SITUATION ANALYSIS OF MYANMAR'S REGION AND STATE HLUTTAWS

FUNCTIONING, PRACTICES AND CHALLENGES

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ACRONYMS

CDF ▪ Constituency Development Fund

DDG ▪ Deputy Director-General

GAD ▪ General Administration Department

ICT ▪ Information and Communications Technologies

IPU ▪ Inter-Parliamentary Union

MPU ▪ Myanmar Parliamentary Union

TA ▪ Township Administrator

ToR ▪ Terms of Reference

UNDP ▪ United Nations Development Programme

VTA ▪ Village Tract Administrator

Executive Summary

The Situation Analysis of Myanmar's Region and State Hluttaws explores the functioning of Region and State Hluttaws in a comprehensive manner, documenting processes and practices with regard to their internal functioning, their relationships with the Government and the work of members of the Hluttaws (MPs) in their constituencies. Research conducted in Mandalay Region, Mon State, Tanintharyi Region and Shan State (and some information on Rakhine State) underpins the findings in this report.

Myanmar's Region and State Hluttaws are still very young democratic institutions, in their second parliamentary term. Their practices are evolving rapidly, and the legal and procedural framework underpinning their work needs to follow suit—the Region and State Hluttaw Rules date from the early days of the first Hluttaws. The Rules overlap with the Law Relating to Region or State Hluttaw ("Region or State Hluttaw Law"), which was passed by the first Union Hluttaw to bind Region and State Hluttaws.[1] This creates a legal limbo that is neither helpful nor in line with Myanmar's transition to democratic federalism. As the Region and State Hluttaws review and update their rules, the Region or State Hluttaw Law could be repealed.

The Speakers have a very strong position as leaders of their Hluttaws and make the most of the procedural and scheduling decisions regarding the Hluttaws' sessions and their business. In many Hluttaws, good informal mechanisms for engaging MPs in decision-making on these matters have evolved and require formalization. There is remarkable progress in how committees are studying concerns in detail and involving external stakeholders. The next step will be for committees to systematize the process of inquiry and to focus on broader concerns and on public policy, to enable them to oversee the Region or State Government and help it develop public policies.

The new Hluttaw administrations—the authority of which was transferred from the General Administration Department (GAD) to the Pyidaungsu Hluttaw Administration only in 2017—have seen a large turnover of staff, with new staff being recruited only recently. Nonetheless, these new administrations have been making progress in delivering basic services to MPs. Increasingly, development of the Hluttaws is guided by strategic visions, with strategic development plans in place in seven of the 14 Region and State Hluttaws. The Hluttaw administrations now need intensive capacity-building support to ensure that their new staff can provide the services their MPs have requested through the Hluttaw strategic plans. This includes support in the important areas of information and communications technologies (ICT) and public relations.

Direct relationships between the Hluttaws and their government counterparts are still confined to the Hluttaw leadership—the Speaker on substantive matters and the Deputy Director General on administrative matters. Region and State Governments lack a policy support apparatus—the GAD-supported Office of the Region or State Government performs administrative and coordination tasks, and the Union ministries' departments in the regions and states are not equipped to develop policy or draft quality legislation. The absence of policy at the Region and State levels is not in keeping with increasing fiscal decentralization, has a variety of negative effects on governance, including the Hluttaws' work, and needs to be addressed collaboratively.

Legislating is an ad hoc process, and bills are often initiated by the Hluttaws in response to the policy vacuum. The Hluttaws have sought support from experienced lawyers acting as advisors but increased involvement of implementing government departments may be required to ensure laws are implemented. The bill review process in the Region and State Hluttaws can also be improved to ensure the improved and consistent quality of the resulting legislation. The lack of official gazettes in the regions and states means that the only place where approved laws are consistently available is the Hluttaw library, where they are kept in hard copy form.

Partly in response to the lack of a Region or State government policy platform, Hluttaw MPs often submit their own proposals with policy and budgetary implications which, if approved by the plenary, become binding government pledges. Where the government is unable to implement them, relations between the Hluttaw and the government suffer. Government oversight occurs through MPs asking questions of ministers in the plenary session and through the Government Undertakings and Pledges Vetting Committee, which reviews the government's implementation of pledges. Helpfully, subject-matter committees are now beginning to inquire into the performance of their line ministries.

Region and State Hluttaws and Governments have developed creative solutions to make a complicated budget process work. In many Hluttaws, the budget review starts with informal meetings between the Hluttaw's Public Finance Committee and the Minister of Finance and his/her budget department. In the budget review process, Public Finance Committees rely on information that MPs have regarding infrastructure needs in their townships. Where budget proposals are not based on policy, they cannot effectively be reviewed by the Hluttaws, and the focus of the Hluttaws' budget review necessarily revolves around parochial (infrastructure) concerns. The government does not submit financial statements on its budget implementation, though some information on budget implementation is made available in the supplementary budget (or revised estimates) process. Oversight of implementation of the government's budget is confined to the review of a single annual summary report of all audits, submitted by the Auditor-General of the Region or State, who is accountable to the State Government,

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[1] The State Peace and Development Council Law No. 14/2010 (21 October 2010).

not the Hluttaw. An important pending amendment to the Auditor-General of the Union Law will allow the Hluttaw to request audits, and the Hluttaw could use this power to review the accounts of all budget organizations in the Region or State.

