability to both union and state/region government on the one hand, and state/region units that remain under the control of union ministries on the other. The functioning of the executive and legislative structures of state and region government rest upon a key building block of the country's pre-existing governance structure: the General Administration Department (GAD). The GAD was created in the Ministry of Home Affairs when the SLORC government came to power in 1988 to control and administer the country through a hierarchy of Law and Order Restoration Councils established at central, regional and local levels.[81]

[79] Interviews, officials in Chin, Shan and Tanintharyi.
[80] Interview, CSO.
[81] The SPDC structure broadly followed the pattern of Ne Win's Security and Administrative Councils formed in 1962.

At the state/region level, the GAD provides administrative and coordination functions for the region/state government, the region/state *hluttaw,* as well as union ministries and state/region departments.[82] The senior GAD administrator for each state and region is the Executive Secretary of the state/region government (Deputy Director General level). He or she supervises several hundred GAD employees who staff a General Administrator Office, a state/region Government Office and a state/region *Hluttaw* Office. The latter two offices provide bureaucratic support to the Chief Minister, his cabinet and the region/state *hluttaw*. For its part, the General Administrator Office provides support to the wider bureaucracy, including managing general finance and human resource needs. This "horizontal" presence at state/region level ensures that all correspondence and administrative needs of both the executive and legislative branches of state/region government remain dependent on the GAD.

Figure 8: Typical structure of state/region General Administration Department



GAD Officer Personnel

Deputy Director General - 1
Director - 1
Deputy Director - 3
Assistant Director - 6
Officer - 12
Total – 23 staff

Functionary Personnel

Admin - 28
Driver - 29
Guard - 3
Unit Clerk - 26
Registrar - 1
Total - 223 staff

Senior Clerk - 42
Junior Clerk - 62
Cleaner - 6
Office Helper/Post man- 26

The Executive Secretary is directly accountable to the Ministry of Home Affairs. However, in interviews both GAD and non-GAD staff stated that as a matter of

[82] For example, all state/region meetings are recorded by the Office of the Region or State government, which is the GAD office: 2010 Region/State Government Law, Art. 50.

course, the Executive Secretary is expected to report to the Chief Minister.[83] How this relationship actually functions is ambiguous and likely varies from one state/region to another, and depending on the personalities involved.[84] The GAD is regarded as critically important by those outside as well as inside state/region governance institutions. Civil society organizers in one state emphasized that while the state government might have some authority, it is the GAD that releases what they need in order to function.

The GAD is also the bureaucratic core of Myanmar's vertical subnational state structure below the state/region level. The District Deputy Commissioner is a GAD officer, with a designated office—the District General Administrative Office. In turn, the District level supervises the respective townships, which are the critical building blocks of administration in Myanmar. A township administrator, also a GAD officer, manages the townships.

The roles of township administration are exceptionally varied, ranging from land registration and tax collection to drinking water provision and local dispute resolution. Overall, the GAD township office is responsible for coordination among government actors, and notably with the union ministries. More recently, townships have generally appointed a planning committee chaired by the Township Administrator, and usually with a secretary from the Ministry of National Planning and Economic Development, and a number of other appointed members.[85] These committees are a central part of the President's focus on "bottom-up collection of priorities" and people-centred development. As an illustration of people-centred development, one township administrator stated that road construction and management should take into consideration community concerns, rather than plan the road by "just looking at a map."[86]

The GAD also plays a central role in administration at the village level, which has seen recent reforms. As described previously, after passage of the Ward or Village Tract Administration Law in 2012, a selection process was implemented to elect the Village Administrator.[87] Previously, the Village Administrator was a GAD officer appointed by the Township Administrator. In turn village tract administrators are to be selected by the township administrator from a short-list of nominees provided by Village Administrators in the respective tract.[88]

Following the 2012 law, once elected, the Village Administrator receives a salary from the GAD and is supported by a clerk also employed by the GAD.[89] The role of these local administrators is very important, as they represent the direct interface

[83] Focus group discussion, region *hluttaw* members.
[84] An unverified story in one ethnic state illustrates this ambiguity. Prior to a recent ceremonial occasion, a dispute arose between the wife of the Executive Secretary and the wife of the Chief Minister over which official should be given precedence in seating arrangements.
[85] Interview, State Planning Minister (2012).
[86] Interview, Township Administrator
[87] Ward or Village Tract Administration Law 2012, Chapter IV, Art. 6-7.
[88] Ward or Village Tract Administration Law 2012, Chapter VI, Art. 8.
[89] Ward or Village Tract Administration Law 2012, Chapter XIV, Art. 32-33.

between the central state and most of the Myanmar population, which is 80 percent rural. Village administrators play a wide variety of roles—for example, tax collection, land registration, and reporting on demographics—and may effectively act as an extension of the GAD's Township Administrator.[90] Village administrators may even be required to sign-off on loans to farmers from the Myanmar Agricultural Development Bank.[91] An interesting issue for further research is the dynamics of having an elected administrator who is subsequently absorbed into the GAD hierarchy.

This arrangement results in the Ministry of Home Affairs, the GAD's home ministry, and one of three union ministries controlled by the Commander-in-Chief of Defence Services, having an important influence at the subnational level.[92] While many subnational governance structures have experienced significant changes, the GAD has seen limited reforms aside from those mentioned at the village level. The main step the GAD has taken in response to the current decentralization trend appears to be the promotion in rank of the staff serving at the region/state level and below. At the township level, the township administrator is now at Assistant Director level, rather than the level of a Staff Officer. Moreover, there has apparently been an effort to increase GAD staff numbers serving at the state/region level, though the precise numbers are unknown.[93]

As described in the previous Chapter, the revised 2013 State/Region *Hluttaw* Law envisions the creation of state/region *hluttaw* departments without specifically requiring these to be staffed and managed by the GAD. However, the Constitution clearly states "the General Administration Department of the Region or State is the Office of the Region or State government concerned."[94] A key issue of interpretation may be whether the state/region government office includes the *hluttaw* office. Regardless, the issue highlights a broader tension emerging between legislators at both national and local levels who are seeking additional institutional resources and freedom of action vis-à-vis the administrative machinery of the state.

The GAD is an exceptionally important actor within Myanmar's subnational governance structures and deserves greater emphasis and consideration by policy-makers. When its lack of change relative to other institutions, its placement within the military-led Ministry of Home Affairs, and its ubiquitous role in the administration and coordination of government actors are framed against the wider context of decentralization and democratic reform, there are grounds for suspicion about the GAD's contribution to decentralization. At the same time, any decentralization effort must engage and acknowledge this organization. As Robert Taylor has argued with regard to the 2008 Constitution's construction and intent:

[90] Ward or Village Tract Administration Law 2012, Chapter VII, Art. 13.
[91] Interview, Region Executive Secretary.
[92] The official mandate of the GAD is, like that of the Ministry of Home Affairs: the rule of law, peace and prosperity of villages and townships, regional development, and people's welfare.
[93] 2013-2014 National Planning Sectoral Policies, Goals and Activities. Ministry of National Planning and Economic Development: 152-157.
[94] Constitution of Myanmar (2008), Art. 260.

> Central supervision of subordinate government is maintained by the appointment of the secretary to the government from the General Administration Department of the Home Ministry.[95]

Administrative ambiguity and stasis

The general picture arising from the structure of administrative authority as currently constituted is one of confused accountability for some functions that are assigned to states and regions but not fully devolved, coupled with continued central control over many of the most important areas of subnational governance activity. This situation risks creating a crisis of unfulfilled expectations, as there are limits on what the new state/region governments are able to accomplish. Many respondents, both within and outside state and region governments, perceive that the state/region government is not in a position to take action in many of the areas of greatest local concern.

Such inaction may be made worse by the uncertainty resulting from competing or contradictory laws, rules and regulations, or lines of accountability. In a system with a long history of top-down direction and limited rewards for local initiative, the result is likely to be stasis as civil servants are reluctant to take risks when the "approved" course of action is ambiguous:

> Authorities usually give excuses for unclear laws and avoid tackling the problem. Unless the existing laws are annulled, they will still be acting as existing laws.[96]

On the other hand, these structures are new. If improved administrative effectiveness of state and region government is the goal, then clarification of accountability relationships, more significant human resource management responsibilities, and the potential expansion of state/region administrative functions will be necessary, though not sufficient, conditions for the reform agenda.

[95] Taylor (2009): 501.
[96] Focus group discussion, civil society organizations, Mon State.

FOUR: The Fiscal Dimension

The 2008 Constitution introduces significant changes to fiscal and public expenditure management arrangements in Myanmar at both national and subnational levels. A 2012-13 assessment of the country's public financial management by the World Bank observed that the introduction of parliamentary oversight of public finances and the constitutional separation of state and region budgets have been the "two main catalysts for [public financial management] reforms since 2011."[97] The development of the public expenditure management system in Myanmar parallels that of the governance system as a whole. Just as the Constitution and subsequent reforms have introduced a new "distribution of political powers among different institutions", a previously highly centralized, top-down and opaque fiscal system has been opened up to a range of new actors and institutions through a combination of delegation, deconcentration, and devolution.[98]

Important aspects of planning and budgeting have been moved from their former home at the head of the SPDC (and subsequently the Office of the President) to the Ministries of Finance and Revenue, and Planning and Economic Development. National representative institutions and subnational governments now participate in the preparation of the budget, and line ministries and their subnational offices, play a greater role in spending it. This pluralization of influences is a major driver of change in public finances. The reforms have been accompanied by a significant reorientation of public expenditure away from the military, and towards social spending. Between the 2011-12 and 2012-13 fiscal years, the share of the Union public budget spent on the military fell by 10 percent, while the share for health and education grew by about 2 percent (meaning health and education budgets themselves actually increased by over 38 percent).[99] State and region health and education directors confirm these increases in social sector budgets have been felt at the local level.[100]

At the same time, there are serious challenges. The introduction of significant delegation and deconcentration without supporting regulations or controls is a risk to financial accountability.[101] The preparation of the union budget is divided between the two ministries concerned with finance and planning, and is not coupled with performance-based planning and budgeting frameworks. Probably a greater long-term challenge is the lack of comprehensiveness in the public finance system. Large shares of national revenues and expenditures—particularly those relating to the military and various state economic enterprises—are not reported in the budget.[102] It is therefore difficult to gain an accurate picture of aggregate public expenditures, or promote transparency and accountability. Over time this lack of

[97] World Bank (2013): 96.
[98] UNDP (2012): 6. World Bank (2013): 97.
[99] World Bank (2013): 99.
[100] Interviews, state and region health and education department directors.
[101] World Bank (2013): 100.
[102] World Bank (2013): 42. In 2012 there were well over 13,000 such "other accounts" across the public financial management system, with the majority in military hands.

comprehensiveness will also constrain the ability of the system to turn policy and planning objectives into budgets.

The subnational fiscal system is also changing rapidly, and the definition of state/region expenditure assignments under the Constitution is still quite vague. Schedule Two provides guidance, but as a legislative list, it falls short of clearly delineating the expenditure and service delivery responsibilities of states and regions, making estimation of their fiscal needs difficult. The introduction of taxes and fees has varied from place to place, and in the future these may need to play a larger role in supporting fiscal autonomy for states and regions.

It is also possible that external development funding may be channelled directly to states and regions, though currently the main proposals focus on townships. As mentioned in Chapter Two, both UNDP/UNCDF and the World Bank are at advanced stages of introducing projects involving devolved township-level fund flows. Otherwise, districts and townships do not have their own budgets and there are not yet elected institutions in place to channel bottom-up budget input. Nevertheless, townships in particular play an important role in handling payments for local service delivery units such as schools and clinics.[103]

This chapter reviews the state and region fiscal framework, describing the way that state and region governments budget and fund their activities, and it provides a preliminary analysis of the vertical and horizontal distribution of resources among states and regions. However, owing to lack of data, and ambiguities and rapid changes in the public finance system, a full analysis of fiscal structures will require further research, and efforts in this regard are underway.[104]

State and region budgeting

Beginning with the 2012-13 fiscal year, regions and states have had separate budgets from the Union, though the union budget continues to include significant transfers to these local budgets. As noted above, the creation of these constitutionally separated state and region budgets has been a second driver of public financial management reform, and is intended to allow more bottom-up input to budgeting and improve transparency.[105] As the Chief Minister of Mon State has stated publicly,

> When the transition from the old system to the new system takes place, there are always difficulties such as a new system, lack of capacity and lack of technical skills for how to spend the budget properly, even though the budget has transferred. Now the Mon State is going to draw and separate our own budget. We are getting the power shared by the union.[106]

[103] World Bank (2013): 83.
[104] In mid-2013, the World Bank was preparing a Public Expenditure Review with government, including a section on fiscal decentralization. CESD has a programme of fiscal system research and technical assistance with the International Growth Centre.
[105] World Bank (2013): 96.
[106] Mon State Chief Minister U Ohn Myint, quoted in *The Trade Times* (13-19 July 2013): 3.

These budgets cover those expenditure responsibilities that are constitutionally assigned to states and regions, which in practice are interpreted as those in Schedule Two. This situation is somewhat confused, as not all the activities of a given ministry are included in the lists. The state/region budget therefore encompasses only some ministerial departments in the respective state or region, and may include only some of the activities of a given office, but not others. This budget complexity is a result of the mixed administrative structure described in Chapter Three, in which between 18 and 24 departments are included in the state/region government. These local departments are distributed among 11 union ministries that enjoy allocations via the state/region budget, but correspond to 9 state/region cabinet portfolios.[107] The ambiguity surrounding the status of state and region budget units is illustrated in Table 7, which compares the units appearing in the budget with the constitutional schedules. A complete list of the departments appearing in the 14 state and region budgets is provided in Annex VIII.

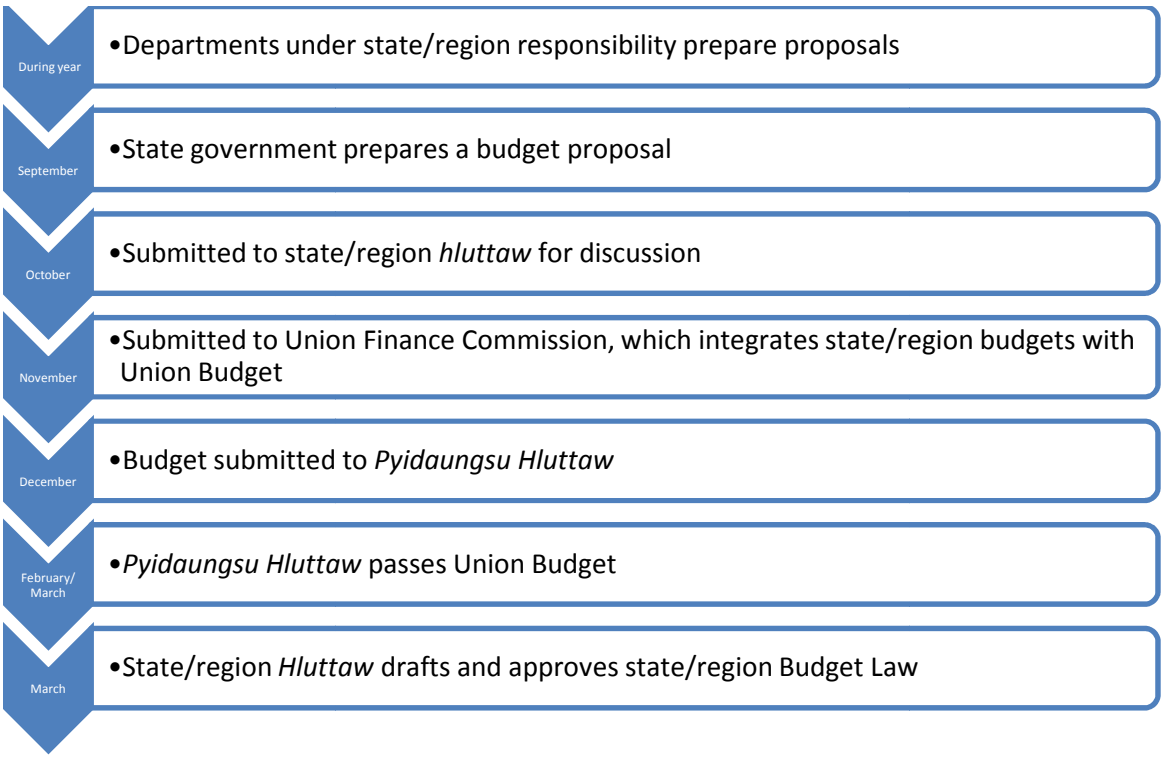
Table 7: State and region budget units and constitutional assignments

Departments appearing in state/region budget	Schedule One (Union)	Schedule Two (State/Region)	Residual/ Uncertain
General Administration Department	✓		
Special Investigation Department	✓		
Prison Department	✓		
Settlements and Land Records Department	✓		
Department of Agriculture	✓	✓	
Department of Industrial Crops Development	✓		
Cooperative Office	✓		
Department of Small Scale Industries			✓
Fisheries Department			✓
Department of Livestock & Veterinary			✓
Department of Beekeeping			✓
Dept. of Human Settlement & Housing Dev.		✓	
Maintenance of Building, Roads & Bridges			✓
Public Construction	✓		✓
Budget Department	✓	✓	
Department of Planning	✓	✓	
Central Stevedoring Committee			✓
Forestry Department	✓		
Dry zone Green Project Department	✓		✓
Department of Sports and Physical Education	✓		
Water Transport Department	✓		
Municipals		✓	
Myanmar Film Making	✓	✓	
Myanmar Salt and Marine Chemical Enterprise	✓	✓	
Myanmar Pharmaceutical & Foodstuff Industry	✓		
Home Utilities Industry			✓

[107] These are Home Affairs; Agriculture & Irrigation; Cooperatives; Livestock & Fisheries; Construction; Finance & Revenue; National Planning & Economic Development; Labour; Environmental Conservation & Forestry; Sports; and Municipalities: 2012-13 State and Region Budget Laws.

The state/region budget is also not fully devolved in the sense that the state/region has a free hand to spend its available resources on what it chooses. Instead, the budget consists of a proposal prepared at the state/region level on a department-by-department basis and then integrated, potentially with alterations, into the union budget. The final approval of the overall budget still rests with union institutions because the allocations for each department are settled in discussion with union ministries in a body called the Union Financial Commission. However, the state/region does have enhanced control over certain components of the budget, notably locally-raised revenue and the Poverty Reduction Fund. The state/region budget preparation process is illustrated in Figure 9.