Serving their constituents is seen as the most rewarding aspect of their work by most MPs around the globe. Region and State Hluttaw MPs relish and excel at their constituency work and this report captures only a few of the many success stories. MPs are most effective where they can participate in township governance processes and township planning, and where they build relationships with Township Administrators (TAs). Successful MPs are able to rely on close relationships with the elected Ward Administrators and Village Tract Administrators (VTAs), who can act as two-way conduits of information, especially in large townships. A good network of VTAs and a strong party structure in the township partially compensate for a lack of Hluttaw (financial and other) support for constituency work, but many MPs lament that their expenses far exceed their salaries and eat into their savings. Region and State MPs who build constructive relationships with their Union peers are the most effective. This collaboration is encouraged by the need to agree on how the (modest) MPs' constituency funds available to the Region and State and Union-level MPs are allocated to fund projects in the townships. These funds are most effectively used where they complement spending under the regular budget.

Recommendations

Based on the findings on current practices and functions of the Region and State Hluttaws and the good practices identified in various Region and State Hluttaws, the following recommendations are presented for consideration by the Hluttaws.[2]

Recommendation 1: To improve the effectiveness of the rules and practices of the Hluttaw, Hluttaws may consider jointly requesting a review of the Region or State Hluttaw Law by the Union-level Hluttaws.

Recommendation 2:[3] Hluttaws may consider establishing a consultative body to assist the Speaker in scheduling business before the plenary, including legislation, motions, proposals and referral of matters to committees.

Recommendation 3: Hluttaws may consider creating a system of focal points of MPs from the various political parties represented in the Hluttaw (similar to the system in the Shan State Hluttaw) for committee appointments, development of the Hluttaw calendar and management of the Hluttaw administration office, to ensure MPs from all parties are able to participate in Hluttaw business on an equal footing.

Recommendation 3.1: Hluttaws may consider, in time, expanding the system of political party focal points into a formal political party caucus system in the Hluttaw.

Recommendation 4: Hluttaws may consider ensuring that all complaints are dealt with by a relevant mechanism, such as a complaints committee, to avoid duplication of efforts and to reduce the workload for subject-matter committees and the Speaker.

Recommendation 5: Hluttaws may consider tabling all committee reports for review at the plenary session.

Recommendation 6: Hluttaws may consider instituting and distributing to MPs a "business paper", including information on prospective business in the upcoming week or two weeks. This will ensure widespread knowledge of proposals and questions in advance of MPs moving them and would assist MPs to adequately prepare for the plenary's review of proposals and questions, and enable the government to prepare its response to proposals and questions in advance. The final agenda may, of course, vary from what is foreseen in the business paper.

Recommendation 7: Hluttaws may consider adopting detailed criteria for vetting MPs' questions, to ensure that vetting does not infringe MPs' rights and privilege of asking questions of government ministers. Although questions may be checked to aid precision and avoid duplication, determining a question's relevance ought to be the prerogative of the MP who submits it.

Recommendation 8: Hluttaws may consider developing a practice of recording the Speaker's precedent-setting formal rulings to inform and guide the Speaker (and future Speakers) in the consistent exercise of the Speaker's function.

Recommendation 9: Hluttaws may consider a change in practice (and amendment of by-laws if necessary) to allow for plenary resolutions that express the will of the Hluttaw but are not necessarily binding on the government.

Recommendation 10: In coordination with other Region and State Hluttaws, and drawing on the experience of the Union Hluttaw, Hluttaws may consider establishing an e-parliament system and related ICT infrastructure. Hluttaws may also consider creating a dedicated ICT service within the Hluttaw administration.

Recommendation 11: Hluttaws may consider creating a media and public relations service to reach out to the public and inform the public of the work of the Hluttaw.

Recommendation 12: Hluttaws may consider expanding their activities in educating the public (including schoolchildren) about the work of the Hluttaw and its MPs.

Recommendation 13: Hluttaws may consider investing in staff capacity to enable them to produce and publish plenary transcripts, and to ensure committee meeting minutes are prepared and available to MPs and the public, within three days of the sessions, as prescribed in the Rules of Procedure.

Recommendation 14: Hluttaws may consider creating a repository of laws approved at the Hluttaw and publishing them (e.g. through an official gazette) to ensure full public access to all region/state legislation in force. This could be made available online once ICT infrastructure and Hluttaw resources permit.

Recommendation 15: To improve committee effectiveness, Hluttaws may consider:

▪ Regularly reviewing the Rules of Procedure (Hluttaw by-laws) to ensure that committee procedures, powers and roles are clearly defined, paying particular attention to the role of committee members and the role, if any, of the non-elected expert advisory groups;

▪ Reviewing committee ToR to ensure that they enable each committee to do its work effectively, with clear responsibilities assigned, and to ensure a process whereby committees can seek to have the ToR amended as necessary.

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[2] Reference in the recommendations to "Hluttaws" means "Region or State Hluttaws".

[3] One practical option could be to expand the Hluttaw Administrative Committee by including MPs to participate in it (see recommendation 21) and by expanding its mandate to include management of Hluttaw business.

Recommendation 16: Hluttaws may consider adopting a full suite of subject-matter committees, that mirrors the full range of government policy areas and functions, so that every government department has a counterpart committee [4] that can oversee its activities and input into bills.

Recommendation 17: To improve committees' contribution to the plenary, Hluttaws may consider ensuring that subject-matter committees are able to conduct regular inquiries into matters under their purview and mandate, including the implementation of relevant policies and legislation and the performance of their respective line ministries.

Recommendation 18: Hluttaws may consider ways of coordinating the work of their committees with that of the relevant committees in the Union Hluttaw.

Recommendation 19: Hluttaws may consider developing Hluttaw strategic plans along with detailed implementation plans that will support the effective allocation of resources to Hluttaw development priorities.

Recommendation 20: [5] Hluttaws may consider adding representatives of political parties to the Hluttaw administration and management body to ensure consensus in the Hluttaw on administration and provision of services to MPs

Recommendation 21: In order to continue investing in their human resources, Hluttaws may consider:

▌ Prioritizing professional development of Hluttaw staff, continuing the current focus on core skills;

▌ Expanding cooperation with other Region and State Hluttaws and the Union Hluttaw in developing these core skills through an induction programme for new staff hired for parliamentary work;

▌ Recruiting or assigning qualified staff members to provide professional services to committees, including conducting research and drafting briefings and reports;

▌ Developing training and professional development capacity in the Hluttaw, possibly through establishment of a separate training unit, if feasible. To being with, the Hluttaws may consider developing a training focal point network with cooperation with other Region and State Hluttaws and the Union-level Hluttaws;

▌ Expanding the professional development portfolio to include professional development for MPs.

Recommendation 22: Hluttaws may consider developing an adapted form of "joint investigation teams", with collaboration between the Hluttaw and Executive operating through Hluttaw committees.

Recommendation 23: In order to improve Executive–Hluttaw collaboration and governance effectiveness, Hluttaws may consider:

▌ Together with the Executive, studying good practice in policy development and implementation, with a view to developing a policy-based approach to legislation and budgeting;

▌ Encouraging the Executive to present a yearly government programme for the Hluttaw's review and to report to the Hluttaw on its implementation;

▌ Encouraging the Executive to provide sufficient details of planned legislation and government capital projects in this policy programme to enable the Hluttaw members to make informed decisions;

▌ Collaborating with the Executive to ensure that the budget, government pledges and projects are in line with the policy programme;

▌ Cooperating with the Executive in the development of a legislative agenda, based on the agreed policy priorities, to achieve effective implementation of the programme.

Recommendation 24: To improve committee contribution to the plenary, Hluttaws may consider ensuring that the Hluttaw Legislative Committee involves the relevant subject-matter committee when reviewing bills from the line ministry.

Recommendation 25: Hluttaws may consider establishing a multi-stage "reading" process in the plenary to allow MPs to receive adequate notice of a bill to be given its initial reading, after which the bill would be referred to committee for review and reported back to the plenary for debate, at which time the bill would be considered for further deliberation or final vote.

Recommendation 26: Subject-matter committees may consider conducting inquiries into the implementation of legislation and the performance of their line ministries to identify problems and help find solutions in the implementation of legislation.

[4] One Hluttaw committee could cover a number of related policy areas to ensure the number of committees does not become too large and thereby become a burden for the Hluttaw and its MPs. This would be a risk in particular for small Hluttaws.

[5] One practical option could be to expand the Hluttaw Administrative Committee by including MPs to participate in it (see recommendation 2) and by expanding its mandate to include management of Hluttaw business.

Recommendation 27: To improve the Hluttaw's role in the budget process, Hluttaws may consider:

▌ Engaging with the Executive—formally or informally—during the budget formulation process, to allow more time to consider the budget;

▌ Engaging themselves in the reform of the budget process to ensure a future budget calendar allows more time for review of the budget proposal;

▌ Reviewing budget, planning and taxation bills by a specialized Public Finance Committee;

▌ Involving subject-matter committees in the review of the budget allocations for the line ministries they oversee;

▌ Drawing on the knowledge of individual MPs gained from the planning process in their townships when reviewing the budget proposal;

▌ Requesting dedicated reporting on the implementation of the budget in the framework of the semi-annual activity reports prepared by the government pursuant to Article 258(b) of the Constitution.

Recommendation 28: Hluttaws may consider making use of the new powers granted to the Region and State Hluttaws under the revised Auditor-General of the Union Law (as soon as that law comes into force) and request that the Auditor-General audit important projects.

Recommendation 29: In order to improve Hluttaws' oversight of public finance, the Public Finance Committee may consider:

▌ During review of the Annual Report on Audits, inviting the Auditor-General to present the report and answer questions before the committee;

▌ Requesting full access to all audit reports prepared by the Auditor-General;

▌ Developing a system for following up with the government year on year on the implementation of its recommendations.

Recommendation 30: Hluttaws may consider making additional investments in the capacity of the Government Pledges and Undertakings Vetting Committee to ensure that it can effectively review all pledges by the government and report to the plenary on their implementation.

Recommendation 31: The Government Pledges and Undertakings Vetting Committee may consider the government programme and policies as guidance against which to assess the government's progress in the implementation of pledges.

Recommendation 32: When reviewing the implementation of pledges by line ministries, the Government Pledges and Undertakings Vetting Committee may consider involving the subject-matter committees in the review process. Subject-matter committees could conduct committee inquiries into the implementation of pledges made by their line ministries.