Figure 9: State/region budget preparation process[108]



In practice, this study found a range of different approaches to the steps in this process, reflecting different working styles of individual state/region governments. During the preparation of budget proposals, the amount of participation by the different state/region departments and ministers varied. In general, the departments were preparing proposals on an incremental basis, meaning that they were based on the previous year's spending, with some standard or arbitrary increase. However, state/region *hluttaw* members and some department heads, albeit of the still centralized ministries such as health and education, noted that in the last year they had been instructed to plan for and justify significantly larger requests in the last year.[109]

[108] Interview, state Minister for Finance and Revenue.
[109] Interviews, region *hluttaw*, health and education directors.

The budget proposals are collated and discussed by the state/region government. In some places (for example Tanintharyi), the regional Minister of Planning and Economics has primary responsibility for putting the budget together. In others, such as Ayeyarwady, the Minister of Finance and Revenue leads the process, and in still others the responsibility is divided between the state/region Minister for Finance and Revenue, who draws up the salary budget, and the Minister of Planning and Economic Development who collates proposals for capital spending.[110] In some states, such as Chin, the Cabinet claimed they determined the budget proposal collectively. Given the limited exposure of officials to budgeting at state/region level, governments have tended to use whatever skills they have on hand to process the budget proposal:

> [One of our ministers] had experience in planning budgets while he was working in the military. Therefore, he is now trying to provide guidelines for the budget planning. For instance, the regional budget is divided by individual department. For constructing a building, there are different options for prices and so he is giving guidelines to have the same standard for the price.[111]

The budget proposal is then discussed and approved by the state/region *hluttaw.* In states and regions covered by this study, the *hluttaw* played a very limited role in shaping the budget proposal. None of the state/region *hluttaws* studied made changes to the 2012-13 or 2013-14 budget proposals of their state and region governments, though they did "give some recommendations." As described by one *hluttaw* member:

> Actually the budget needs to be prepared from the bottom level but it is not happening yet. When the budget preparation is top-down, it is not what the local people plan. The region government and *hluttaw* has very little experience in planning and preparing a budget, and so the Union government is still preparing the budget.[112]

In an extreme case of marginalization in a small state, the "ordinary" *hluttaw* members outside the cabinet claimed that they had not even been called to vote on the state's budget proposal.[113] This case reflects a broader pattern of limited state/region *hluttaw* involvement compounded when small *hluttaws* mean there are few members who are not in the Cabinet or military. This pattern is explored further in Chapter Five.

Following approval by the state/region *hluttaw*, the budget proposals are submitted to the Union Financial Commission, which is comprised of the President, two Vice-Presidents, the Auditor and Attorney General, the Minister of Finance, the Nay Pyi Taw Council Chairman, and each of the 14 Chief Ministers.[114] This body is very significant in that it is the only institutionalized forum for interaction on fiscal issues

[110] Interviews, state and region ministers. This form of dual budgeting can endanger budget effectiveness by separating investments from their recurrent implications.
[111] Focus group discussion, region *hluttaw* members.
[112] Focus group discussion, region *hluttaw* members.
[113] Focus group discussion, state *hluttaw* members.
[114] Constitution of Myanmar (2008), Art. 229.

between the state/region level and the union government. The Commission acts to integrate union and state/region budget proposals and recommends "supplementary finance" for states and regions from the Union Fund (Box 6).

Box 6: Role of the Union Financial Commission

Art. 230.
(a) The budgets of the Union Ministries and Union level organizations are to be vetted by a Vice-President assigned by the President, and the estimated budgets of the Union level organizations including the Union Ministries are to be submitted to the Financial Commission.

(b) The budgets of the Region or State are to be vetted by the other Vice-President assigned by the President, and the estimated budgets of the Region or State are to be submitted to the Financial Commission.

(c) The Financial Commission shall:

(i) submit to the Pyidaungsu Hluttaw with recommendation for the Union Budget which includes the expenditure of the Union territory, a supplementary finance as suitable to the Regions or States from the Union Fund, giving grants as a special matter and permitting loans;
(ii) to advise financial matters that should be undertaken;
(iii) carry out the duties assigned by the Pyidaungsu Hluttaw through the promulgation of law for the emergence of a substantial financial system.

(d) The Financial Commission shall submit with recommendation to the President, the Bill of Union Budget, which includes Union Budget, the distribution of suitable funds from Union Fund accounts to Regions or States, the provisions or funds as a special case and disbursing of necessary loans for submission them to the Pyidaungsu Hluttaw…

Source: Constitution of Myanmar (2008)

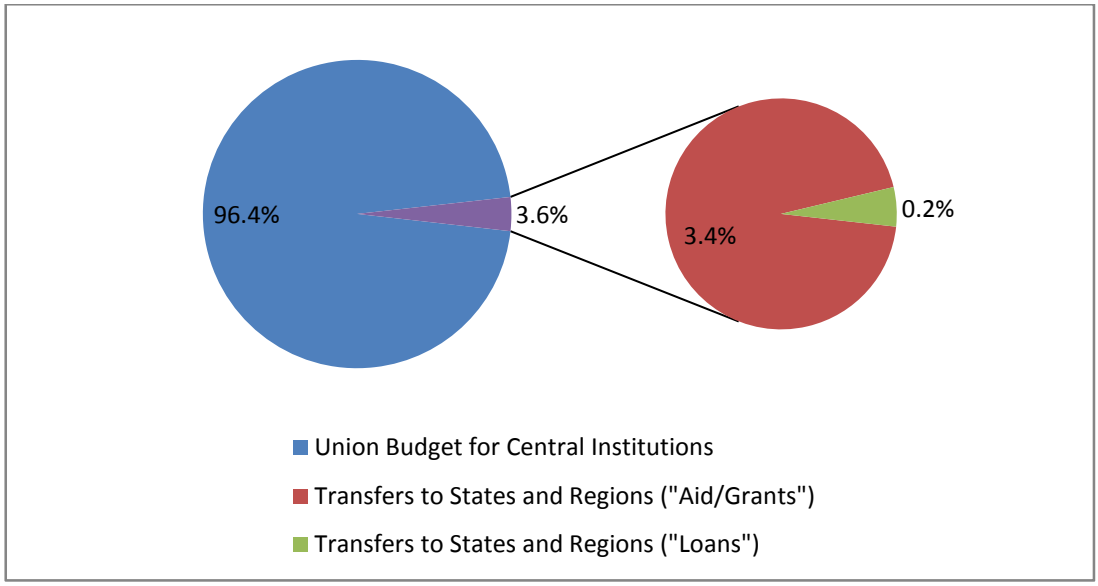
It was beyond the scope of this study to examine the process of budget integration at the level of the Union Financial Commission. However, as explored in detail in the next chapter, Chief Ministers are in practice accountable to the President. Since the representation of states and regions in the Commission is by Chief Ministers, the ultimate authority over the Commission rests with the Union Government, in general, and the President, in particular. Even if Chief Ministers are sincere in their representation of state and region interests, the structure of the Commission remains an important constraint on the potential fiscal devolution implied by the existence of state and region budgets, particularly if its deliberations are not transparent or rules-based. In the words of one Chief Minister, the overall result of these systems is that at the state/region level "planning is done based on the budget, and the budget is based on the union budget", rather than local planning leading the state and region budget process.[115]

While the basis for determining the final budget remains relatively unclear, a preliminary analysis of state and region budgets demonstrates two important characteristics of the budget outcomes for states and regions (a full summary of the state and region budgets for 2012-13 is provided in Annex IV). The first is that the

[115] Focus group discussion, state cabinet.

amount of resources allocated for state and region budgets is a tiny proportion of the total union budget. In the current FY 2013-14 Union Budget, only about 3.6 percent is transferred to states and regions. This amount is divided among grants for non-revenue generating departments, and a smaller amount in loans for those departments that have income streams (Figure 10). Whatever the powers and responsibilities assigned to states and regions, their share of the national budget remains quite insignificant compared to spending that is budgeted by the Union government.

Figure 10: Share of the union budget transferred to state/region budgets, FY 2013-14

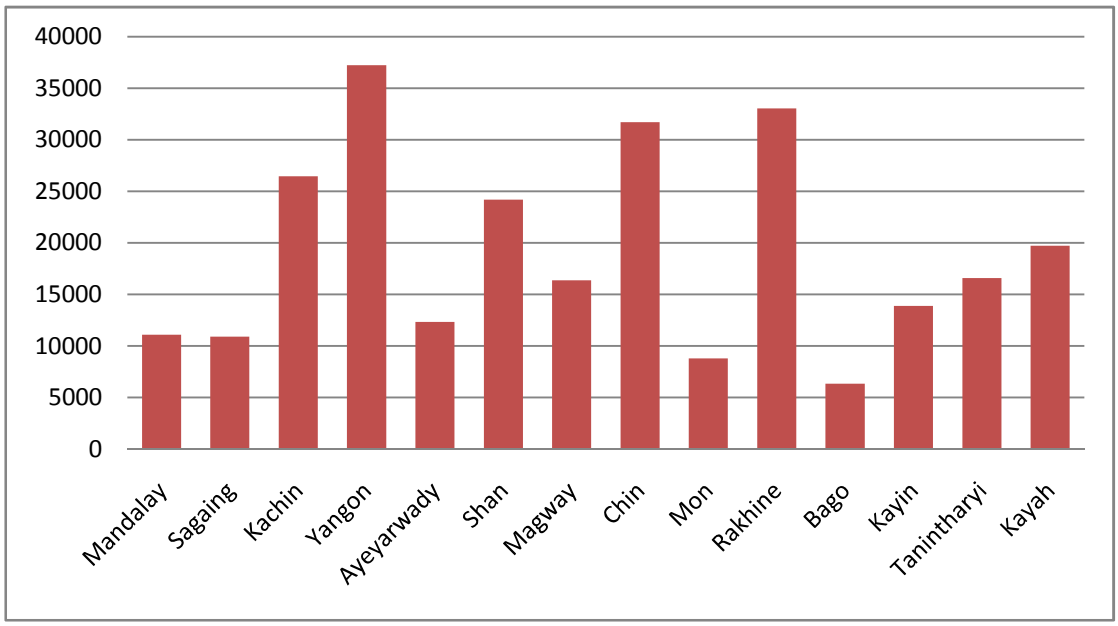


Source: Union Budget Law FY 2013-14.

A second preliminary finding is that state and region budgets vary widely across the country in both an absolute and a per capita sense. It should not be surprising that budgets are higher in larger states and regions. However, when calculated on an estimated per capita basis, the level of spending in the FY 2012-13 state and region budgets vary from a minimum of about 6,000 Kyat per head to over 37,000 Kyat.[116] There does not appear to be a consistent pattern in this amount between states and regions, or smaller and larger entities, except that Yangon is dramatically advantaged in its regional budget (Figure 11).[117] It is crucial to emphasize that these figures are preliminary and do not reflect the total flow of resources to any given state or region, but only the spending per head of population captured in the tiny state and region budgets.

[116] Comparable figures for 2013-14 were not yet available at the time of writing. These figures include supplementary budgets passed for most states and regions during FY 2012-13. See Annex IV.
[117] Of course, per capita measures are a crude way of estimating local expenditure needs and should not be considered definitive—infrastructure, land area, remoteness and other factors should shape subnational budget allocations.

Figure 11: State/region budget expenditures, per capita (Kyat), FY 2012-13



Source: Official Gazette: State and Region Budget Laws 2012-13.

Union ministries also spend large portions of their budgets in the states and regions, but the union budget presentation does not permit identification of the specific amounts. As shown in Chapter Three, some union ministries are increasing their allocations to states and regions through deconcentration. Indeed, the inability to easily attribute this latter spending to its intended geographical target is one weakness of the current budgeting system. Therefore no conclusion can be drawn from this data on which states or regions are better off in terms of public spending *overall*, only that *for the activities in the state and region budgets* there do appear to be substantial differences. This result is still important in that it may reflect differences in state/region capacity to address their responsibilities.

Fiscal deconcentration in union ministries

The state/region budget is not the only way in which the Government of Myanmar is attempting to introduce more bottom-up and local input into planning and budgeting. There is significant reform taking place through administrative and fiscal deconcentration within union ministries, as discussed in the previous chapter. State and region health and education departments described having to collect more accurate information on spending needs in their areas, and making more detailed proposals to their parent ministries. As yet, it is unclear how this is working in terms of budget outcomes being responsive to this input (for example, some departments spoke of big increases in staffing, but had not had corresponding facilities budgeted).[118] It should be remembered that deconcentration may permit more administrative and fiscal responsibility for local departments, but it does not make

[118] Interview, region education director.

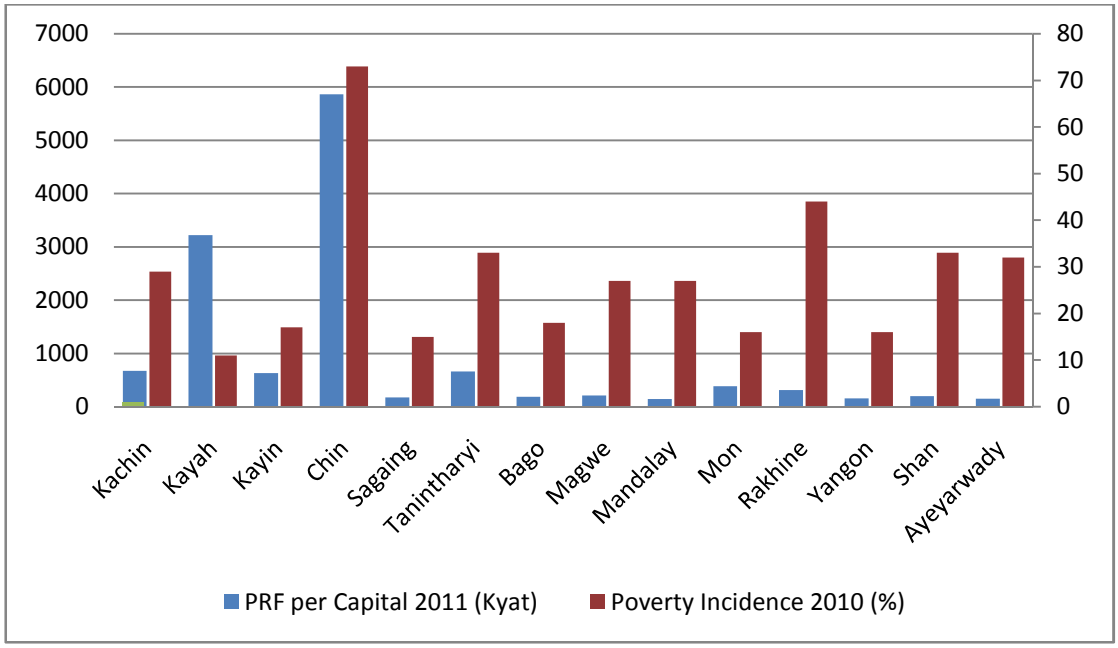
these departments more accountable to local people or government for the quality of their services.

Poverty Reduction Fund

Another major innovation in the subnational fiscal system is the introduction in the last two years of a lump sum development grant, known as the Poverty Reduction Fund. The fund is available to the state/region ostensibly for whatever priorities they determine. It is the first, and thus far only cross-sectoral transfer to the subnational level, and as such represents the only fully devolved resource transfer from the union to the state and region level.

The grant amount in the 2012-13 budgets was about one billion Kyat per state and region, with the exception of Chin State, which received three billion Kyat.[119] This amount is quite small when considered against the already limited state/region budgets as a whole: less than 5 percent of the state/region budgets everywhere except in Kayah (where the state budget against which it is compared is smallest) and Chin (which received three times as much as the others). Given that this amount is equal across almost all states and regions, it represents quite different entitlements on a per capita basis. Excepting Chin and Kayah states, where the allocation is dramatically higher, per capita amounts still range dramatically from 143 Kyat to 675 Kyat (See Figure 12). As one Chief Minister put it, "[c]entral government still views things in its traditional way, in terms of equal shares, not in terms of good allocation across regions."[120]

Figure 12: Poverty reduction fund per capita & percentage poverty incidence, 2010-11



[119] The additional allocation for Chin State was announced after the President made a visit to the state, apparently due to its extreme remoteness and lack of facilities such as an airfield or university: focus group discussion, Chin State officials.
[120] Interview, state Chief Minister (2012).

The fund derives from the Ministry of Home Affairs budget and is administered locally by the General Administration Department (GAD), further adding to the influence of that unit over state and region affairs. In one case (a smaller state) the state finance minister even claimed that the GAD did not consult the government members and simply decided what projects should be funded, and withheld information on the remaining balance.[121]

In other places, the GAD managed the funds, but the Chief Minister distributed it, typically with some discussion in cabinet but no substantial input from the state/region *hluttaw*.[122] However, in almost all states and regions, some rationale could be offered for the way the fund was used. In Tanintharyi, it was focused on a new sector in each consecutive year—first education, then health for FY 2013-14, and infrastructure construction in the future. Within these sectors, the Fund was distributed in roughly equal shares among the townships in the region.

This principle of "equal shares" was also found in Mon State, and seemed to represent an emerging norm across states and regions for the internal distribution of the funds.[123] This practice is far from optimal as it does not take into account regional variations in size, population, expenditure needs, and a host of other factors. However, it is frequently seen around the world where more transparent rule-based allocations have not been developed, as it is often the only politically acceptable basis to make distributions in their absence. This pattern speaks to the need for a manageable, but more nuanced rules-based approach to subnational resource allocation in Myanmar.

State and region revenues

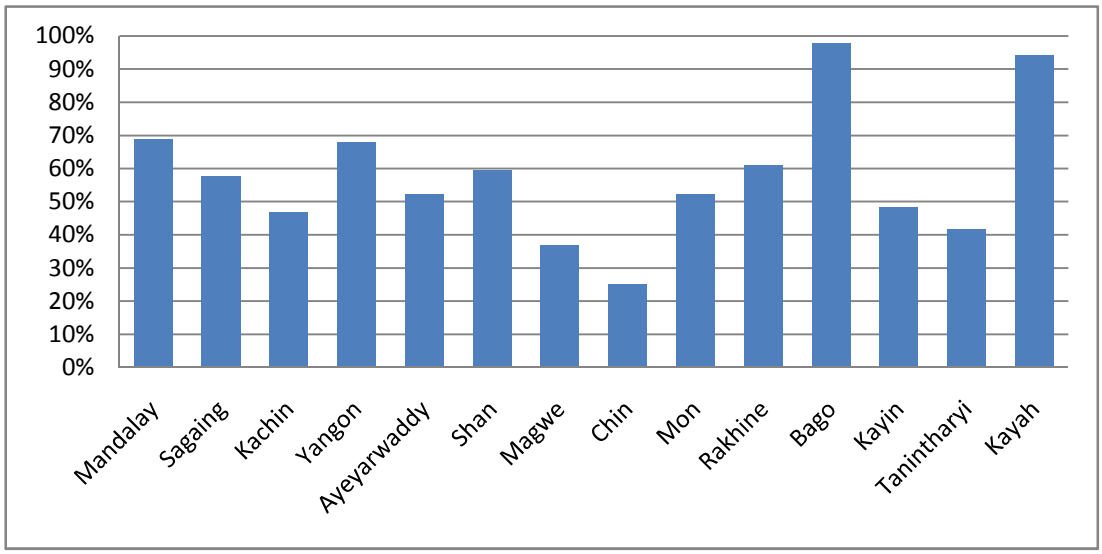
As well as being granted limited expenditure responsibilities, the state and region governments are assigned certain revenue sources, detailed in Schedule Five (Annex III). These include taxes on land, excise, dams, motor vehicles and vessels, and local production of minor forest products and salt. Various service fees, fines and tolls are also included, as well as the proceeds from properties and those state economic enterprises (SEEs) that are run by the region or the state. It is again the GAD that collects most, though not all of these revenues, typically at the township level (land and alcohol excise are two examples).[124] Land tax rates had long been held at very low levels (5 Kyat per acre) but have recently been increased. In rural areas they are collected by the village administration, which receives 10 percent as payment for collection once the tax is remitted to the GAD.[125]

In part due to the small size of state and region budgets, locally collected taxes and fees cover a significant portion of the budget: 58 percent on average.[126] Some

[121] Interview, state Finance Minister.
[122] Focus group discussions, state and region *hluttaws*. Only in one state did the distribution of the Fund by the Chief Minister appear to be hidden from his Cabinet.
[123] Interviews, state finance and revenue, and planning ministers.
[124] Interview, Township GAD Officer.
[125] Interview, District GAD Officer.
[126] 2012-13 State and Region Budget Laws.

smaller states and regions, like Chin State (25 percent), show less fiscal capacity, and this may also be a reason for additional support through the Poverty Reduction Fund. However, the implication of this average figure is that expenditure and revenue decentralization are actually proceeding somewhat in balance, albeit slowly. This is an important strength of the process to date and a potential foundation for improvements in fiscal autonomy in the future.

Figure 13: Share of state/region budget from taxes, fees and SEEs, FY 2012-13



The relative importance of the different revenue sources varies from place to place, as would be expected. SEEs are by far the most important source of revenue. About 65 percent of the revenue reported for state and region governments comes from SEEs, 99 percent of which comes from the Department of Public Works. Fees and "other income" collected by various departments are also more important than taxes, accounting for 27 percent of revenues, with taxes only bringing in 8 percent.[127] Among both fees and taxes, municipal collections are the largest category, but more work is needed to determine the contributions of the individual taxes and fees. More recently, some states and regions have reported that taxation on motor vehicles (of which 25 percent is retained) is becoming an important source of discretionary revenue for states and regions.

For those taxes that are assigned to states and regions, it appears that the tax system has not been regularized in most places. Private sector respondents noted that tax rates and procedures at local levels were not publicized, were at the discretion of collectors, and avoiding paying taxes was common. Municipal taxes and business taxes were given as prominent examples in two states/regions.[128] Even the Finance and Revenue Minister of one large region stated that:

> We do not have specific tax rates. We put on the amount of tax that a person can pay. In the case of the poor, they cannot pay tax. We have departments in every

[127] State and Region Budget Laws, FY 2012-13.
[128] Focus group discussion with business owners, Chamber of Commerce.

> township which do data collection and they're under my management. And if people are not satisfied with the amount of tax they have to pay, they can come talk to me. But in these two years, no one has filed a complaint.[129]

A more detailed analysis of the appropriateness and efficiency of the current revenue assignments is beyond the scope of this report, but it is apparent that tax administration represents a weak spot for state and region governments.

Assessing fiscal decentralization

Fiscal decentralization is often analyzed in terms of four "pillars."[130] The first pillar, expenditure assignment, determines whether appropriate responsibilities are given to subnational governments, if they are clearly defined, and if they are suited to the context. Myanmar has a division of labour between the union and state/region levels based on the legislative list (Schedule Two), but this remains ambiguous as little or no policy or regulatory framework exists for most of these responsibilities. The distribution of assignments does not clearly follow the logic of subsidiarity—the principle that functions should be carried out by the lowest territorial level that internalizes their benefits.[131] Instead, it consists of a range of minor functions that are relatively non-controversial and avoid significant service responsibilities such as health and education. As a result, the total fiscal decentralization under this system is very small—on the order of 5 percent (the 3.6 percent of the Union Budget that is assigned to the state/region budget, combined with the additional revenues raised locally).

The second pillar of fiscal decentralization is the assignment of revenues to support these functions. At first glance, public finance principles that local user fees and land taxes are good choices for local administration do seem to have been observed in Myanmar. In addition, although early in the process of decentralization, an impressive portion of the local budget is reported as being raised from local revenues. However, there is a long history in Myanmar of revenue collections being reported simply to meet targets assigned from the top, and some evidence suggests this pattern continues.[132] The challenge of increasing fiscal autonomy in the future will lie both in an expansion of expenditure responsibilities, and support to the revenue systems of state and region governments.

As very few local governments can fund all of their responsibilities from own-source revenue, intergovernmental transfers form the third pillar of the subnational fiscal system. Myanmar currently has a mixed set of intergovernmental fiscal arrangements. By far the majority of public spending (or at least of that which is reflected in the public accounts) is still budgeted by the union ministries. Some of these are deconcentrating some fiscal authority to subnational service delivery units (local departments such as health and education). A second, small amount forms a

[129] Interview, region Finance Minister.
[130] See, for example, UNDP (2005).
[131] The seminal discussion on subsidiarity is in Oates (1972).
[132] Interview, region Finance Minister.

semi-devolved state and region budget, but in the current system, the sector breakdown of this budget is still determined largely by the Union Government. Finally, a cross-sectoral transfer in the form of the Poverty Reduction Fund is an important step towards subnational fiscal autonomy, but is small in comparison with other spending, and lacks clear policy, reporting and budget accountability guidelines. In general, as the World Bank has observed already, "the system for allocating resources to states/regions is neither rules-based nor transparent".[133]

The fourth pillar of fiscal decentralization is local borrowing. The debt incurred by state and region governments currently is only the union support for the operating deficits of those activities considered as enterprises. Respondents report a reluctance to borrow among enterprises and government due to an inability to repay.[134] The distinction between grants and loans and what expectation of repayment exists are a bit unclear. In the short-term, in any case, it seems likely that any consideration of state/region debt would require careful study and might stretch an already challenged set of fiscal capacities.

It is important to emphasize that this system is at a very early stage: at the time of research some states and regions included in this study had not even had a full year of state/region budget implementation. Inevitably, variations and weaknesses will become apparent, and it is important that future research try to distinguish between processes and capacities that can be strengthened, and problems that derive from structural features of the system that will require deeper reform.

[133] World Bank (2013): 8.
[134] Interview, State Level Finance Minister (2012).

FIVE: The Political Dimension

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

This chapter examines political decentralization at the state and region level. As described in Chapter Two, political leadership of state and region governments is provided by a partially-elected legislative *hluttaw*, and an executive in the form of a Chief Minister and cabinet. The system is semi-parliamentary in that this executive is largely drawn from the *hluttaw*, but the President dominates the executive appointments. Ministers of the region or state are accountable to the Chief Minister, and indirectly to the President.[135]

Chief Ministers

With two exceptions discussed below, President U Thein Sein selected all the present Chief Ministers on 30 March 2011, after they were elected during the October 2010 election. Ten of the 14 Chief Ministers were former military officers, and one was a serving Brigadier General. With the exception of the latter active duty officer (who is thus barred from official party affiliation), all Chief Ministers were the leading USDP candidates in their state or region (in most cases, the state/region USDP chairman). At least four had previously served on state/region or national State Peace and Development Councils, the leading national and local decision-making bodies of the military regime in place until 2010 (See Table 8). Based on this evidence, it is apparent that the position of Chief Minister has thus far been carefully reserved for handpicked government, and in particular, military loyalists.

In most cases then, the existence of a partly elected state and region *hluttaw* has helped ensure that the Chief Minister is a locally elected politician. However, in part due to the conduct and results of the 2010 elections that heavily favoured the USDP, and the centralized appointment process, this pattern has reinforced domination by the USDP rather than opening up new opportunities for regional parties to lead. Regardless of the results of future elections, there is no reason to imagine that the President would necessarily consider appointing representatives of other parties to the post of Chief Minister. This means that the leadership of state and region governments will likely remain in the hands of whichever party has elected the President.

[135] Law for Region/State Government (SPDC Order No.16/2010), Art. 12.

Table 8: Profiles of region and state Chief Ministers

State/Region	Name	Party	Start	End	Background
Kachin	La John Ngan Hsai	USDP	Mar 2011	Present	Businessman
Kayah	Khin Maung Oo (or) BuYal	USDP	Mar 2011	Present	N/A
Kayin	Zaw Min	Active Military	Mar 2011	Present	Brig. Gen.; Chairman, Kayin SPDC
Chin	Hong Ngai	USDP	Mar 2011	Present	Brig. Gen.; Chairman, Chin SPDC
Mon	Ohn Myint	USDP	Mar 2011	Present	Brig. Gen.; Union Minister of Mining
Rakhine	Hla Maung Tin	USDP	Mar 2011	Present	Retired Colonel
Shan	Aung Myat	USDP	Mar 2011	Present	Light Infantry Division 66
Sagaing	Tha Aye	USDP	Mar 2011	Present	Lt. Gen; Member, SPDC
Magway	Phone Maw Swe	USDP	Mar 2011	Present	Brig. Gen.; Chairman, Magway SPDC
Mandalay	Ye Myint	USDP	Mar 2011	Present	Lt. Gen.; Chief, Military Security Affairs
Bago	Nyan Win	USDP	Mar 2011	Present	Col.; Minister of Foreign Affairs
Tanintharyi I	Khin Zaw	USDP	Mar 2011	Jan. 2012	Lt. Gen.; Commander No.6 Bureau of Special Operations
Tanintharyi II	Myat Ko	USDP	Jan 2012	Present	State Minister of Finance and Revenue
Yangon	Myat Shwe	USDP	Mar 2011	Present	Lt. Gen.; Commander No.5 Bureau of Special Operations
Ayeyarwady	Thein Aung	USDP	Mar 2011	Present	Brig. Gen.; Minister of Forestry

In the states and regions studied, there were two exceptions to the appointment pattern described above—one in a state and the other in a region. These highlight constitutional limits on political decentralization to states and regions in Myanmar. The first exception is the appointment of an active duty military officer who was not elected to the state/region *hluttaw* in Kayin State. According to interviews, the USDP's preferred candidate for Chief Minister was not elected, and therefore could not be proposed by the President.[136] Instead, the President proposed Brigadier General Zaw Min, the former SPDC Chair, from among the appointed military officers attached to the Kayin State *Hluttaw.*

This exception is interesting for two reasons. First, it highlights that there is no constitutional requirement that the Chief Minister be elected if it does not suit the interest of the Union Government. Secondly, its appearance in Kayin State demonstrates that the central government can use the provisions of the Constitution to limit political decentralization in those areas where political sensitivities might be greatest. Indeed, some government officials and even opposition party representatives in Kayin State pointed to the need for continued military influence due to the large number of armed groups.[137] Nevertheless, other states facing equivalent or greater security challenges have nominally civilian Chief Ministers,

[136] Interview, political party representative, Kayin State.
[137] Interview, political party representative, Kayin State.

though these are often recently retired senior officers. This suggests it may not be military status *per se* but rather perceived reliability that drives appointments in such situations.

The second exception to the pattern of Chief Minister appointments was the replacement of the Tanintharyi Region Chief Minister in January 2012. President U Thein Sein accepted the resignation of Chief Minister Khin Zaw the previous November, and appointed U Myat Ko, the former Minister of Finance and Revenue of the Region Government. This was the first removal of a high civilian official for corruption under the new government. Reportedly the Chief Minister (the former military commander of Mandalay Division) was fired after region *hluttaw* members raised concerns to the President about corruption in rice distribution contracts.[138] This case demonstrates the potential for the new structures to provide oversight, while showing that Chief Ministers remain accountable and beholden to the President for their position.[139]

The Chief Minister's formal roles and responsibilities place him or her in a dominant position over most areas of state and region governance. The Chief Minister nominates the cabinet ministers for the region or state, and assigns departments and ministries to them in coordination with the President.[140] In respect to fiscal affairs, as discussed in Chapter Four, the Chief Minister is the sole local representative on the Union Financial Commission, and thus the only one who can influence the final shape of the state and region budget allocation. The Chief Minister is also responsible for signing laws submitted by the region or state *hluttaw* and the self-administered territories' Leading Bodies.

What these patterns demonstrate is that the Constitution has built-in safeguards intended, and indeed already in use, to temper the pace and degree of political decentralization of state and region government. This "two-speed" system means that the powers and political autonomy made possible under the Constitution are limited, and in reality this limitation is manifesting itself in areas of the country where there may be persistent challenges to central policies, namely in states such as Kayin. The appointment of Chief Ministers is a specific point raised by ethnic parties, such as the Shan National Development Party, whose chair recently remarked "'[e]thnic people want to amend this point … The chief ministers should be chosen by the state and region *hluttaws* as the president is chosen by the *Pyidaungsu Hluttaw* and then the president should approve them.'"[141]

However, despite central influence over their appointment, Chief Ministers do appear to be taking on important roles, and in some cases are active champions of the interests of their state and region with the Union Government. In the words of one Chief Minister,

[138] "Chief Minister Sacked for Bribery", *Radio Free Asia* (27 November 2011): http://www.rfa.org [accessed 2 August 2013].
[139] Law for Region/State Government (SPDC Order No.16/2010), Art. 53 (a).
[140] Law for Region/State Government (SPDC Order No.16/2010), Art. 8 (g), 10 (b).
[141] Quoted in Soe Than Lynn, "Ethnic groups call for more power for states", *Myanmar Times* (27 May 2013).

> I read "union" as a federal set-up. The union role should be over policy. The states now have governments and their own interests, so, for example, they should be able to work with donors themselves. The president has pushed for decentralization but we still have a centralized system.[142]

State and region cabinet ministers

As described in Chapter Two, the state and region cabinets consist of civilian ministers selected by the Chief Minister and assigned portfolios by the President, the Border and Security Affairs Minister selected by the Commander-in-Chief, any Ethnic Affairs Ministers present in that region or state, and the Chairpersons of any self-administered territory.

Cabinet composition

In general, the norm has been for all region/state ministers, other than the military officer named to Border and Security Affairs, to be drawn from the elected *hluttaw* representatives. However, in Chin State, the Chief Minister utilized a constitutional provision allowing other suitable candidates to be chosen, naming outside citizens as the Ministers of Social Affairs and of Agriculture and Livestock Breeding. The stated reason for this approach was to involve individuals with specialist knowledge of the respective portfolios, as well as to ensure that the cabinet was geographically representative of all the townships in the state.[143] However, this case illustrates that members of a state and region cabinet could be drawn from outside candidates, using whatever criteria the Chief Minister deems fit. In short, the Constitution does not require that either the Chief Minister or his or her Cabinet must be elected.

The Chief Minister also formally appoints the chairpersons of any self-administered zone or division within their state or region after their selection by the "leading bodies".[144] The complete list of ministerial candidates and Chairpersons is sent to the state/region *hluttaw* for its approval, and as with the Chief Minister himself, the *hluttaw* can only reject candidates if it can prove that they do not have the qualifications specified in the Constitution. If the *hluttaw* rejects any candidate, the Chief Minister can submit a new nomination list. After approval, the list is sent to the President for formal assignment of the ministers, in cooperation with the Chief Minister.[145] The appointments of the Advocate General, the Chief Justice and the judges of the High Court are in the mandate of the Chief Minister through similar appointment processes.[146]

It is significant that while the list of candidates is primarily in the hands of the Chief Minister, the assignment of individuals to specific portfolios has considerable input from the President. This influence allows for specific candidates to be given portfolios according to central political considerations, possibly either to limit their

[142] Interview, Chief Minister.
[143] Focus group discussion, Chin State Cabinet.
[144] Constitution of Myanmar (2008), Art. 262 (a).
[145] Constitution of Myanmar (2008), Art. 262.
[146] Law for Region/State Government (SPDC Order No.16/2010), Art. 14 (a), 17 (a), 20 (a).

influence or to satisfy particular constituencies. The assignment of the head of the largest regional party in the Shan State *Hluttaw*—the Shan Nationalities Democratic Party (SNDP) with 31 seats—to the Forestry and Mines portfolio is an example of assigning a portfolio according to political significance, since the party had a strong interest in resource management questions.[147]

In reality, the Cabinet make-up for each state and region has been held consistently at 10 portfolios. These are standardized across the country, along with a varying number of ethnic affairs ministers, according to the number of groups that meet the population criterion. This produces cabinets ranging from 10 members in Chin State, which has no elected national race representatives, and thus no Ethnic Affairs Minister, to 17 in Shan State (See Table 9).[148] One implication of this pattern is that the portfolios in the state and region cabinets do not vary much according to local conditions.