Recommendation 33: Hluttaws may consider allocating resources to MPs that cover basic expenses for constituency work. Where MPs need to rely on their own and party resources, there is a risk that MPs representing smaller parties or independent MPs will struggle to be effective in representing their constituents' interests.

Recommendation 34: Hluttaws may consider supporting MPs to attain access to objective statistical data about their constituency and support the development of the required knowledge and skills for data analysis.

Recommendation 35: Individual MPs may consider coordinating with Union MPs to solve problems that need to be addressed at Union level and to ensure their township's development priorities are adequately addressed in the budget.

Recommendation 36: Individual MPs may consider consistently participating in the township planning process to enable them to adequately represent their constituents' interests at the Hluttaw, including regarding the review of the budget proposal.

Recommendation 37: Hluttaws may consider ensuring that priorities for the constituency development fund are complementary to the development priorities funded through other channels, including the Union and State budgets.

Introduction

The 2008 Constitution of the Union of Myanmar established parliaments (Hluttaws) at the national (Union) and the subnational (Region and State) levels. The national Hluttaw has three houses: a lower house (Pyithu Hluttaw), an upper house (Amyotha Hluttaw) and a joint house (Pyidaungsu Hluttaw). The 14 Region and State Hluttaws are unicameral.[6] All Hluttaws are composed of members (MPs) elected from townships, Ethnic Affairs Ministers, representing minority ethnic groups elected from region- and state-wide constituencies, and MPs appointed by the military, who make up roughly one quarter of the membership of each Hluttaw. The Region and State Hluttaws vary in size and composition. The largest, the Shan State Hluttaw, has 137 members; the smallest, the Kayah State Hluttaw, has only 20 members.

Myanmar's Region and State Hluttaws are very young institutions. They have operated since 2011 and are currently halfway through their second parliamentary term, which started in 2016. It remains challenging for the Hluttaws to play their role as regional representative institutions in what remains a predominantly centralized political system in Myanmar. As Myanmar's decentralization progresses, Region and State Governments and Hluttaws will only become more central to resolving the key challenges facing Myanmar—the peace process, constitutional reform and federalism.

The objective of this situation analysis is to describe the functioning and practices of Myanmar's Region and State Hluttaws and their cooperation with the respective governments, and the role MPs have as governance actors in their townships. Its focus is to document good practice and challenges in how the Region and State Hluttaws' function in the political system of their region or state, rather than the outputs individual Hluttaws have produced. The overall aim is that the situation analysis' mapping of governance in the regions and states will serve as the evidence base for the future strategic development of Myanmar's Region and State Hluttaws.[7] By documenting the variety of practices among the Hluttaws, the situation analysis will also provide the basis for peer learning among members of the Hluttaws and accelerate the identification and adoption of good practices.

The report reviews the functioning of the Region and State Hluttaws against accepted standards and benchmarks of parliamentary conduct and makes recommendations for the alignment of practice with these benchmarks and standards.[8] Standards relevant to and appropriate for the Region and State Hluttaws include the Commonwealth Parliamentary Association's Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures (2010) and the Inter-Parliamentary Union's Framework on the Parliamentary Contribution to Democracy (2009). Comparing practice in the Region and State Hluttaws against parliamentary benchmarks and standards will be useful in charting the development of the Hluttaws and defining reform priorities.

Field research for the situation analysis of the Region and State Hluttaws[9] was completed in November and December 2017 in the Tanintharyi and Mandalay Regions, and in Mon and Shan States. Interviews were conducted in these areas with the Hluttaw Speaker, Deputy Speaker, Head of Administration, committee chairs and MPs; Chief Minister of the Region or State, Planning and Finance Ministers, Environment Minister, Social Affairs Minister, Auditor-General and Advocate-General; Township Administrators (TAs), Ward/Village Tract Administrators (VTAs) and community representatives.

Production of this report follows an extensive consultation and clearance process with the participating Hluttaws, designed to ensure the accuracy of the findings and the Hluttaws' ownership of the report's recommendations. Individual summaries of findings for each Region and State Hluttaw participating in the research were produced and provided to the respective Hluttaw stakeholders for review and verification of the accuracy of their contents. Following that, a draft report on the combined findings from the research on the Region and State Hluttaws, with recommendations for future action, was developed, presented at a consultation workshop in July 2018 and again reviewed by all participating Hluttaws. The present report is the result of this process.

In this report, references to "'Region and State Hluttaws" generally indicates the four Hluttaws studied for this situation analysis; any references to all 14 subnational Hluttaws generally take the form "all Region and State Hluttaws".

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[6] The status, functions and rights of Myanmar's parliaments are described in Chapter IV of the 2008 Constitution of the Republic of the Union of Myanmar.

[7] The functioning and practices of the Region and State Hluttaws and the challenges they face have not yet been documented in a comprehensive manner. The only dedicated study of them analyses different aspects of the work and functioning of eight Region and State Hluttaws during the first Hluttaw term (2011–2015) and reviews internal arrangements and the legislative output of the Hluttaws; see Myat The Thitsar, Performance Analysis: State and Region Hluttaws (Local Legislatures) 2010–2015 (Yangon, Enlightened Myanmar Research Foundation, 2017). An earlier report reviewed broadly the governance arrangements at the Region and State levels but did not devote much attention to the Region and State Hluttaws; see Hamish Nixon and others, State and Region Governments in Myanmar (Yangon, MDRI-CESD; The Asia Foundation, 2013).