Table 9: State and region cabinet composition by gender and party

State/ Region	Ayeyarwady	Chin	Kayin	Shan	Tanintharyi	Mon	Bago	Kachin	Kayah	Magway	Mandalay	Rakhine	Sagaing	Yangon	Total
Cabinet	12	10	13	17	11	13	11	14	11	11	11	11	12	12	**169**
Male	11	10	13	17	11	13	11	12	11	11	11	11	12	11	**165**
Female	1	0	0	0	0	0	0	2	0	0	0	0	0	1	**4**
Military	1	1	1	1	1	1	1	1	1	1	1	1	1	1	**14**
USDP	10	5	5	12	10	10	8	8	10	8	9	6	9	7	**117**
NLD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	**0**
NUP	1	0	0	0	0	0	1	2	0	2	0	0	1	1	**8**
AMRDP	0	0	2	0	0	2	0	0	0	0	0	0	0	0	**4**
RNDP	0	0	0	0	0	0	0	0	0	0	0	4	0	1	**5**
CPP	0	1	0	0	0	0	0	0	0	0	0	0	1	0	**2**
CNP	0	1	0	0	0	0	0	0	0	0	0	0	0	0	**1**
SNDP	0	0	0	2	0	0	0	2	0	0	1	0	0	0	**5**
UDPKS	0	0	0	0	0	0	0	1	0	0	0	0	0	0	**1**
KPP	0	0	1	0	0	0	1	0	0	0	0	0	0	1	**3**
PSDP	0	0	3	0	0	0	0	0	0	0	0	0	0	0	**3**
INDP	0	0	0	1	0	0	0	0	0	0	0	0	0	0	**1**
KNP	0	0	0	1	0	0	0	0	0	0	0	0	0	0	**1**
Appoint/Ind*	0	2	1	0	0	0	0	0	0	0	0	0	0	1	**4**

* Independent or state and region ministers appointed from outside the *hluttaw.*

The composition of the state and region cabinets reveals that the USDP is the dominant presence, with 69 percent of all cabinet posts, a figure that rises to 75 percent if only civilian posts are considered. This figure is unsurprising given the USDP's domination of the 2010 elections. The USDP holds 56 percent of the total state and region *hluttaw* seats, which amounts to the same proportion (75 percent)

[147] Interview, state minister.

[148] The Ethnic Affairs ministers for Shan State represent the following groups: Burman; Kachin; Lisu; Lahu; Akha; Inle; and Kayah.

when the military seats are excluded. The largest other party represented among cabinet members is the National Unity Party (NUP), a second pro-military party, with eight posts. The other parties represented are ethnically based, with the All Mon Regional Democratic Party (AMRDP), the SNDP, and the Karen People's Party (KPP), each enjoying a presence in several states and regions.

A key question in the future will be whether the formal provisions for cabinet appointments will be used to facilitate continued single-party domination of state and region governments even as other parties potentially gain greater shares of seats. A final important point regarding cabinet composition is its highly skewed gender composition: there are only four female state and region cabinet ministers in the entire country, or about 2.5 percent of the total.

Cabinet roles and functioning

The semi parliamentary structure of state and region governments has led to some ambiguity about the role of the cabinet in relation to the *hluttaw* as a whole. Throughout states and regions covered by this study, there was a general sense that once appointed to the cabinet, ministers were somehow no longer "regular" *hluttaw* members. In almost all the states and regions visited, *hluttaw* members who were not in the cabinet complained of limited participation by cabinet members in their routine deliberations. This perception was heavily reinforced by the differential allowances and housing usually provided to ministers in a dedicated government residential complex.

A related issue raised in smaller states and regions was that, once appointed, the cabinet includes a large proportion of the members of the *hluttaw.* In States like Kayin and Chin, there are only four civilian *hluttaw* members remaining once the cabinet and military representatives are excluded. These members noted that this situation contributed to their marginalization from decision-making, and to a tendency for *hluttaws* in smaller states to meet extremely infrequently. The odd balance between the cabinet and *hluttaw* in smaller states and regions appears to significantly reduce the impact and effectiveness of the *hluttaw* as a representative body.

There are also inconsistencies in the perception of the role of the state/region Minister(s) for Ethnic Affairs, which may temper their ability to represent ethnic concerns. In most cases, they were considered part of the cabinet, though with somewhat subordinate or limited portfolios. In some places such as Ayeyarwady Region, it was acknowledged that Ethnic Affairs Ministers were previously in an inferior position, but that their status was being boosted, at least in respect to the privileges they received.[149] By contrast, in one state, the Executive Secretary of the General Administration Department indicated that the several Ethnic Affairs Ministers in that state were in fact "not state cabinet members" at all.[150]

[149] Focus group discussion, Ayeyarwady Region *hluttaw* members.
[150] Interview, State Government Executive Secretary.

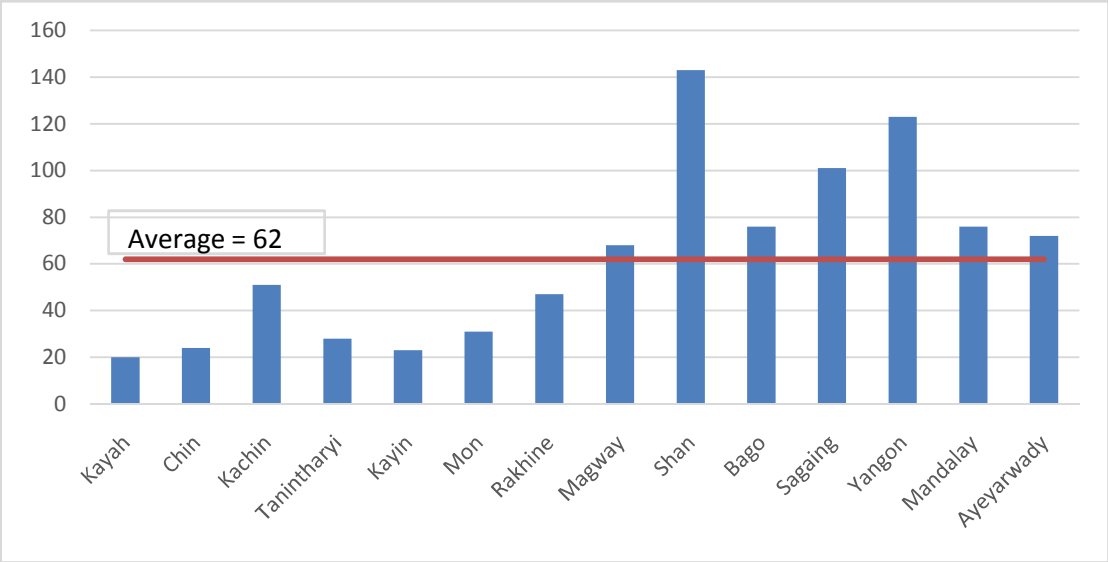
The study observed considerable variations in the working style of state and region governments and the respective roles taken on by the Chief Minister and cabinet. At one end of the spectrum, some Chief Ministers completely dominate the other parts of the government. One party representative noted that the "Chief Minister controls the government and the [hluttaw] representatives are weak in power and capacity", while one cabinet minister noted that the Chief Minister does not share information with him even regarding his own portfolio.[151]

Contrasting executive leadership styles characterized other states and regions. In Chin State, the Chief Minister—an ethnic Chin who previously served as the regional commander in the state—regularly convened cabinet meetings to discuss and approve significant decisions collectively, and put a strong emphasis on his cabinet having a Minister hailing from each of the State's 10 townships.[152] Some cabinets held meetings every two weeks or so, while one smaller cabinet had met only once in the previous six months.[153] In general, however, the Chief Minister took a leading role in determining policy across cabinet portfolios.

State and region *hluttaws*

State and region *hluttaws* vary widely in size, from 20 members (Kayah) to 143 (Shan), with implications for the capacity and functions of these bodies. As already described, smaller *hluttaws* describe themselves as marginalized once a cabinet is formed, as they have very few remaining "ordinary" members.

Figure 14: State and region Hluttaw sizes (including military)



Hluttaw composition on the whole broadly echoes the pattern in the cabinets, with the USDP by far the dominant force, joined only by the NUP, which has a significant nationwide presence due to the NLD's boycott of the 2010 elections. Other parties

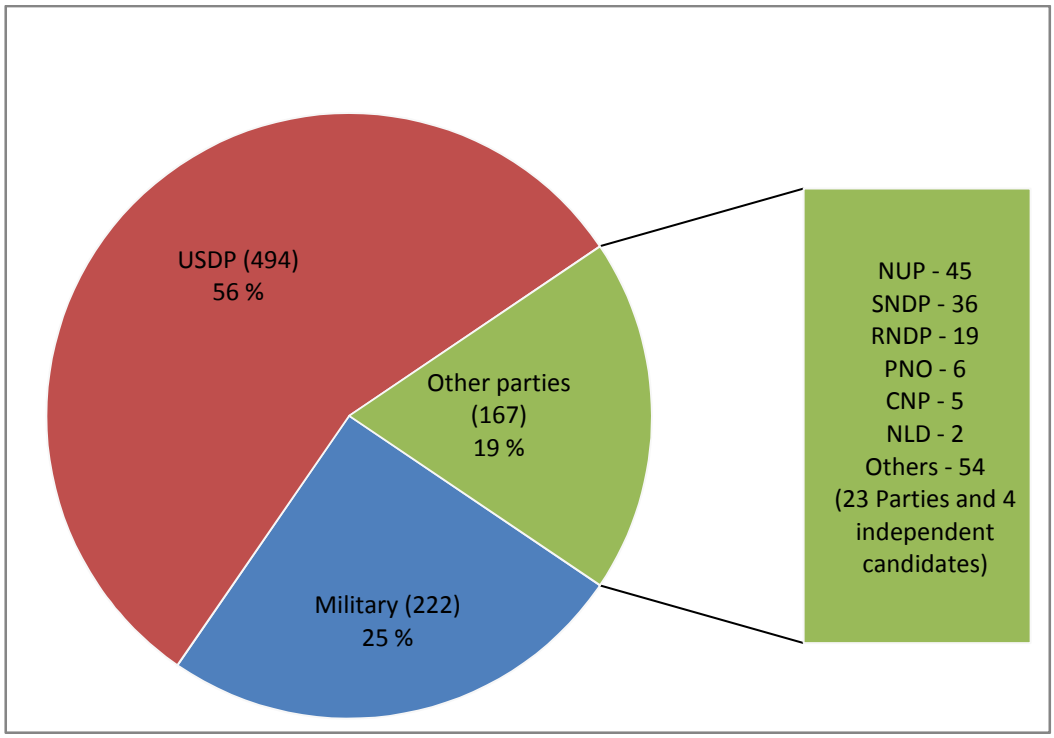
[151] Interviews, political party representative and state minister.
[152] Focus group discussion, cabinet members, Chin State.
[153] Interviews, various state and region ministers.

are regionally or ethnically based, with a presence in two or three states and regions, at the most. By one count there were 21 such "ethnicity-based" parties at the time of the 2010 elections.[154] The Shan Nationalities Democratic Party (SNDP) and the Rakhine Nationalities Development Party (RNDP) are the two largest of these ethnic parties, with 36 and 19 state/region *hluttaw* members, respectively.

Taken together, these types of parties provide 14 percent of the total number of state and region *hluttaw* members across the country, rising to 18 percent if military members are excluded. This total is only marginally greater than the proportion of similar parties in the national lower house, the *Pyithu Hluttaw.* There, ethnic and regionally based parties form 12 percent of the total, or 15 percent if military seats are excluded.

A mere 25 of 883 total members are women, or 2.7 percent. Even if military appointees are excluded, this proportion is under 3.6 percent, and five regions and states have no female representatives at all. Yangon and Shan, the largest *hluttaws* overall, also have the highest proportion of women among their elected members (between 6 and 7 percent). The complete composition of all 14 state and region *hluttaws* by gender and party is included in Annex V of this report, and summarized in Figure 15.

Figure 15: State and region *hluttaw* members (883 seats) by party

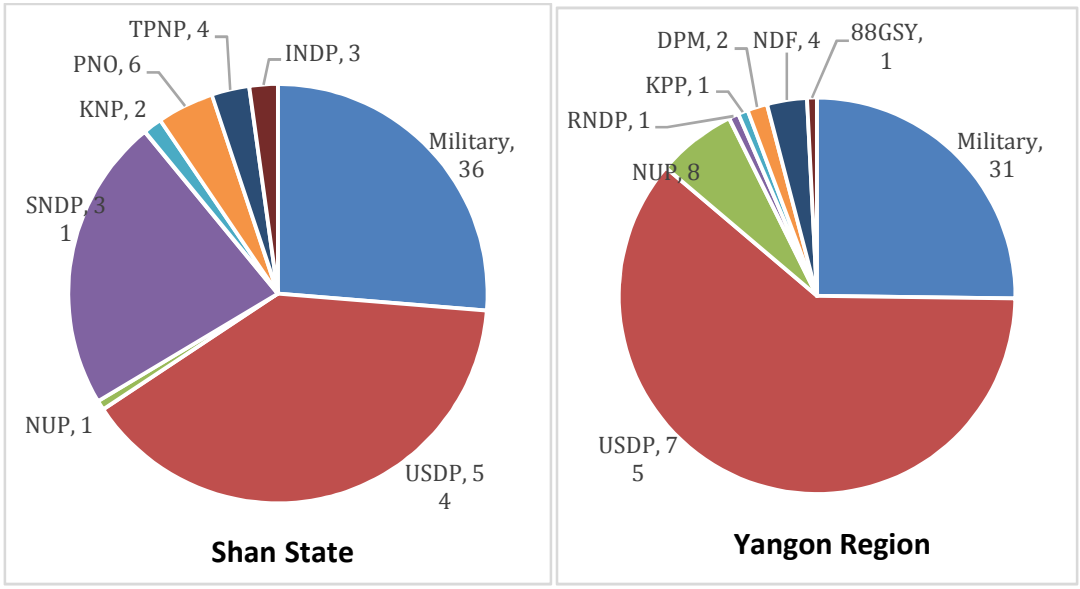


However, in individual states and regions, the proportion of representatives from smaller, ethnically- and regionally-based parties can be much higher. In Chin State, ethnic parties provide 46 percent of the total *hluttaw* members, equivalent to an impressive 61 percent of elected representatives. Similar proportions can be

[154] Ardeth Maung Thawnghmung (2011): 27.

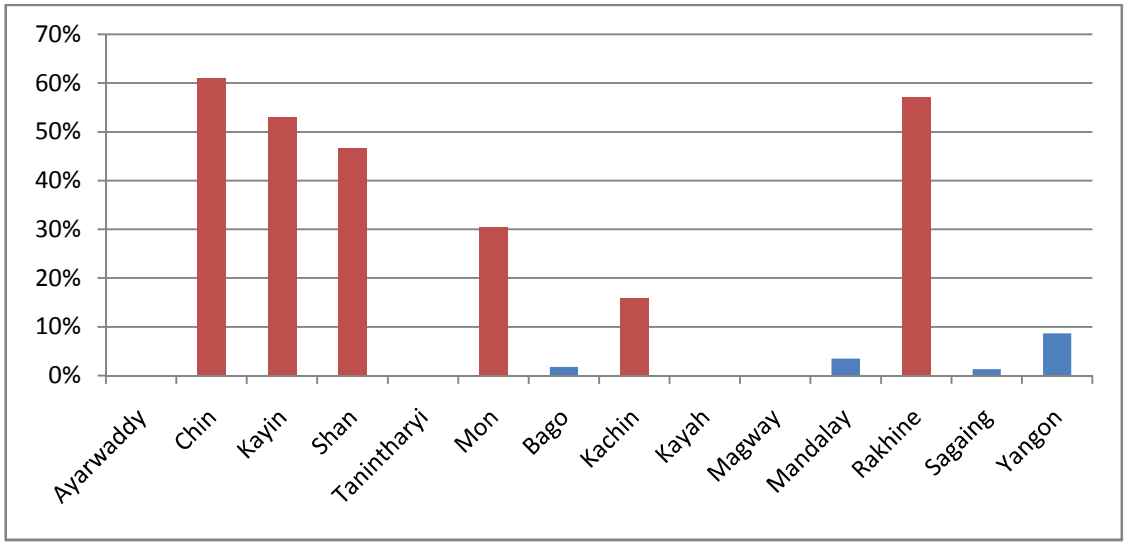
observed in Rakhine, Kayin, Shan, and Mon States, with 57, 53, 47 and 30 percent of elected members, respectively (See Figures 16 and 17).

Figures 16 and 17: Shan state and Yangon region *hluttaw* composition



It is clear that there is already substantial representation by ethnic or regional parties throughout the states, but very little in the regions and Kayah State. This representation goes far beyond the levels for such groups in the national parliament or other national institutions such as the civil service or military.

Figure 18: Proportion of elected *Hluttaw* members from regional or ethnic parties*



* Excludes independents, NLD, NDF, NUP, 88 GSY.

In addition to the presence of ethnic parties in state *hluttaws*, a number of USDP candidates and elected representatives are also members of minority groups. In Kayin State, five out of six USDP representatives in the State *Hluttaw* are Karens,

though the equivalent proportions in other States are lower.[155] The Shan Chief Minister is a Danu, and the Kachin and Mon Chief Ministers hail from each states' dominant national group.

The establishment of state *hluttaws* has therefore opened up a significant potential avenue for the expression and representation of ethnic and regional aspirations and grievances, one of the most important theoretical benefits of decentralization processes for divided societies. Analysts have pointed to the increasing importance of activity by civilian ethnic political and civil society groups, observing that "[e]thnonational politics beyond the armed insurgency have become, over time, a more important site of political change and resistance."[156] State assemblies that act as a political channel for that activity could be a very important development.

However, the impact of this avenue of representation on politics and conflict dynamics will be heavily conditioned by two factors: the actual functions of state and region governments and the role of the *hluttaw* within those governments; and the development of political parties in the states and regions. It should also be emphasized that these ethnic political parties do not have a monopoly on political representation of ethnic minorities. Non-state armed groups enjoy a degree of legitimacy in ethnic areas while the "above ground" parties are in some cases rivals and in other cases affiliated with them.[157]

Hluttaw roles and functioning

Formally, the *hluttaw* is empowered to carry out a range of vaguely defined discussions on central and local issues, make proposals, and legislate in those areas specified in Schedule Two of the Constitution. In practice, *hluttaws* have a common view of their functions, but vary widely in their performance of them due to their varying sizes, capacities, and relations with the Cabinet, Chief Minister and administrative departments.

Box 7: Constitutional provisions for the role of the state and region *hluttaw*

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

(a) recording the addresses delivered by the President;

(b) reading and recording the message sent by President and other messages permitted by the Speaker;

(c) recording the address delivered by the Chief Minister of the Region or the State;

(d) submitting, discussing and resolving on a Bill;

(e) discussing and resolving on the matters to be undertaken by the Region or State Hluttaw in accord with the provisions of the Constitution;

(f) discussing, resolving and recording the reports submitted to the Region or State Hluttaw;

[155]Ardeth Maung Thawnghmung (2011): 34.
[156]Ardeth Maung Thawnghmung (2011): x.
[157] South (2012): 21.

(g) submitting proposal, discussing and resolving;

(h) raising questions and replying;

(i) undertaking matters approved by the Speaker of the Region or State Hluttaw.

Hluttaw members interviewed tended to interpret their roles in terms of four broad activities:

Act as a channel for local concerns and grievances: The *hluttaw* members viewed themselves as more closely connected to the population than other kinds of officials, and share a sense that the "*hluttaw* is the people's voice and submits people's demands to the government."[158] The kinds of issues of concern raised by *hluttaw* members in all states and regions had a strongly local character, often related to local natural resources. For example, in Tanintharyi, the presence of large offshore fishing vessels in local grounds was raised to *hluttaw* members by fishermen, in Ayeyarwady, irrigation canals and coastal water management issues figured highly, and in Shan State, local residents complained of unreasonable highway toll placements and land grabbing. At the same time as they highlighted their role as recipients of complaints, most *hluttaw* members lamented they had few avenues to act directly. One noted that "[t]he authority and power of the *hluttaw* representative is still very weak and they cannot implement all the requested activities even though they record the people's needs."[159]

Land disputes were common to every state and region studied. While *hluttaw* members received many complaints, they felt relatively unable to act. The particular kinds of land issues varied from place to place. For example, in Tanintharyi Region, the focus was on exploitation of land compensation arrangements for the Dawei Special Economic Zone project by brokers and middlemen, to the detriment of local communities. In Shan State the primary concern was exploitation by mining and other resource extraction enterprises of local communities' lack of land registration. *Hluttaw* members lamented that their course of action was limited to suggesting that people register claims with the General Administration Department or to sending the issue up to some higher authority. Some *hluttaw* members pointed to the lack of a "third party not from the administrative department" as a constraint on their ability to follow-up on land issues, particularly where the GAD was allegedly implicated.[160] In no cases did the *hluttaw* seem to view submitting complaints to the judiciary as an option.

While the *hluttaws* consistently emphasized this role as a conduit for the public, members of civil society organizations and private sector actors said they would rarely consider this channel for grievances due to their lack of confidence that it could bring results. More often, CSOs tended to pursue one of two alternative strategies when attempting to resolve land issues, as well as other complaints. The first was to draw upon ethnic or party links to either the Chief Minister or national elected representatives, who were seen as better able to raise issues where

[158] Focus group discussion, state *hluttaw* members.
[159] Focus group discussions, various state *hluttaw* members.
[160] Focus group discussion, region *hluttaw* members.

definitive action could be taken (the national level). The second was to mount demonstrations or actions to raise the profile of the issue. It is important to note that like the *hluttaw* members themselves, CSOs throughout the country—including one lawyer's organization—were highly dismissive of using the local courts as an avenue to pursue these aims.[161]

Ask questions of cabinet ministers: One activity that the *hluttaw* members use to transmit complaints is by formally asking questions of the state or region government, as provided for in the Constitution.[162] Some viewed this as an opportunity to counter a perceived lack of transparency in the state or region government, and to act as a "check and balance".[163] The *hluttaws* visited reported having between 19 (Chin State) and 147 (Shan State) questions on record, but little information was available about their content since these were not generally gazetted or reported. In theory, in every state and region the *hluttaw* can form a "Government's Guarantees, Pledges and Undertaking Vetting Committee", responsible for reviewing the actions of the region or state government and, in particular, the questions, pledges and guarantees made by the *hluttaw*.[164] However, in practice these committees had little presence, except in the large region of Ayeyarwady.

Make proposals to higher authorities: The *hluttaws* distinguish, as does the law, between questions, proposals and legislation. Proposals deal either with suggestions about local priorities or policy changes that do not require legislation, such as local development projects, or issues falling outside the state and region legislative list. There is a widespread view that most suggestions needed to go from the state or region to the Union level to see any action, so proposals often involved a petition to a higher official in Nay Pyi Taw. For example, the Ayeyarwady *Hluttaw* transmitted its local concerns regarding water management directly to the *Pyidaungsu Hluttaw* as well as seeking local resolution and proposing legislation.[165] In other states and regions, *hluttaw* members often referred to the strategy of petitioning the Chief Minister to approach the President directly on a range of topics.

Legislate in areas permitted by Schedule Two: While some form of local legislation has been passed in all states and regions, the depth, nature and quantity of legislative activity have varied quite widely. States and regions are required to pass the annual budget into law, and are directed to prepare a regional development plan outlining local priorities. In practice, most of them prepared a supplementary budget during 2012, and passed their first full budget law in 2013. All the states and regions studied also prepared and passed a development plan in 2012, but these were quite

[161] Focus group discussions, CSOs in several states and regions.
[162] Constitution of Myanmar (2008), Art. 175 (h).
[163] Focus group discussion, region *hluttaw*.
[164] Government's Guarantees, Pledges and Undertaking Vetting Committee. *Pyithu Hluttaw*: http://www.pyithuhluttaw.gov.mm/committee/ [Accessed 26 June 2013].
[165] Focus group discussion, Ayeyarwady region *hluttaw* members (2012).

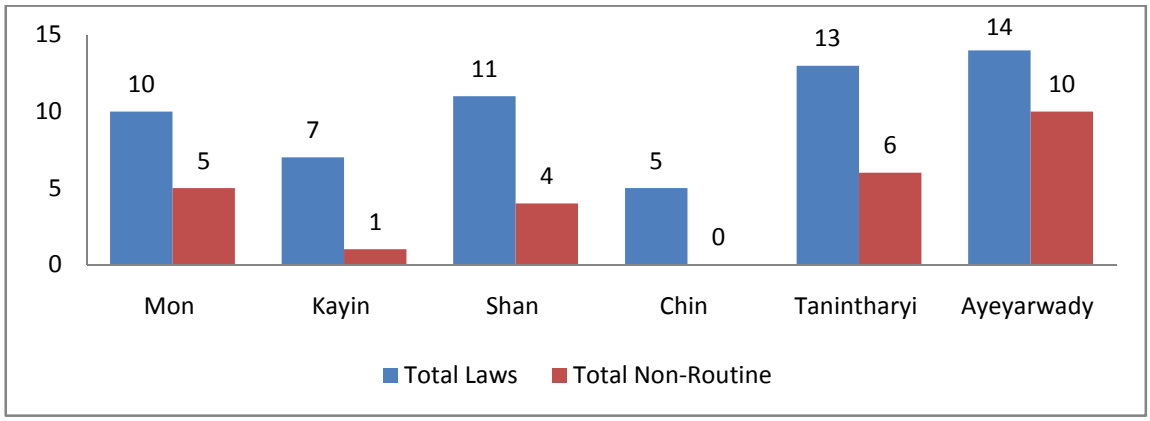
rudimentary, tending to contain a basic statement of priorities and a short list of macroeconomic targets without further details.[166]

In this sense, all the *hluttaws* have passed laws during their first term, and the number of legislative actions—defined as laws passed or proposed as drafts—in 2012, and the first five months of 2013, ranged from 5 in Chin State to 14 in Ayeyarwady Region. However, perhaps a better indication of political decentralization and legislative autonomy would be to exclude the two "routine" actions required of all states and regions: passing the budget law and the development plan. Taking only into account "non-routine" local laws shows that Chin State neither passed nor proposed any such legislation, while Ayeyarwady Region passed or proposed 10 laws on various topics. The legislative activity for each of the six study sites is summarized in Table 10 and Figure 19.

Table 10: Summary of state and region legislative activity, 2012 to May 2013*

State/Region	Laws Passed 2012	Draft Laws 2012	Laws Passed to May 2013	Draft Laws to May 2013	Total Laws	Non-Routine Passed or Proposed 2012	Non-Routine Passed or Proposed 2013	Total Non-Routine
Mon	6	0	4	0	**10**	2	3	**5**
Kayin	3	2	2	0	**7**	0	1	**1**
Shan	6	4	1	0	**11**	4	0	**4**
Chin	4	0	1	0	**5**	0	0	**0**
Tanintharyi	8	5	0	0	**13**	6	0	**6**
Ayeyarwady	6	0	7	1	**14**	3	7	**10**

Figure 19: Summary of state and region legislative activity, 2012 to May 2013*



* "Non-Routine" refers to laws other than annual or supplementary budgets and state/region development plans.

The pattern of legislative activity corresponds very closely the size of the *hluttaws*, and is consistent with the evidence that smaller *hluttaws* faced considerable challenges to effective functioning. It is also worth examining the types of "non-

[166] Mon and Shan State 2012-13 Development Plan Laws.

routine" legislation passed, which are listed below. Details of all legislative activity of the six case study states and regions are in Annex II.

Table 11: Non-routine legislation passed or proposed by subject

Subject of the Law	2012	2013
Private Hire Motor Vehicles/Commercial Vehicles	Mon, Shan, Tanintharyi	Ayeyarwady
Municipal Act	Mon, Shan	Kayin
Village Firewood Replanting	Shan	Ayeyarwady
Stevedoring	Tanintharyi	Mon
Local Fisheries	Tanintharyi, Ayeyarwady	Ayeyarwady
Organic and Chemical Fertilizers	Ayeyarwady	-
Salt and Salt-Based Production	Ayeyarwady	-
Excise Duty	-	Mon
Land Tax	-	Mon
Fire and Natural Disasters Preventive Measures	-	Ayeyarwady
Water Vehicles of 25 HP and Lower	-	Ayeyarwady
Household Industry	-	Ayeyarwady

The non-routine local legislation adopted has to some degree reflected the local conditions of each state and region, but with some repetition. For example, Shan State has emphasized forestry concerns, while coastal and riverine Tanintharyi and Ayeyarwady regions moved to regulate fisheries and water transport. Motor vehicle regulation seems a more universal concern, at least in the states and regions with a larger urban centre. Mon State, where the USDP Chief Minister is an open proponent of deepening the "federal" qualities of the current system, is the first state to enact revenue measures. Chin and Kayin State have been able to pass only one local law between them, meaning that there is a vast gap in the performance of local government between these states and the more active, larger regions.

Reasons for the limited and narrow legislative activity include both a lack of experience and capacity, and ambiguity over what is permissible under the Constitution and Schedule Two. As an example, one state government leader noted that even while certain departments fall under Schedule Two, if they wished to pass legislation concerning human resource management, this would remain under the control of the concerned Union Ministry, reflecting the confusing accountability described in Chapter Three. Smaller *hluttaws* in Tanintharyi and elsewhere claimed that they have no skills to review or draw up legislation, and some representatives from other small states observed that there had not even been voting where they work, and that in these smaller states the legislative process is thoroughly dominated by the cabinet.[167]

Other institutional capacities to support the legislative process are also not yet in place. The State and Region *Hluttaw* Law allows for the formation of a Bills

[167] Focus group discussion, Tanintharyi, Chin and Kayin *hluttaw* members.

Committee, essentially modelled on the same committee at the national level.[168] However, as one smaller *hluttaw's* members pointed out, without legal advice, such a body cannot function, and it is hard to imagine the smaller states and regions sustaining an effective multi-committee structure with so few members outside the Cabinet.[169] Similarly, while *hluttaw* members in one state mentioned public hearings as an aspiration, none had held any open session or hearing on legislation or any other *hluttaw* business.

This variation in the legislative output of the *hluttaws* is also reflected in their workload, measured as the number of days in session since the inauguration of the assemblies. Some *hluttaws* maintain an active work programme, but this appears to be the exception, and a feature of larger states or regions. Even in the most active *hluttaw*, in Ayeyarwady, members credited their active programme to the Chairman's exceptional efforts.[170] On the whole, with a median of 28.5 days in session over two years, it is not surprising that the impact of the *hluttaws* is still only lightly felt.

Table 12: State and region *hluttaw* sessions (from March 2011 to July 2013)

State/Region	Chin	Kayin	Mon	Shan	Tanintharyi	Ayeyarwady
Regular Sessions	5	6	5	6	6	6
Special Sessions	2	1	2	2	2	3
Emergency Sessions	3	1	0	0	0	1
Total days	25	31	20	29	28	69

Source: Interviews, state/region *hluttaw* administrative office.

In short, there is evidence of political decentralization and legislative autonomy in some locally focused legislation. However, these laws are thus far extremely limited in scope and the introduction of more sophisticated legislation is hampered by skills shortages, lack of supporting legislative institutions, and structural challenges created by the small size and infrequent meetings of some of the assemblies.

Public outreach by state/region governments and *hluttaws*

One of the key challenges of nascent state/region governance institutions is communication with the population. Essential needs are to explain the composition and purposes of the new institutions as well as their ongoing functioning. There are two types of communication channels commonly pursued by state/region governments and *hluttaws*: direct engagement by *hluttaw* representatives and cabinet members with their constituencies and public outreach through formal and informal communication mediums, such as national newspapers, gazettes, local journals, and local television broadcasts, as well as government websites and Facebook.

[168] Law for Region/State Government (SPDC Order No.14/2010), Art. 21.
[169] Focus group discussion, region *hluttaw* members.
[170] Focus group discussion, Ayeyarwady *hluttaw* members.

In interviews, *hluttaw* representatives, including cabinet members, often mentioned efforts to meet the public during visits to their constituents' villages. They also noted that efforts were made to meet local civil society actors, such as the village social welfare groups and school committees. As one state *hluttaw* representative explained:

> The needs of the townships will be submitted in the state *hluttaw* through the *hluttaw* representatives, which come from different townships of the state.[171]

However, the extent and success of communication has varied depending on the personal interests and prerogatives of individual *hluttaw* representatives. In one region, it was noted that "[civil society] has no communication with the *hluttaw* representatives… although the representatives are interested, they had never met them in person."[172]

Engagement on a direct, individual level appears to be the most common medium. In none of the case study states and regions were there any formalized and routine interactions between the *hluttaw* or state/region governments with the general public, say for instance by allowing the public to witness *hluttaw* sessions or conducting "town hall" type forums. The large-scale public meetings in which government actors interact with civil society and the general public, seem to occur when instigated and framed around the programme interests of an international assistance actor.[173] However, as noted in Chapter Two, in Article 10, the new 2013 State and Region *Hluttaw* Law does allow for public attendance at sessions, at the discretion of the Chairperson.

Public outreach by state/region governments and *hluttaws* through formal communication channels (national newspapers, gazettes and websites) is largely via the Union government, specifically the Ministry of Information. National newspapers—namely *The New Light of Myanmar*, *Kyae Mon (The Mirror)* and *Myanmar Alinn*—routinely mention the sessions of state/region governments and *hluttaws*. However, this reportage is relatively superficial. The most detailed information comes via the government weekly gazette, the *Union of Myanmar National Gazette*, which posts legislation, government contracts, budgets, development plans, and civil service appointments. This gazette is available online and is also printed and sold at government bookstores.[174]

Within states and regions, reporting by regional newspapers on state/region government activities and *hluttaws* is also fairly routine. For example, newspapers such as *Chin Light* and *Dawei News* report on *hluttaw* topics debated and legislation passed, and the activities of the Chief Minister such as his meetings with communities and visiting dignitaries, as well as responses to prominent local concerns such as land-grabbing. However, public access to such newspapers can vary extensively; for instance, in remote Chin State, it is concentrated in the capital,

[171] Interview, USDP state *hluttaw* representative.
[172] Interview, political party members in a region.
[173] Interview, civil society actor in Chin State.
[174] See *Union of Myanmar National Gazette*: http://www.moi.gov.mm/ppe/pyantan

Hakha. Notably, the Ayeyarwady *Hluttaw* has its own dedicated newsletter reporting session minutes, legislation passed and articles by *hluttaw* members.

In terms of Internet presence, the Ministry of Information has created a page for state/region governments and *hluttaws* to post news, which largely entails the itinerary of the Chief Minister and other government officials.[175] Some states and regions, such as Shan State and Yangon Region, are also developing their own websites, while Ayeyarwady Region and Shan State have Facebook pages.[176] While the *Pyithu Hluttaw and Amyotha Hluttaw* have Facebook pages, none of the state/region *hluttaws* have emulated them yet. Civil society groups and media post information and commentary on state/region *hluttaws*.[177] Lastly, there are a limited number of regional television channels that broadcast on state/region government and *hluttaw* activities. For instance, Tanintharyi Region has a private local television channel, available on subscription, called "*Pho the cho*" that broadcasts the Tanintharyi *Hluttaw* sessions. However, given the limited subscriptions to such channels, access for the general public is likely limited.

Political parties at region and state level

Beyond the region and state governments and the *hluttaws*, the functioning of local political parties will be an important determinant of whether political demands can be channelled productively under the new governance structures. This study found some interesting tendencies among political parties at the state and region level. Regional and ethnic parties, as expected, were interested in increasing the powers of the states and regions, exploring federalism, and highlighting ethnic issues such as increasing minority language instruction in schools.[178] Perhaps more surprising was the finding that many local branches of national parties—the USDP in particular—also showed considerable interest in further political decentralization. In Mon, the USDP Chief Minister was a keen advocate of further powers and revenues for the state. Similarly, in Tanintharyi, the local USDP branch was aligned with regional parties in favouring increased regional influence over the Dawei SEZ project.[179]

The NLD showed less propensity to discuss local political issues or specific proposals for centre-local relations. This was perhaps due to its lack of legislative participation at the state and region level and the fact that this research preceded the March 2013 party congress, when party platforms were discussed in more detail. In general, however, it seems the goal of the NLD to consolidate and sustain broad support in order to pursue the Constitutional changes it seeks at central level, does appear to

[175] Ministry of Information, Myanmar Ministries, States and Regions Governments and Self-Administered Zones and Divisions Governments News: http://www.moiforum.gov.mm/sd-news/
[176] See: https://www.facebook.com/pages/Shan-State-Government-Office/393636547423666 and http://www.shanstate.gov.mm/
[177] See: https://www.facebook.com/photo.php?fbid=551330321595015&set=a.208888815839169.51434.167011980026853&type=1&theater
[178] Interviews, political party representatives Mon and Kayin States.
[179] Interviews, political party representatives.

somewhat temper its engagement with local issues or state and region governments.[180]

Regardless, the existence of local branches of national parties competing with regional and ethnic organizations for local seats does offer the intriguing possibility of furthering internal party democratization. As national parties seek to maintain a presence in state and region governments, they will inevitably become more sensitive to the issues driving politics at the local level through their new "branch offices". The balance between regional and national parties will also be a key factor shaping the impact of political decentralization on the peace processes, an issue taken up briefly in the final chapter of this report.