[8] Although every parliament is a product of its own country's history and culture, there is emerging international consensus that there are certain norms and standards regarding democratic parliaments. In inter-parliamentary organizations, where parliaments from around the world come together to exchange experience in parliamentary development, a growing consensus has formed around certain standards that all democratic representative legislatures meet. A range of inter-parliamentary organizations (such as the Inter-Parliamentary Union (IPU), the Commonwealth Parliamentary Association (CPA), l'Assemblée parlementaire de la Francophonie (APF) and the Southern African Development Community Parliamentary Forum (SADC PF)) have begun to formulate benchmarks and standards that contribute to parliaments' reform efforts.

[9] A separate analysis report project specific to the Rakhine State Hluttaw was developed in the first half of 2018. As a project with similar research questions, the Rakhine State analysis offers relevant and interesting perspectives and some high-level insights about the Rakhine State Hluttaw, which have been incorporated into this document for comparative analysis; see Rakhine State Hluttaw and United Nations Development Programme (UNDP), Analysis of Practices, Needs and Development Priorities of the Rakhine State Hluttaw, unpublished (May 2018).

Composition of 4 Region and State Hluttaws studied for this report

Mandalay Region

Composition	Female	Male	Total
National League for Democracy	4	44	48
Union Solidarity and Development Party		8	8
Democratic Party(Myanmar)		1	1
Military Representatives		19	19
Total	4	72	76

Mandalay Region Hluttaw Composition
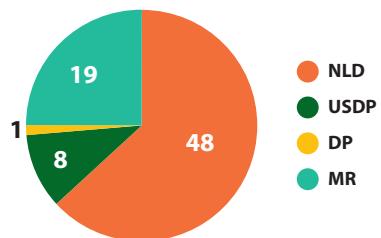
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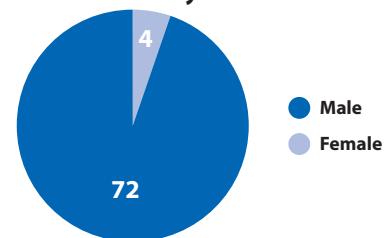
Speakers	Name	Gender	Party
Speaker	U Aung Kyaw Oo	M	NLD
Deputy Speaker	Dr. Khin Maung Htay	M	NLD

Committee	Chairperson	Gender	Party
Legislative Committee	U Tin Aung	M	NLD
Public Finance and Expenditure Vetting Committee	U Aung Than Tun	M	NLD
Regional Planning and Budget Committee	U Aung Kyi	M	NLD
Agriculture and Livestock Committee	U Myint Swe	M	NLD
Ethnic Affairs Committee	Dr.Kyaw Oo	M	NLD
Natural Resources and Environmental Conservation Committee	U Aye Khaing	M	NLD
Members Rights and Affairs Committee	U Saw Thaung Tin	M	NLD
Security, Administration and Municipal Affairs Committee	U Aung Myint Moe	M	NLD
Economics and Commerce Committee	Dr. Chit Ko Ko	M	NLD
Religious, Social and Cultural Affairs Committee	U Win Myint Khaing	M	NLD
Public Affairs Committee	U Zaw Maung	M	NLD
Industry, Energy and Electricity Committee	U Hlaing Win	M	NLD
Transport, Communications and Construction Committee	U Khin Maung Aye	M	NLD
		M	NLD

Mandalay Region Hluttaw Committee Chairs by Party
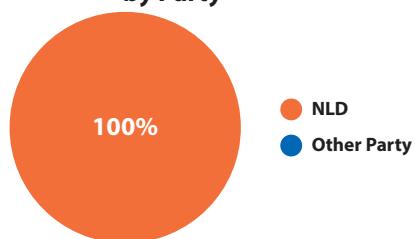
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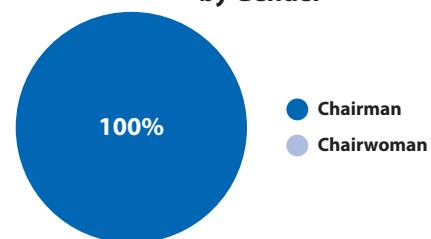
Mon State

Composition	Female	Male	Total
National League for Democracy	6	13	19
Mon National Party		2	2
Mon All Region Democracy Party		1	1
Union Solidarity and Development Party		1	1
Military Representatives		8	8
Total	6	25	31

Mon State Hluttaw Composition

- NLD
- MNP
- MARDP
- USDP
- MR

Mon State Hluttaw Composition by Gender

- Male
- Female
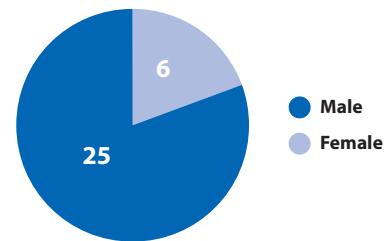
Speakers	Name	Gender	Party
Speaker	Daw Tin Ei	F	NLD
Deputy Speaker	U Aung Naing Oo	M	All Mon Region Democracy Party