A political opportunity

In one sense the political dimension of state and region government represents a major shift from prior structures, and given the limited capacity and experience of local politicians, is an important opportunity for them to gain experience performing local functions. Any gains, even if tempered by central or military involvement, are significant, and may lead to contributions to the development of the country, delivery of services and even support the peace process. However, the mixed nature of the decentralization process so far is also a key limitation. In partially devolving a limited set of decision-making powers, while retaining considerable central and military control and oversight, the new subnational structures create mixed accountability channels that actually may undermine efforts to make local governments responsive and autonomous. Overall, a mismatch is emerging between people's "high expectations" of local bodies and the limited scope and compromised autonomy of their decision-making processes.[181]

[180] Interviews, political party representatives, various states and regions.
[181] Interview, Shan State *Hluttaw* member.

SIX: Conclusions and the Road Ahead

The creation of a level of state and region government is the most significant change to the structures of subnational governance brought about by Myanmar's new constitution. This concluding chapter first summarizes the key features of administrative, fiscal and political decentralization to Myanmar's states and regions. Any assessment of new institutions at such an early stage of their development must necessarily be preliminary. It then briefly addresses two important issues for the future: the relationship between the evolution of state/region government and both the peace process and the overall process of democratization. Finally, the report presents some recommendations or directions for enhancing state and region governance, and further developing Myanmar's subnational governance vision, policy and plans.

Assessing decentralization to Myanmar's states and regions to date

Administrative

The form of administrative decentralization thus far is guided by the list of legislative responsibilities in Schedule Two of the Constitution. This list has created a distinction between state and region departments that report to the state/region governments, and state/region-level offices of union ministries that do not. The scope of administrative responsibilities that have been formally assigned to states and regions remains quite limited. These responsibilities tend to avoid some of the most significant activities of state and region concern, such as mining and timber extraction, or health and education provision. Instead, minor activities such as registration of vehicles, museums, and small infrastructure tend to be included.

The state and region departments exist in an ambiguous (and changing) relationship with both their original "parent" ministries at the union level and the new state/region government. They do not form standalone administrative units themselves, and they do not match cleanly with the new state/region ministerial portfolios. The status of their civil servants is ambiguous, with human resource management still being handled at the time of writing by the corresponding union ministry and national civil service organization.

In effect, the state and region government has ministers, but does not yet have its own ministries. The bulk of the national state's bureaucratic capacity, even for those areas that are formally assigned to them, still remains beyond the clear reach of the state and region government. Instead, the workings of state/region government have been almost entirely dependent on the support of the General Administration Department, a branch of the military-led Ministry of Home Affairs. For citizens, interaction with the state is still more likely to be with a Union Government ministry such as health or education, or with some element of the GAD, rather than with the state or region government itself.

Alongside these state/region departments, many of the more significant departments and ministries remain centralized, though many of these are pursuing significant deconcentration reforms to give more authority to their state/region offices. However, the lack of political and fiscal decentralization of these areas means that many of the departments handling issues of clear local concern (responsive delivery of services, ethnic identity, and the management of natural resources) are unable to take effective advantage of the political opportunity presented by the creation of state and region governments.

Fiscal

Fiscal decentralization to states and regions is taking place, but in a mixed and limited way. There is a state/region budget that comprises the income and expenditures of those public sector and state economic entities that are included in the state and region functions. However, as with the limited responsibilities assigned to states and regions, the scope of this budget remains small—probably under 5 percent of public spending when both transfers and local revenues are included.

In addition, this state/region budget is also not fully devolved, in the sense of substantial control over budget composition and priorities. As it is prepared on a department-by-department basis, and union transfers are contained within union ministry budgets in the national budget, there is limited scope for the state/region to make inter-sectoral allocation decisions. As a result, they will find it difficult to prioritize between sectors according to local priorities. Secondly, the budget is subject to central review and influence in the Union Financial Commission, which decides which funding requests will be integrated in the Union Budget. While the state and region is represented in this commission, this representation is by the centrally-appointed Chief Minister.

It is normal that most subnational governments face a degree of central influence over the size, and even the composition of their budgets. However, key considerations when assessing fiscal autonomy are the degrees of protection, flexibility, and predictability in the central flows to subnational government. The current state/region budgeting system introduces a high degree of central discretion and control over the amounts that states/regions get in their budgets, which themselves represent only a small portion of public spending. On the other hand, the development of more predictable, transparent, and rule-based intergovernmental fiscal institutions can go a long way towards strengthening fiscal autonomy. There are already at least two promising opportunities in this respect.

The first is some apparent balance between the revenues being reported by most, though not all, states and regions, as compared with their expenditures. While both amounts are small, the fact that own-source revenues are funding some state/region responsibilities can support further fiscal decentralization by giving states and regions greater discretion over parts of their budget. Local tax policy and administration is still underdeveloped and so, in this way, there is considerable room to support further improvements to fiscal autonomy.

Second, the introduction of a cross-sectoral development grant is a real innovation that implies the need for planning and prioritization within states and regions. It is obvious that at early stage, that implementation of the grant has varied. However, the greater problem is that currently there is no real rational basis, other than the political decision to institute a flat rate, for its allocation across the country. This experience presents an opportunity for both central and state/region stakeholders to work together to further develop a sound inter-governmental fiscal system that links the centre with its states and regions.

Political

The formation of state and region governments and the assignment of legislative responsibilities to them is a dramatic development. However, the political autonomy of these new governments is still limited by a centralized appointment process and internal centralization within the state/region government. It is significant that Chief Ministers participate in the state/region *hluttaw*, but they are accountable ultimately to the President, not to their assemblies. They can constitute their cabinets as they wish, involving elected members often, but not necessarily. On the other hand, the state and region *hluttaws* present a real opportunity for representation of a wider range of political forces than was ever possible before, either nationally, or locally.

Can the new state/region structures generate political space for meaningful and peaceful contestation, both within the states and regions, and between them and the centre? In ethnic states, regional and ethnic parties have gained significant representation, but the impact of appointed military representatives is as yet unclear. It is very important to emphasize that so far these representative opportunities have been limited almost entirely to men.

In general then, this potential political space has remained very limited due to both the narrow scope of state and region responsibilities and the limitations of institutional capacity. Most states and regions have passed laws dealing with some local issues, but many of these are quite standardized. *Hluttaws*, particularly in smaller states and regions, tend to be marginalized by the cabinet and relatively inactive. Hampered by the administrative and fiscal limitations described above, the potential for state and region representatives to be a conduit for local priorities, a check on central and local executive power, and a channel for grievances, is still very underdeveloped.

It is still early in the decentralization process, and despite these limitations, the emergence of this local political and institutional space is increasing the awareness and interest of diverse interest groups in further decentralization. This interest is not limited to ethnic minority or regional parties, but is shared by local branches of national parties, not least the USDP. As parties and politicians experience even limited local power and influence, some of their interests may coalesce around furthering the effectiveness of subnational governance institutions, and these interests might even transcend the division between ethnic states and the other

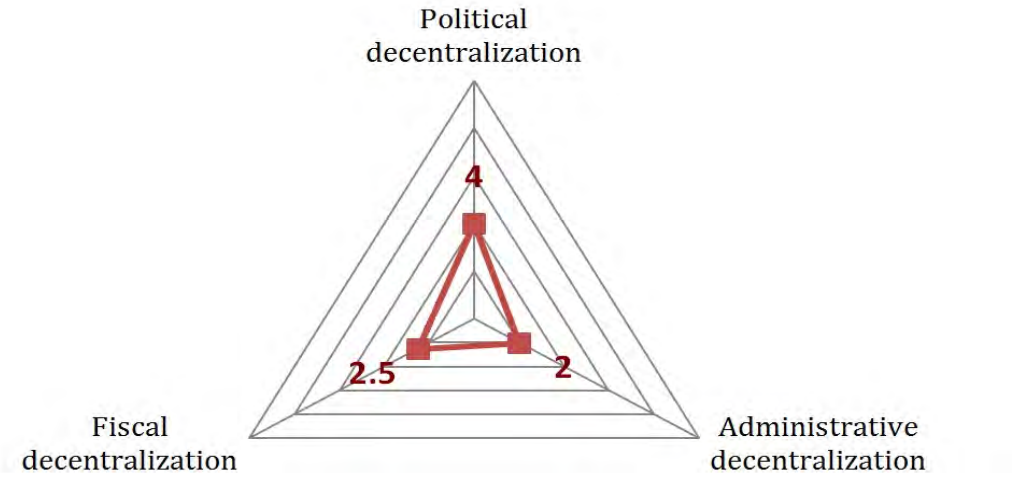
regions. Beyond these politicians and political parties, civil society organizations already openly discuss subnational governance issues such as the electoral system and the presence of military representatives in the state/region *hluttaws*.

In summary, one can draw three general conclusions about decentralization to states and regions along these three dimensions. First, the degree of decentralization to states and regions is very limited in all three dimensions and therefore as a whole. The actual reach of administrative responsibilities, the size of the budget, and the restrictions on political autonomy all mean that Myanmar is still a relatively centralized country.

Second, there are imbalances in the degree of decentralization across the administrative, fiscal and political dimensions. While political decentralization faces its own limits due to continued top-down influence and the participation of appointed military officials, it is showing real potential already. Without further administrative decentralization and inclusion of key sectors, the effectiveness and responsiveness of line departments to the state/region government is limited, and the current constraints on fiscal autonomy limit the state budget's responsiveness. Some of most important factors limiting the space for political action in states and regions are related to weaknesses in the administrative and fiscal dimensions.

Ranking key elements of political, fiscal and administrative decentralization on a standard 10 point index (Figure 20), shows that the overall extent of decentralization is both limited and out of balance (the index is reproduced in Annex VI).[182] Since political drivers are often behind the initiation of decentralization reforms, it is common for political decentralization to move ahead of the other two dimensions. The danger, however, is that this imbalance results in inadequately empowered local governments, and contributes to a crisis of public expectations.

Figure 20: Comparison of administrative, fiscal and political decentralization[183]



[182] The index is drawn from Boex (2012).
[183] This analysis is indicative only, and is based on a simplified version of the Local Public Sector Country Profile index: Boex (2012). See Annex VI for scale.

Third, it is apparent that this process has been taking place to different degrees and at different paces across the country. There are wide variations in capacity and conditions. This situation is natural and to be expected. However, it is crucially important to ensure that these differences can be addressed by capacity development support, careful attention to inequality in the fiscal system, and political systems that are suited to the conditions in small or large, richer or poorer and ethnically diverse states and regions.

Decentralization and the peace process

The relationship between the creation of state and region governments and the prospects for peace in Myanmar has not been analyzed in detail in this report, but issues of state and region governance cannot be addressed without taking full account of their impact on the peace process, and vice versa. The attitude of the armed actors on all sides towards the potential and perils of further decentralization will be central to the success or failure of Myanmar's transition and peace process. As one observer noted at the outset of the current transition, and as illustrated in Figure 2 of this report, decentralization and "issues of ethnic conflict, democratic transition, demilitarization and economic progress cannot be separated or placed in different hierarchies of needs."[184]

Two broad questions stand out about the linkage between state/region decentralization and the peace process:

1. To what degree can decentralization to states and regions address the main issues driving and perpetuating the conflicts?

2. How can subnational governance reforms and the peace process approach areas of contested or shared authority and parallel administrative structures and services managed by non-state armed groups?

The current state/region government arrangements and any currently announced reforms fall dramatically short of meeting the political goals and aspirations of the non-state armed groups currently in conflict or cease-fire with the government. Interviews with individuals in armed groups and documentary evidence from joint ethnic fronts, particularly the United Nationalities Federal Council (UNFC), make it clear that decentralization to states and regions within the current constitutional constrains cannot provide the degree of political autonomy, security, or share of national wealth that these groups desire in order to agree to sustainable peace agreements.

The six point UNFC peace plan and informal agreements between U Aung Min and the conflict parties in late 2012, make it clear that all sides are interested in substantive political negotiations, but also that there are wide gulfs over the structure of a peace process and the place of the 2008 Constitution. While the government peace roadmap involves armed groups joining the political process as

[184] Smith (2007): 57.

parties under the constitution, the opposition proposals envision a fundamental renegotiation of the "Union Accord" that defines the relationships between groups in the country.[185] In other words,

> [t]he essential issue remains not primarily the future of some form of democracy in that country, however important that is, but rather some indigenous solution to the problem of the distribution of power among ethnicities.[186]

Despite the re-emergence of cease-fires with significant armed groups including the Karen National Union (KNU), and a more recent delicate preliminary agreement with the Kachin Independence Army (KIA), none of the most significant issues that underlie the conflicts have been resolved.

To address these larger issues, particularly relating to the Constitution and the sharing of national wealth, the peace process must evolve towards a joint political dialogue with the fullest possible range of non-state armed groups.[187] Once such political dialogue opens, there will be strong linkages between further reforms to subnational governance institutions and the delicate negotiations that will need to take place, and care will have to be taken by government and development partners, alike.

However, the need to negotiate these "big picture" questions does not mean that the existence or strengthening of state/region governments can have no influence on the peace process. In 2012, David Steinberg suggested that the potential impact of the new representative institutions on the peace process will depend on whether the state- and region-level institutions create space for tolerated and publicized dissent on ethnic and identity issues on the one hand, and "the possible effects, or lack thereof, of centrally-mandated but locally situated projects", on the other.[188]

The evidence presented in this report makes clear that so far, both significant ethnic and identity issues, and state/region level influence over major resources or development projects remain outside the framework of decentralization to states and regions. Issues such as education policy and language of instruction, oversight of development projects, and management of mining concessions are important dimensions of conflicts in Myanmar, and were also emphasized as missing links in decentralization by state/region governments themselves, political parties, and civil society organizations.

While a sustainable peace will require broad agreements, these issues of regional concern were shared among several groups of stakeholders in this study. Broadening the scope of state/region responsibilities to include these types of issues—natural resources, local economic development, and education policy—and strengthening

[185] Interview, non-state armed group liaison officer; UNFC Six-Point Peace Plan, in "Letter of UNFC Chairman to President Thein Sein" (27 September 2012): available at http://burmanationalnews.org/burma/index.php?option=com_content&view=article&id=2771 [accessed 18 August 2013].
[186] Steinberg (2012): 236.
[187] South (2012): 29.
[188] Steinberg (2012): 235.

the role that regional governments and other actors play, are priorities that may be shared to some degree between state/region governments themselves, ethnic and regional parties, and non-state armed groups. State-, and in some cases region-level discussions about these issues among non-state armed groups, political parties and civil society organizations can support the broader peace process by suggesting solutions to problems that are specific to a given area, and act as confidence and trust-building measures.[189] If state and region governments were to gain increased authority to negotiate issues in their own jurisdiction, then "[s]ome issues of concern to particular ethnic communities can be addressed on a group-by-group basis, with appropriate State-level settlements."[190] Box 8 provides an indicative list of issues with potential for such attention.

Box 8: Conflict issues with potential state/region application

- Education policy and language of instruction; integration of school systems;
- Landmines;
- Land management;
- Economic development;
- Natural resource concessions and oversight;
- Resettlement policy.

One area that may have particular potential for discussion at state/region level is the integration or relationship of government and non-state systems of administration and services. Many conflict areas now have some form of shared or contested authority and over the years "[m]ost [non-state armed groups] have developed at least rudimentary regimes, for example in the fields of health, education and administration…[some of which] have been in existence for decades, and enjoy considerable local support."[191] Discussions over these regimes, and perhaps pilot projects to connect the state service sector with them could potentially ease the situation of conflict-affected communities, while building confidence and trust among the parties; examples of mechanisms are available from the Philippines and elsewhere in the region.[192] However, such actions would have to be carefully considered in terms of their impact on the negotiating coherence of both the government and the non-state sides (a key factor in peace process success).

In general, it appears that the emergence of state and region government has begun to highlight some issues that also require attention in the peace process. Political dialogue needs to be both "broadened" and "deepened" to include non-state armed groups, political parties, and affected communities.[193] The state/region *hluttaws*

[189] The proposal by state authorities in Rakhine of a "two-child" policy for Muslims may be a more worrying example of local solutions to problems.
[190] South (2012): 29.
[191] South (2012): 22.
[192] The Bangsamoro Development Agency (BDA) in the Philippines provides an example of an interface designed to allow development partners of the national government to interact with conflict-affected areas while preserving conflict sensitivity by involving armed opposition actors' representatives.
[193] South (2012):9.

could be a resource for fostering inclusiveness in negotiations through the regional parties that are represented there to a greater degree than in national institutions.

These relationships also have implications for international support to subnational governance. Decentralization reform, local economic and community development, and governance support programmes more generally are often promoted in relation to a post-conflict peace and statebuilding framework that emphasizes rebuilding central state-society relations and trust. It is important to emphasize that Myanmar has not entered such a post-conflict phase, as major outstanding issues of contention still persist. Driving forward subnational governance reforms without bringing them into contact with the stakeholders in the peace process risks heightening tensions. On the other hand, should progress occur in the peace process, all stakeholders need to be ready for the changes this might imply for the process of subnational governance reform.

Decentralization and democracy

Just as there is a close relationship between the subnational governance reform process and the political dialogue needed to achieve durable peace in Myanmar, there are also links between subnational governance and broader prospects for democratization. As this report shows, military influence extends just as thoroughly through subnational levels of government as it does at the national level. This influence is not only through the often-noted presence of appointed *hluttaw* members, but also via the structures of the ministries of Home Affairs and Border Affairs.

In addition, the research confirms that a functioning judiciary appears to remain a massive *lacuna*. Nowhere did state/region level stakeholders see the courts as a significant or capable player in the governance system for resolving disputes, defining state/region roles, and generally supporting effective and accountable local government. Independent institutions, judicial or otherwise, for the prevention of corruption are not evident in states and regions.

The two-sided situation of state and region government outlined in this report echoes that at the national level, important political reforms have occurred, but they are subject to very significant limitations that are both longer-term structural as well as more temporary weaknesses. The background of retained central political or military control at the state/region level is analogous to the country as a whole. Thus, observing the response to emerging tensions over the reform programme, such as the new state/region *hluttaw* law, could help provide an indication of what can be expected nationally should implicit or explicit limits on reform be reached.

Towards a state and region governance reform roadmap?

There is a broad consensus among the civilian central government and the parliament, state/region governments, political parties, and civil society that further development of decentralization reforms to states and regions is needed, even if

views on the form and extent of that development may differ. The research presented in this report suggests some broad areas that will need to be prioritized if further improvement is to occur. These areas are presented below, along with some specific steps for consideration.

Rationalize the administration and human resources of state and region government

While the creation of state and region governments potentially supports the decentralization of the Schedule Two functions, a major impediment is the mismatch between the state and region government—in particular the state and region ministers—and the administrative structures tasked with carrying out executive functions. The goal should be to work towards a state and region government in which the responsibilities of a given minister correspond to a state/region ministry structure with departmental staff under his or her immediate direction and authority with clear terms of reference, adequate equipment and training. Specific steps may include:

- Further clarify the roles and responsibilities of the state and region departments through law and regulation.

- Develop phased plans for separating state/region departments from union ministry structures—any function that is a state/region responsibility should eventually have a state and region department that is not part of a union ministry. Develop programmes and incentives for relocating union ministry civil servants to states and regions or removing them through retirement or attrition.

- Consider creating state/region civil service organizations—as allowed by the constitution—to streamline and oversee state/region-level hiring. A civil service infrastructure in states and regions can help to protect and enforce central policy objectives such as meritocracy and quality, while speeding up the process of building a younger, more female, more ethnically diverse, and more local civil service, suited to each state/region's needs.

- Develop the structure (for example, state and region line departments) needed for state and region ministers and departments to operate independently of the General Administration Department, which could still be called on to support general functions of the state/region executive and *hluttaw*, alongside its support of central Home Affairs functions.

Deepen the deconcentration process within union ministries

Many important services currently remain centralized, but some of these departments have begun a process of vertical deconcentration, pushing some responsibilities and powers downward to their state and region offices, or below. This process is crucial in order to improve the efficiency of public services, even if it falls outside the current formal framework of state and region government. It is also

a very important pathway to develop capacity for public service delivery at subnational levels in countries with a history of weak services. Deconcentration may not be enough to satisfy ethnic or regional political aspirations because it does not fundamentally alter accountability relationships. But it can create capacity in subnational line ministry departments to take on increasing roles—itself an important building block for further decentralization as time passes. Some steps to ensure deconcentration is effective could include:

- Set up a union policy framework to guide line ministries—probably in a phased order—to analyze and unbundle their service delivery responsibilities in terms of policy, provision, and production functions across administrative levels. In short, review what the ministry is there to do, how much needs to be done at the central level, what can be deconcentrated, and how performance should be defined and measured. This effort can be combined with broader ministerial rationalization plans.

- Provide capacity development support to line ministries as they deconcentrate, and to state and region ministry offices as they take on new tasks; early departments can help train later ones.

- Ensure that the resources within the ministry budget for these new functions at state/region level are made available in a predictable and transparent way, for example through presentation of state/region components in union ministry budgets. Consider using modest budget deconcentration (for example handing over maintenance budgets to state and region offices) to introduce simple performance- or output-based management for the state/region offices of union ministries.

- Ensure offices make extra efforts to engage in participation and outreach; while not formally assigned to state and region government, union ministries can still set guidelines allowing their offices to engage directly, formally and regularly with state and region governments and *hluttaws*, as well as civil society and communities.

Broaden the scope of state and region government responsibilities

It is apparent from the research that many stakeholders—from current state and region officials to non-state armed groups—share the view that additional powers should be given to states and regions. Even if the current Schedule Two functions were performed very well across states and regions, the scope of these functions would remain narrow and the total level of decentralization in the country, extremely modest. Decentralization would also have little chance of addressing the issues that are prominent in the peace process.

This will likely involve revisiting the Constitution's Schedule Two and therefore must involve a wider range of stakeholders than the more technical reforms above. An open and transparent dialogue about what services should to be considered for further political decentralization to states and regions is needed. This process should

include state and region governments themselves, ethnic and regional political parties, and non-state armed groups, either directly or through a coordinating linkage with peace negotiations. The parliamentary committee reviewing the constitution may also choose to take up this topic.

Some responsibilities high on the list of priorities of many stakeholders are:

- Aspects of education policy and provision including hiring and deployment of staff, and language of instruction.

- State and region management of more significant natural resources, and approval and oversight of natural resource extraction and development concessions. Responsibility for concessions, currently centralized and contentious for many state and region stakeholders, could be shared between the central and state/region government, or subject to state and region project appraisals. Involving state and region authorities in the Extractive Industries Transparency Initiative (EITI) structures and processes could help build capacity for these roles.

Strengthen public expenditure management, budgeting and resource allocation

Under the current system, states and regions have underdeveloped budgeting systems even for their modest responsibilities, and the relationship with the union budget process means they operate without much prior information about resource availability, and have little control over final budget outcomes. Under the current arrangements, improvements could include:

- Strengthen tax policy and administration at state and region level. States and regions have some revenue already, but there is a lot of room for rationalization of the system, which could increase fiscal autonomy.

- Improve union public financial management to enable predictable and transparent fiscal projections that allow state and region governments and state/region departments of union ministries to know likely resource availability before they plan or prepare budgets.

- Use the Poverty Reduction Fund to develop principles of sound intergovernmental fiscal arrangements: revise the allocation of the fund to a transparent, formula-based system and develop guidelines and conditions for its use that support state/region autonomy.

- Ensure donor programmes that transfer resources to subnational levels also support state and region planning, budgeting and monitoring capacities.

- Support the Union Financial Commission to develop and apply clear subnational fiscal policies, rather than engage in *adhoc* budget decisions.

- Move the national budget system towards accounting standards and a budget presentation that permits earmarked ceilings and fund appropriations for both states and regions, and for state and region offices of union ministries.

Develop a transparent and rules-based intergovernmental fiscal system

Beyond improving current fiscal institutions, it is important to clarify the policy goals of the intergovernmental fiscal system as a whole, before designing individual components of it such as union transfers. Many of the issues involved are central to conflict dynamics in the country, so this process must include the national government, military, state and region governments, ethnic and regional parties, and the non-state armed groups, either through the peace process or directly.

- The process should consider the range of wealth sharing models, and key questions include who is responsible for collecting a revenue source and what is the formula for sharing it? Myanmar may consider some forms of wealth sharing based on guaranteeing states and regions a certain share of some or all national revenues to enhance fiscal autonomy.

- In designing transfers from the union to states and regions, important questions include what functions must be financed, what equity and policy goals are important, and what conditions will encourage good local governance, revenue or service delivery performance?

- Policies for management of foreign financial flows including investment, aid, and potentially loans could be considered that would permit, but regulate, states and regions directly accessing such funds.

Strengthen the political autonomy of the state/region government

While the emergence of partially elected political representation at state and region level is the most significant of the state/region reforms initiated by the 2008 Constitution, this political decentralization is heavily conditioned by central influence over the selection of state and region executives, and the weakness of the *hluttaws*. A crucial strategic choice in Myanmar's decentralization process will be if, and when, to move this restricted form of decentralization towards fuller devolution involving more political autonomy and downward accountability for state and region governments. Some steps to strengthen the political autonomy of state and region governments that might be considered:

- Support state and region *hluttaws* to function more effectively in legislative and oversight roles. Consider ways to increase working time, provide training and experience sharing with outsiders and each other (perhaps through expanding membership in the Myanmar Parliamentary Union or another form of association), and support independent decision-making through legislative assistance.

- Special consideration and support for small *hluttaws*, including possibly reconsidering the minimum size of a *hluttaw* or introducing rules to elect replacements for members that become ministers.

- Options may be considered for making the Chief Minister elected—indirectly or directly—free of central influence. An intermediate alternative could be to reverse the current situation and allow the *hluttaw* to select the Chief Minister, with a veto right held by the President.[194]

- Create more comprehensive communication and constituency engagement strategies at the state/region level, particularly for the rural bulk of the population that has limited access to most communication mediums.

- Support region and state level media, civil society and social organizations to engage with state and region governments.

Coordinating institutions to develop subnational governance vision and policies

Given the range of challenges and the political significance of many of these reform areas, it is crucial that institutions and processes emerge to foster a more detailed and broader-based consensus on decentralization policy and strategy. This policy and strategy should consider the long-term vision of the state's responsibilities at different levels and the sequence of reforms, recognize diversity in the capacity and needs of local governments, and focus on empowering and building local government capacity through implementation.

It may be that some flexibility and ambiguity were important to ease the political acceptance of early decentralization reforms. However, over time the lack of clarity will undermine performance, and political negotiation will be needed around key strategic choices such as the extent of devolution, wealth sharing arrangements, and the development of state and region bureaucracies. The relationships between the states and regions and lower level or non-state administrations will also need attention. This is also an area of considerable donor attention, with a risk that uncoordinated initiatives do not amount to a coherent system unless the government is equipped to take a leading role. Central coordinating institutions, such as those in the President's Office, are needed to manage the policy process. Strong linkages and mechanisms of inclusion are needed for technical inputs and participation by the widest range of stakeholder, including the national parliament's process of constitutional review and the peace process now, or in the near future.

Navigating the politics of reform

Different stakeholders interpret the process to date quite differently, and these interpretations influence the strategies they will adopt or support to pursue their decentralization related aims. It is harder to know how resistance to reform may

[194] This option has been suggested by some "above-ground" ethnic parties: Soe Than Lynn, "Ethnic groups call for more power for states", *Myanmar Times* (27 May 2013).

evolve, but there is no doubt it will be shaped by the reform path and sequence that develops. There are three broad orientations among stakeholders to the decentralization process:

- State and region government needs to be strengthened through further development of laws, regulations and capacity that is (broadly) in line with the current constitutional arrangements. This approach includes steps such as clarifying administrative relationships and accountabilities, reforming ministerial structures to promote greater coherence, and the development of improved public financial management and inter-governmental fiscal arrangements.

- Effective reform will require constitutional change, but of a limited sort that has already been mooted in some ways by the civilian authorities. For example, by expanding the responsibilities granted under Schedule Two. A more significant review of the constitution may be needed to address inconsistencies in the state structure that also have implications for broader democratization, such as refining the role of the GAD in the state/region government.

- An effective state and region structure requires a wholesale review, or even complete renegotiation of the Constitution among all major parties, including the ethnic and regional political parties and non-state armed groups. Without significant demilitarization and adoption of federal autonomy arrangements for minorities, there can be no sustainable reform.

In this sense, the political economy of decentralization to states and regions rests on the question of the Constitution. Does the Constitution provide the final word on the structures and the responsibilities of state and region government, with the remaining work being to flesh out these provisions in law and regulation, and support the capacity of the relevant institutions? Or is there space for substantial reinterpretation and amendment of the Constitution, allowing for adjustments to the basic direction of decentralization policies? Or even further, is the Constitution unable to address the most important issues facing the system, and therefore in need of thorough renegotiation?

The principal guide to the orientation and attitude of the drafters and promulgators of the Constitution must be its restrictive provisions for amendment.[195] Based on these considerations, it is clear for some that “the constitution is not seen as a transitional instrument”.[196] The Constitution of Myanmar was not negotiated among all significant political forces in the country, but emerged through a tightly choreographed process, dominated by the SPDC. While some cease-fire groups did provide inputs, their proposals for “autonomous regions with genuine political, social, economic, and ethnic rights” were largely “shelved”.[197] For these reasons, many of

[195] Refer to Note 43 for the provisions on constitutional amendment.
[196] Ghai (undated): 36.
[197] Ardeth Maung Thawnghmung (2011):10; see also Taylor (2009): 501-4; Ghai (undated): 7-8.

the most prominent ethnic armed groups view acceptance the 2008 Constitution as presenting a seemingly unbridgeable divide between themselves and the government.

Despite this rigid background, there are many possibilities for deepening reform and even constitutional change. Public administration reforms and attempts to bring increased order to the confused accountabilities described in Chapter Three are already ongoing. In his 9 August reform address, the President proposed five measures to strengthen state and region government administrative functioning, including instructions to increase state/region influence over human resources and further deconcentrate major union ministries.[198] The form of the electoral system also lies outside constitutional parameters and so can be changed through legislation.

It is important to stress that divides over the degree of foreseeable constitutional change are also not clear cut: some ethnic parties favour amendment while others want complete renegotiation, and within parts of the government, the question of constitutional change has been brought out into the open, most prominently through the convening of the review committee and statements by U Aung Min, President Thein Sein, and other ministers who have conceded that the government is considering federal options.[199]

It has been argued that the very lack of a history of rule of law and division of powers means that politics, rather than law, may determine if constitutional change is possible.

> Laws are incidental at best to the *politics* of power and interests. While the constitution establishes a set of new institutions, it will not determine how those institutions work or, for that matter, whether they will be changed or the constitution itself will be changed.[200]

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[198] The proposals are "1) The region/state governments are to manage, direct, supervise and check the government departments in their municipal regions instead of Union ministries directly controlling them; 2) The region/state governments are to compile civil servants performance evaluation report and submit to Union government and present copies to Union ministries for efficiency of departmental personnel and staff and promotion and transfer to be decided on performance evaluation report; 3) The Education Ministry is not to directly appoint primary education level teachers and such appointments are to be made by region/state governments; 4) The Health Ministry is to continue training nurses and midwives at central level but to make coordination with region/state governments in assigning them to their home regions; the region/state governments to appoint medical staff in remote regions through vacancy announcement in newspapers as the direct appointment by the Health Ministry doesn't work; 5) Out of the business which need direct permission of Union ministries, businesses that region/state government can permit are to be allowed for local people to engage in, to create jobs for them.": President U Thein Sein speech at meeting with Union ministers, region/state chief ministers, and deputy ministers; Nay Pyi Taw (9 August 2013): http://www.president-office.gov.mm/en/briefing-room/speeches-and-remarks/2013/08/11/id-2536

[199] Simon Roughneen, "Federal System Under Consideration to End Ethnic Conflict, Minister Concedes," *The Irrawaddy* (6 June 2013). As an example of differences among ethnic parties, the SNDP chair has stressed constitutional amendment, while the Rakhine Nationalities Development Party (RNDP) chair emphasizes renegotiation of the whole charter: Soe Than Lynn, "Ethnic groups call for more power for states", *Myanmar Times* (27 May 2013).

[200] Pedersen (2011): 50.

Decentralization reforms will need to strike a balance between pragmatic approaches to improving services in the short-term, and addressing the structural and constitutional problems that limit the possibilities of reform over the medium and longer term. The eventual path that Myanmar takes with respect to its states and regions and broader subnational governance system will not simply be a matter of good technical practice: almost all aspects of the reform of state and region government involve political decisions. Any reform roadmap must therefore consider the political implications of particular policy choices, and who should be involved to ensure sustainability and stability of the reform process (Table 13).