Committee	Chairperson	Gender	Party
Woman and Child Rights Committee	Daw Khine Khine Leh	F	NLD
Legislative Committee	Daw Khine Khine Leh	F	NLD
Members Rights and Affairs Committee	U Chit Tin	M	NLD
Ethnic Affairs Study Committee	U Tun Min Aung	M	NLD
Government Pledges and Undertakings Vetting Committee	U Chit Tin	M	NLD
Public Complaints and General Affairs Review Committee	U Aung Kyaw Thu	M	NLD
Public Finance and Business Affairs Review Committee	U Aung Kyaw Thu	M	NLD
Environmental Conservation Committee and Monitoring	Dr. Khin Naing Oo	M	NLD

Mon State Hluttaw Committee Chairs by Party

- NLD
- Other Party

Mon State Hluttaw Committee Chairs by Gender

- Chairman
- Chairwoman
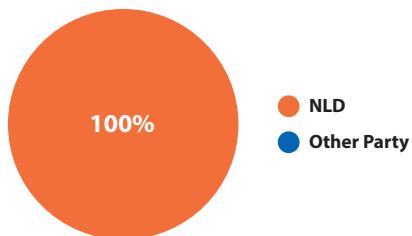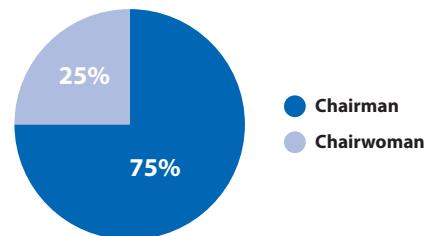
Shan State

Composition	Female	Male	Total
Union Solidarity and Development Party			33
Shan National League for Democracy	5		25
National League for Democracy	2		23
Ta'aung (Palaung) National Party (TNP)			7
Pa-O National Organisation (PNO)			6
Lahu National Development Party (LNDP)			2
Lisu National Development Party (Lisu Party)			1
Independent			1
Akha National Development Party			1
Wa Democratic Party			2
Wa National Unity Party			1
Kokang Democracy and Unity Party			1
Shan Nationalities Democratic Party			1
Military Representatives			34
Total	7	131	138

Shan State Hluttaw Composition

- MR
- USDP
- SNLD
- NLD
- TNP
- PNO
- Other

Shan State Hluttaw Composition by Gender

- Male
- Female
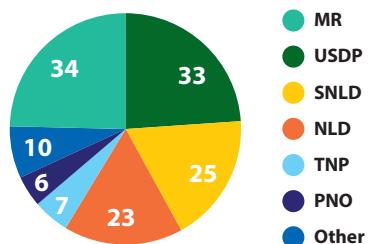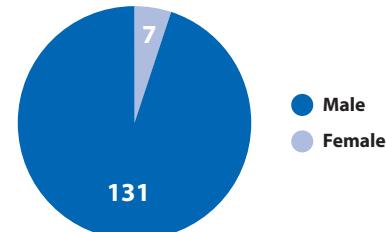
Speakers	Name	Gender	Party
Speaker	U Sai Lone Seng	M	USDP
Deputy Speaker	U Sao Aung Myat	M	USDP

Committee	Chairperson	Gender	Party
Legislative Committee	U Sao Aung Myat	M	USDP
Government Pledges and Undertakings Vetting Committee	U Aung Thu	M	USDP
Local Planning and Budget Vetting Committee	U Khin Maung Tint	M	NLD
Rule of Law and Peace Committee	U Sai Lone	M	SNLD
Ethnic Affairs Committee	U Sai Kyaw Thein	M	SNLD
Complaint Letters Review Committee	U Sai Myo Myint	M	SNLD
State Members Rights and Affairs Committee	U Lin Aung Swe	M	USDP
Farmers and Workers' Affairs Committee	U Lin Aung Swe	M	NLD
Natural Resources, Environmental Protection and Electrical Affairs Committee	Sai Nyi Nyi Kyaw/ U Aung Kyaw Nyunt	M	USDP
Education, Health, Women and Children Affairs Committee	U Sai Won San	M	USDP

Shan State Hluttaw Committee Chairs by Party

- USDP 50%
- SNLD 30%
- NLD 20%

Shan State Hluttaw Committee Chairs by Gender

- Chairman 100%
- Chairwoman
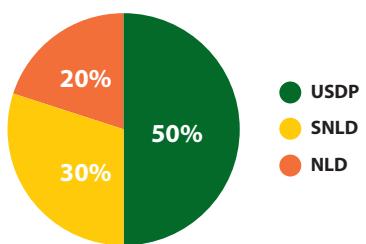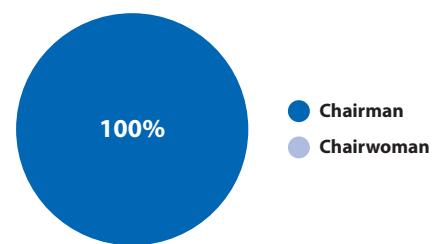
Tanintharyi Region

Composition	Female	Male	Total
National League for Democracy	2	19	21
Military Representatives		7	7
Total	2	26	28

Tanintharyi Region Hluttaw Composition

- NLD
- MR

Tanintharyi Region Hluttaw Composition by Gender

- Male
- Female
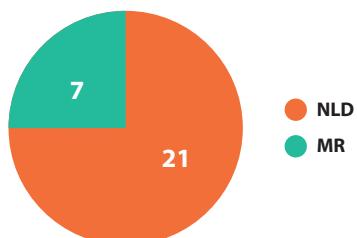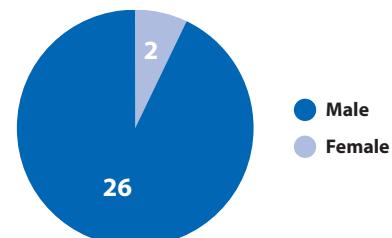
Speakers	Name	Gender	Party
Speaker	U Khin Maung Aye	M	NLD
Deputy Speaker	U Kyi Soe	M	NLD

Committee	Chairperson	Gender	Party
Legislative Committee	U Bo Htwe	M	NLD
Members' Rights and Affairs Committee	U Tin Tun	M	NLD
Ethnic Affairs Study Committee	U Swe Myint	M	NLD
Finance, Planning and Economic Committee	U Kyaw Min	M	NLD
Government Pledges, Undertakings and Grants, Complaint Letters, Appeal Letters Review Committee	Dr. Htoo Nay Aung	M	NLD
Agriculture, Livestock, Fisheries and Environmental Affairs Committee	U Toe Lwin	M	NLD

Tanintharyi Region Hluttaw Committee Chairs by Party

100%

- NLD
- Other Party

Tanintharyi Region Hluttaw Committee Chairs by Gender

100%

- Chairman
- Chairwoman
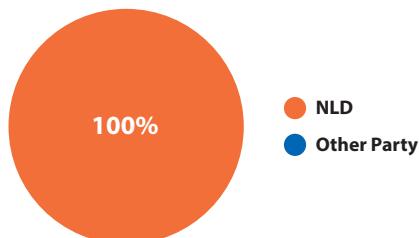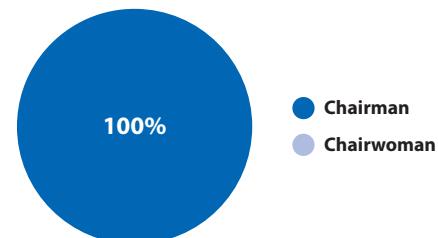
Part 1: Internal Functioning of Region and State Hluttaws

The first part of this report describes the internal functioning of the four Region and State Hluttaws studied, including the role of the Speaker, the functioning of the plenary and committees, the role of the Hluttaw administration, and how Hluttaws perform their law-making and oversight functions in cooperation with the Region or State Government and the Union Government.

All Region and State Hluttaws adopted Rules of Procedure from the Pyithu Hluttaw's template in 2013; in most Region and State Hluttaws, they have not been amended since then.[10] The Rules of Procedure overlap with the Region or State Hluttaw Law[11] adopted by the Union Hluttaw in 2013, which leads to a lack of clarity and limits the Region and State Hluttaws freedom in determining their own rules. This is in conflict with the principle that parliament sets its own rules, within the framework of the constitution.[12]

"

"The Region or State Hluttaw Law (a Union law) is the law under which the Region and State Hluttaws enact the Hluttaw Rules. There are no restrictions in the Hluttaw Rules on its amendment, except that they have to comply with the Region or State Hluttaw Law. The decision of the Region or State Hluttaw is final and no approval of the Union Hluttaw is required."

(U Aung Naing Oo, Deputy Speaker, Mon State Hluttaw)

Recommendation 1: To improve the effectiveness of the rules and practices of the Hluttaw, Hluttaws may consider jointly requesting a review of the Region or State Hluttaw Law by the Union-level Hluttaws.

The Myanmar Parliamentary Union (MPU) is the communication channel among Region and State Hluttaw Speakers and the Union-level Hluttaw Speakers. The meetings of the MPU provide a forum where the Union-level Hluttaw Speakers and the Region and State Hluttaw Speakers meet to discuss, exchange experience and resolve different issues and concerns.

Role of the Speaker and the Deputy Speaker

The role of the Speaker in the Region and State Hluttaws is important and central to the operation of the Hluttaw. The Speaker chairs the Hluttaw plenary, oversees the process of determining its business and oversees the functioning of the Hluttaw administration. The Deputy Speaker works closely with the Speaker in all the functions involved in the operation of the Hluttaw, chairing the administration and management body of the Hluttaw, which oversees the management of the Hluttaw administration. The Deputy Speaker works closely with the Speaker in all the functions involved in the operation of the Hluttaw, chairing the administration and management body of the Hluttaw, which oversees the management of the Hluttaw administration office, the Hluttaw budget and the operation of the Hluttaw building. This committee was set up in all Region and

Speakers and Deputy Speakers of the Region and State Hluttaws with Amyotha Hluttaw Deputy Speaker at UNDP organized Leadership Seminar in December 2018

[10] Pyithu Hluttaw Directive No.2/2013. Rules of the Pyithu Hluttaw.

[11] 2013 Region or State Hluttaw Law (2013 Pyidaungsu Hluttaw Law No. 22) (6 August 2013). This law was enacted pursuant to art. 9 of the Constitution of the Republic of the Union of Myanmar.

[12] See Benchmark 2.1, "Rules of Procedure", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures (London, Commonwealth Parliamentary Association, 2010).