Table 13: Summary of recommendations and related constitutional and inclusion issues

Recommendation	Issues
Rationalize state and region government administration and human resources	
• **Further clarify the roles and responsibilities of the state and region departments** • **Separate state/region departments from union ministry structures; programmes and incentives for relocating civil servants** • **Consider creating state/region civil service organizations** • **Support state and region ministers' and departments' independence from the General Administration Department**	• Role of GAD as state/region government office in Constitution • Civil service reform & restructuring a challenge
Deepen the deconcentration process within union ministries	
• **Policy framework for line ministries to further deconcentrate responsibilities across administrative levels** • **Capacity support to line ministries as they deconcentrate, and to state and region ministry offices as they take on new tasks** • **Ensure resources for functions at state/region level are predictable and transparent; modest budget deconcentration** • **Ensure offices engage in participation and outreach with state and region governments and *hluttaws*, as well as civil society and communities**	• Care needed to avoid unfunded responsibilities
Broaden the scope of state and region government responsibilities	
• **Consider including aspects of education policy and provision including hiring and language of instruction in state/region legislative or administrative list** • **Foster more state and region participation in the management of significant natural resources, and approval and oversight of natural resource extraction and development concessions and projects, possible involving state and region authorities in EITI**	• Modification of Schedule Two, or addition of functions through union law
Strengthen public expenditure management, budgeting and resource allocation	
• **Strengthen tax policy and administration at state and region level** • **Improve union public financial management capacity for fiscal projections** • **Revise allocation of the Poverty Reduction Fund & develop intergovernmental fiscal arrangements** • **Ensure donor programmes support state and region planning, budgeting and monitoring capacities** • **Support Union Financial Commission to develop and apply transparent fiscal policies** • **Improve clarity of national accounting and budget presentation**	• Budget comprehensiveness challenge
Develop a transparent and rules-based intergovernmental fiscal system	
• **Consider wealth sharing arrangements including what should be included, who collects, and the formula** • **Consider the overall transfer system including what functions must be financed, what equity and policy goals are important, and what will encourage good governance, revenue or service performance.** • **Policies for management of foreign financial flows in relation to states and regions**	• Participation of peace process stakeholders
Strengthen the political autonomy of the state/region government	
• **Support state and region *hluttaws* to function more effectively in legislative and oversight roles, especially for small *hluttaws*** • **Consider how to increase Chief Minister accountability to state/region** • **Comprehensive communication and constituency engagement strategies at the state/region level**	• Rules on *hluttaw* formation or size • Rules on Chief Minister appointment

Annex I: Region or State Legislative List (Schedule Two)

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

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

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

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

5. Industrial Sector

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

6. Transport, Communication and Construction Sector

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

7. Social Sector

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

8. Management Sector

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

Annex II: State and Region Legislative Activity

State/Region	2010	2011	2012	2013 to May
Mon State	N/A	N/A	1. Supplementary State Budget 12 pg. 469, 4/12 2. Regional Dev Plan 11-12 pg. 472, 4/12 3. Regional Dev Plan 12-13 pg. 486, 4/12 4. Budget Allocation 12-13 pg. 399, 9/12 5. Systematic Transportation of Vehicles pg. 444, 11/12 6. Municipal Act pg. 451, 11/12	1. Supplementary Budget Allocation 12-13 pg. 325, 2/13 2. Excise Duty pg. 329, 2/13 3. Land Tax pg. 334, 2/13 4. Stevedoring pg. 340, 2/13
Kayin State	N/A	N/A	1. Regional Dev Plan 11-12 (Draft) pg. 389, 4/12 2. Regional Dev Plan 12-13 (Draft) pg. 406, 4/12 3. Regional Dev Plan 12-13 pg. 446, 4/12 4. Supplementary Budget 12 pg. 423, 4/12 5. Budget Allocation Law 12 pg. 442, 4/12	1. Supplementary Budget Allocation 12-13 pg. 294, 2/13 2. Municipals pg. 298, 2/13
Shan State	N/A	N/A	1. Regional Dev Plan 11-12 (Draft) pg.188, 4/12 2. Regional Dev Plan 12-13 (Draft) pg. 199, 4/12 3. Village Firewood Plantation pg. 557, 9/12 4. Regional Dev Plan 11-12 pg. 564, 9/12 5. Supplementary Budget 12 pg. 575, 9/12 6. Regional Dev Plan 12-13 pg. 578, 9/12 7. Budget Allocation 12 pg. 589, 9/12 8. Systematic Transportation of Vehicles (Draft) pg. 35, 11/12 9. Municipals Act (Draft) pg. 59, 12/12 10. Village Firewood Plantation pg. 117, 12/12	1. Supplementary Budget Allocation 12-13 pg. 349, 2/13
Chin State	N/A	N/A	1. Supplementary Budget 12 pg. 150, 4/12 2. Regional Dev Plan 11-12 pg. 514, 9/12 3. State Budget 12 pg. 530, 9/12 4. Regional Dev Plan 12-13 pg. 539, 9/12	1. Supplementary Budget Allocation 12-13 pg. 320, 2/13
Tanintharyi Region	N/A	N/A	1. Regional Dev Plan 11-12 (Draft) pg. 44, 5/12 2. Regional Dev Plan 12-13(Draft) pg. 59, 5/12 3. Supplementary Budget 12 pg. 73, 5/12 4. Regional Dev Plan 11-12 pg. 78, 5/12 5. Regional Dev Plan 12-13 pg. 93, 5/12	

			6. Budget Allocation 12 pg. 108, 5/12 7. Private Rental Vehicles Transportation (Draft) pg. 376, 10/12 8. Stevedoring (Draft) pg. 381, 10/12 9. Fishery Law (Draft) pg. 25, 11/12 10. Private Rental Vehicles Transportation pg. 63, 11/12 11. Stevedoring Workers Act pg. 69, 11/12 12. Fishery Law pg. 78, 11/12 13. Supplementary Budget 12-13 pg. 124, 12/12	
Ayeyarwaddy Region	N/A	N/A	Regional Dev Plan 12-13 pg. 464, 9/12 1. State Budget 12 pg. 496, 9/12 2. Supplementary State Budget 12 pg. 325, 5/12 3. Fishery Law pg. 327, 5/12 4. Organic and Chemical Fertilizers pg. 32, 9/12 5. Salt and Salt-Based Products pg. 85, 9/12	1. Village Firewood Plantation pg. 88, 2/13 2. Fire and Natural Disasters Preventive Measures (Draft) pg. 147, 2/13 3. Water vehicles of 25 HP and lower business and systematic transportation of water vehicles of 25 HP and lower pg. 152, 2/13 4. Systematic Transportation of Motor Vehicles pg. 156, 2/13 5. Systematic Transportation of Private Motor Vehicles and Commercial Vehicles pg. 162, 2/13 6. Household Industry pg. 166, 2/13 7. Supplementary Budget Allocation pg. 172, 2/13 8. Supplementary Fishery Law pg. 174, 2/13

Annex III: Taxes Collected by Region or States (Schedule Five)

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

Annex IV: State and Region Budget Summaries, FY 2012-13 (Kyat Millions)

			Mandalay	Sagaing	Kachin	Yangon	Ayeyarwaddy	Shan	Magwe	Chin	Mon	Rakhine	Bago	Kayin	Tanintharyi	Kayar
Revenue	Total		76862	62711	37563	127533	87844	122889	79512	16331	19620	107700	34460	22552	25539	6642
	High Institutions		47	41	18	56	25	16	14	2	13	20	31	3	8	0
	Ministries	Total	69720	33969	25602	102206	53282	60624	56905	12601	14802	46402	28153	13449	17757	6435
		Tax	9934	1983	943	9039	5243	1894	1014	121	1148	724	2147	506	715	71
		Other	19259	5449	4702	48922	6231	9089	5651	268	4315	3614	8136	1318	2194	548
		Capital	16591	0	0	3517	0	0	0	0	0	0	0	0	0	0
		Union Support	21496	26537	19793	15638	41809	49352	50137	11232	9339	42064	17175	5436	14780	5435
		Borrowed	2440	0	165	25089	0	289	104	979	4240	0	694	6189	68	381
	SOEs	Total	7094	28701	11943	25271	34537	62249	22593	3729	4805	61278	6276	9101	7774	207
Expenditure	Total		78688	63648	39985	241820	88496	122889	79512	16328	23059	107823	34470	22549	25543	6243
	High Institutions		2329	1869	1746	3344	1653	2024	1329	683	673	1264	1573	553	880	108
	Ministries	Total	47634	29927	24382	78934	52419	58581	55411	11113	13584	47942	26441	6728	16982	5682
		Current	37651	28547	14300	56566	20170	49422	23882	6057	10103	43624	21133	4341	7950	3592
		Interest	0	0	0	32	0	0	0	0	0	0	0	0	0	0
		Grants	1015	1020	1020	1015	1100	1015	1015	3020	1015	1025	1015	1020	1015	1020
		Capital	8969	360	9062	20670	30497	8144	30514	2036	2467	3293	4293	1368	8017	1071
		Loans	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Return on Loans	0	0	0	152	152	0	0	0	0	0	0	0	0	0
		Investment	0	0	0	500	500	0	0	0	0	0	0	0	0	0
	SOEs	Total	8656	27572	12061	45254	34425	62284	22772	4532	8802	58617	6456	15268	7682	453
		Expenditure	7848	27572	12061	25015	34292	60949	22620	3941	4767	57983	6456	9110	7682	285
		Interest	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Grants	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Capital Exp.	808	0	0	20240	133	1334	152	592	4036	633	0	6158	0	168
		Loans	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Return on Loans	0	0	0	0	0	0	0	0	0	0	0	0	0	0
		Investment	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	Supplementary		20069	4279	1796	114287	0	0	0	0	0	0	0	0	0	0

Annex V: State and Region *Hluttaw* Composition

State/ Region	Total Members	Elected	Active Military	Female	USDP	NLD	NUP	AMRDP	RNDP	CPP	CNP	SNDP	UDPKS	KPP	PSDP	KNP	NDPD	KSDDP	PNO	TNP	INDP	WDP	ENDP	LNDP	DPM	NDF	88 GSY	Independent
Ayeyarwady	72	54	18	3	47	1	6																					
Chin	24	18	6	0	7					5	5												1					
Kayin	23	17	6	0	7			2						2	4			1										1
Shan	143	107	36	8	54		1					31				2			6	4	3	3		1				2
Tanintharyi	28	21	7	0	20		1																					
Mon	31	23	8	0	14		2	7																				
Bago	76	57	19	3	52	1	3							1														
Kachin	51	38	13	2	20		11					4	2															1
Kayah	20	15	5	0	15																							
Magway	68	51	17	1	47		4																					
Mandalay	76	57	19	1	55							1													1			
Rakhine	47	35	12	1	14	0	1		18								2											
Sagaing	101	76	25	0	67		8			1																		
Yangon	123	92	31	6	75		8		1					1											2	4	1	
Totals:	**883**	**661**	**222**	**25**	**494**	**2**	**45**	**9**	**19**	**6**	**5**	**36**	**2**	**4**	**4**	**2**	**2**	**1**	**6**	**4**	**3**	**3**	**1**	**1**	**3**	**4**	**1**	**4**

Annex VI: Local Public Sector Typology (Local Public Sector Project)

Political decentralization
Local entities are corporate bodies with their own budgets (1 point). If they are formal (sub-) organizations of the state structure with their own deconcentrated budget: 0.5 points.
Local jurisdictions have their own political leadership and engage in governance functions within their jurisdiction.
The local political leadership includes elected local councils (1 point). If not, elected local advisory (or supervisory) councils exist (0.5 point).*
The local political leadership structure includes a directly elected (1 point) or indirectly elected (0.5 point) executive.*
The central government recognizes the principles of local autonomy and subsidiarity in law and in practice.
Local government elections have been regularly held over the past 20 years. *
Local political candidates are (s)elected at local level without central party involvement (e.g., through local primary elections).
The ruling national party does not have a dominant position in local elections; other parties control at least 25 percent of local governments.
Local records and documents are required to be available (and are available) to the public.
Alternative participatory mechanisms (such as referendums) are used at local level.
Administrative decentralization
A formal mechanism for intergovernmental coordination exists between central and local levels.
Local jurisdictions prepare their own land-use plan and issue land-use regulations.
Local jurisdictions regulate local business activities (e.g., issue local business licenses).
Local jurisdictions manage their own finances /accounts with a bank of their choice.
Local jurisdictions engage in procurement of all infrastructure and goods/services needed to perform local functions.
Local jurisdictions determine own staff structure and the number of local employees (for all its departments) without requiring central approval.
Local jurisdictions have the authority to set their own salary scales and allowances.
Local jurisdictions recruit, hire, promote, and fire their own employees (central agencies cannot hire local staff on local government behalf).
Local service delivery units have a degree of managerial autonomy in administering services.
SDUs have their own formal public oversight mechanisms.
Fiscal decentralization
Local entities have and approve their own (autonomous) budgets.
Local (budget) decisions do not require higher-level (central) approval or confirmation.
Local entities have a clear and consistent assignment of functions and powers.
Total local public sector expenditures exceed 35% of public expenditures.
Local own source revenues exceed 20% of local expenditures.
Local jurisdictions have at least one major revenue source for which it sets the tax base and/orrate.
Size of intergovernmental transfer pool is determined by fixed rules.
Allocation of intergovernmental transfers is determined by rules or by transfer formulas.
Intergovernmental transfers are provided in complete, timely and consistent manner.
Local entities generally have the right to borrow without obtaining specific central permission.

Annex VII: Shan State Structure

State Minister	Corresponding Departments	Union Ministry
Security and Border Affairs	(1) State Police Force (2) State Special Investigation Department (3) State Immigration and National Identity Registration Department (4) State working committee (Shan State Secretary of Border areas and National Races Development Affairs	(1) Ministry of Home Affairs (2) Ministry of Home Affairs (3) Ministry of Immigration and Population (4) Ministry of Border Affairs
Finance and Revenue	(1) Customs Department (2) Internal Revenue Department (3) Myanmar Economic Bank (4) Pension Department (5) Budget Department (6) Myanmar Microfinance Supervisory Enterprise (7) Myanmar Insurance	(1) Ministry of Finance (2) Ministry of Finance (3) Ministry of Finance (4) Ministry of Finance (5) Ministry of Finance (6) Ministry of Finance (7) Ministry of Finance
Agriculture and Livestock	(1) Department of Irrigation (2) Water Resources Utilization Department (3) Settlement & Land Record Department (4) Agricultural Mechanization Department (5) No.(1/2/4) highland farms project (6) Livestock Breeding and Veterinary Department (7) Bee keeping Department (8) Department of Agriculture (9) Department of Industrialized Crops (10) Department of Fisheries (11) Myanmar Agricultural Development Bank (12) Livestock, Feedstuffs & Milk Products Enterprise (13) ShwePyi Aye Plantation (14) NyaungThone Pin Plantation (15) Banyin Plantation	(1)Ministry of Agriculture & Irrigation (2)Ministry of Agriculture & Irrigation (3)Ministry of Agriculture & Irrigation (4)Ministry of Agriculture & Irrigation (5)Ministry of Agriculture & Irrigation (6)Ministry of Livestock & Fisheries (7)Ministry of Livestock & Fisheries (8)Ministry of Agriculture & Irrigation (9)Ministry of Agriculture & Irrigation (10)Ministry of Livestock & Fisheries (11)Ministry of Agriculture & Irrigation (12)Ministry of Livestock & Fisheries
Forestry and Mines	(1)Forest Department (2)Department of Geological Survey and Mineral Explore (3)Myanma Timber Enterprise (4)Myanma Timber Enterprise (Milling, marketing) (5)Namma Coal Mine (6)Namtu Silver Mine (7)Bawsai Mine (8) Heho, No.3 Mining Enterprise (9) Myanmar Salt and Marine Chemical Enterprise (10) Environmental Conservation	(1)Ministry of Forestry & Environmental Conservation (2)Ministry of Mines (3)Ministry of Forestry & Environmental Conservation (4)Ministry of Forestry & Environmental Conservation (5)Ministry of Mines (6)Ministry of Mines (7)Ministry of Mines (8)Ministry of Mines (9)Ministry of Mines (10)Ministry of Forestry & Environmental Conservation

Planning and Economics	(1) Planning Department (2) Cooperative Department (3) Directorate of Hotels & Tourism (Branch office) (4) Shan (South) Cooperative Society (5) Shan (North) Cooperative Society (6) Beverages Department (7) Directorate of Trade (8) Myanma Oil (9) Small scale industries (10) Trading & Consumer Relationship Department	(1)Ministry of Planning & Economic Development (2) Ministry of Cooperatives (3) Ministry of Hotels and Tourism (4) Ministry of Cooperatives (5) Ministry of Cooperatives (6) Ministry of Hotels and Tourism (7) Ministry of Commerce (8) Ministry of Energy (9) Ministry of Cooperatives (10) Ministry of Commerce
Transport	(1)Transport Planning Department (2) Road Transport (3) Department of Meteorology and Hydrology (Myanmar) (4) Department of Human Settlements and Housing (5) Transportation (6) Myanmar Railway	(1) Ministry of Transport (2) Ministry of Rail Transportation (3) Ministry of Transport (4) Ministry of construction (5) Ministry of Transport (6) Ministry of Rail Transportation
Electric Power and Industry	(1) Department of Hydro Power Implementation (2) System Operator (3) Distribution (4) Pharmaceuticals & Industrial Raw Materials Plantation (Heho) (5) Tigyit Steam Power Plant	(1) Ministry of Electric Power (2) Ministry of Electric Power (3) Ministry of Electric Power (4) Ministry of Industry (5) Ministry of Electric Power
Social Affairs	(1)State Department of Education (2)Universities, Colleges and Technical Schools (3) Government Technical High School (4) State Department of Health (5) State Department of Traditional Medicine (6) Sao San Htun General Hospital (7) Women & Children's Hospital (8) Specialist Lung Hospital (9) General Hospital (Loilem) (10) General Hospital (Lashio) (11) General Hospital (Kyaington) (12) Sports and Physical Education Department (13) Department of Religious Affairs (14) Department of Relief and Resettlement (15) Department of Archaeology, National Library and Museum (16) Department of Social Welfare (17) Department of Labour (18) Factories and General Labour Laws Inspection Department (19) Social Security Board Department (20) Central Inland Freight Handling Committee (21) Nursing Training Schools (22) Technical Schools (23)Government Technical High Schools	(1) Ministry of Education (2) Ministry of Education (3) Ministry of Education (4) Ministry of Health (5) Ministry of Health (6) Ministry of Health (7) Ministry of Health (8) Ministry of Health (9) Ministry of Health (10) Ministry of Health (11) Ministry of Health (12) Ministry of Sports (13) Ministry of Religious Affairs (14) Ministry of Social Welfare, Relief and Resettlement (15) Ministry of Culture (16) Ministry of Social Welfare, Relief and Resettlement (17) Ministry of Labour, Employment and Social Security (18) Ministry of Labour, Employment and Social Security (19) Ministry of Labour, Employment and Social Security (20) Ministry of Labour, Employment and Social Security (21) Ministry of Health (22) Ministry of Education (23) Ministry of Education

Annex VIII: Departments appearing in state/region budgets

Union Ministry	State/Region Department	Chin	Shan	Ayeyarwady	Taninthary	Kayin	Mon	Sagaing	Yangon	Mandalay	Kachin	Bago	Magway	Rakhine	Kayah
Home Affairs	General Administration Department	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Home Affairs	Special Investigation Department	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Home Affairs	Prison Department		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Agriculture and Irrigation	Settlements and Land Records Department							✓							
Agriculture and Irrigation	Department of Agriculture	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Agriculture and Irrigation	Department of Industrial Crops Development	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Cooperative	Cooperative Office	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Cooperative	Department of Small Scale Industries		✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Livestock and Fisheries	Fisheries Department		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Livestock and Fisheries	Department of Livestock & Veterinary	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Livestock and Fisheries	Department of Beekeeping		✓					✓	✓	✓	✓	✓	✓		✓
Construction	Dept. of Human Settlement & Housing Dev.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Construction	Maintenance of Building, Roads & Bridges	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Construction	Public Construction	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Finance and Revenue	Budget Department	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Natl. Planning &Eco. Dev.	Department of Planning	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Labour	Central Stevedoring Committee		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Env. Conservation & Forestry	Forestry Department	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Env. Conservation & Forestry	Dry zone Green Project Department												✓		
Sports	Department of Sports and Physical Education	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Transportation	Water Transport Department							✓							
Municipals	Municipals	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Information	Myanmar Film Making	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Mines	Myanmar Salt and Marine Chemical Enterprise		✓	✓			✓	✓	✓	✓	✓	✓		✓	
Industry	Myanmar Pharmaceutical & Foodstuff Industry												✓		
Industry	Home Utilities Industry													✓	

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