State Hluttaws as a result of an MPU decision. The Deputy Director-General (DDG), the most senior member of the Hluttaw's staff, is the secretary of the committee, and senior administration staff serve on the committee.

Most administrative and scheduling decisions in the Region and State Hluttaws are made by the Speaker with the support and advice of the Deputy Speaker, the DDG and the relevant Director. To ensure that the Hluttaw operates in an effective and inclusive manner, it is important that MPs and the representatives of political parties have the opportunity to provide input into important decisions that affect the operation of parliament.[13] Many parliaments have a body or committee that advises the parliamentary leadership in determining business. At the Mon State Hluttaw, the Speaker also holds Hluttaw coordination meetings with MPs and administration officials to discuss upcoming business and coordination with the government, as well as management issues.[14] Most parliaments also recognize the rights of political parties to form political party caucuses. These caucuses then have special rights and privileges, including the nomination of their members to serve on committees, and they are consulted when parliamentary business is determined.[15] While in the Shan State Hluttaw there is a role for MPs from the different parties represented in the Hluttaw in planning plenary business and participating in the appointment of MPs to committees,[16] there is no such process currently in the other Region and State Hluttaws. "It is an accepted practice in almost all parliaments that the membership of such committees is proportionate to the strength of the different parties or groups in the [parliament] as a whole." [17]

> "There are MPs from different parties. Only the selection of the focal person is discussed with the parties. The focal person of each party is chosen by the party. Each respective party makes a proposal on who [will] represent their party in the respective committees. For instance, for trips abroad, I make decisions on how many representatives to choose from ethnic parties, and how many from each party."
>
> **(U Sai Lone Seng, Speaker, Shan State Hluttaw)**

Good Practice in Action
Plenary and Speaker

The Speaker and Deputy Speaker rely on advice from the DDG on the interpretation of rules and on procedural matters.

The Shan State Hluttaw practice to ensure that MPs receive copies of draft bills several days in advance of the session allows MPs to review the bills and prepare for the debate.

The Mon State Hluttaw holds a regular coordination meeting (involving the Speaker, Deputy Speaker, MPs and staff) to discuss services, business and upcoming issues.

The Mandalay Region Hluttaw organizes tours of the Hluttaw for schoolchildren to educate them about the role and work of the Hluttaw and its MPs.

The Mon State Hluttaw Legislative Committee is reviewing the Rules of Procedure to identify possible improvements.

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[13] See Benchmark 2.4, "Agenda", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures

[14] The DDG organizes the Hluttaw coordination meeting to coincide with the administration and management body meeting held at the end of each month. The administration and management body meeting held in the middle of the month deals mainly with Hluttaw management issues, while the one held at the end of the month deals with all relevant coordination issues. In the end-of-month meetings, committee chairs report on their work and challenges and discuss matters that the Speaker should take up with the government. The Chief Minister usually attends the coordination meeting held at the end of the month.

[15] See David Beetham, Parliament and Democracy in the Twenty-first Century: A Guide to Good Practice (Geneva, Inter-Parliamentary Union, 2006), pp. 26–41, "Fair and Inclusive Parliamentary Procedures".

[16] The Speaker of the Shan State Hluttaw has established a constructive consultative system in the Shan State Hluttaw with "focal persons" appointed by the 12 political parties represented in the Hluttaw

[17] Beetham, Democracy in the Twenty-first Century, p. 28.

There appears to be a willingness in many Hluttaws to develop mechanisms for more inclusive management of parliamentary business that would facilitate greater coordination among and consultation with MPs of the various political parties represented in the Hluttaw. In many parliaments, business committees have successfully advised Speakers in accommodating government business and private members' business, with the involvement and to the satisfaction of all parties represented in parliament.[18]

Recommendation 2:[19] Hluttaws may consider establishing a consultative body to assist the Speaker in scheduling business before the plenary, including legislation, motions, proposals and referral of matters to committees.

Recommendation 3: Hluttaws may consider creating a system of focal points of MPs from the various political parties represented in the Hluttaw (similar to the system in the Shan State Hluttaw) for committee appointments, development of the Hluttaw calendar and management of the Hluttaw administration office, to ensure MPs from all parties are able to participate in Hluttaw business on an equal footing.[20]

Recommendation 3.1: Hluttaws may consider, in time, expanding the system of political party focal points into a formal political party caucus system in the Hluttaw.[21]

The Speaker, with the support of the administration, reviews petitions and complaints received by the Hluttaw.[22] Hluttaw administration staff receive incoming complaint letters from the public and record the date and time of their receipt and to whom they are addressed.

When a complaint letter is addressed to the Speaker, the Speaker may deal with it himself[23] or assign it to the MP for the relevant constituency for resolution. If the complaint is serious and complex, the Speaker may refer it to a committee. If the complaint letter is addressed to a specific committee of the Hluttaw, i.e. a subject-matter committee, the letter is referred to the chair of that committee. Otherwise, the letter is referred to the Legislative Committee (referred to as the Bill Committee in some Region and State Hluttaws).

Recommendation 4: Hluttaws may consider ensuring that all complaints are dealt with by a relevant mechanism, such as a complaints committee, to avoid duplication of efforts and to reduce the workload for subject-matter committees and the Speaker.

In most Region and State Hluttaws, there is wide consultation between the Speaker and the committee chairs. In general, committees are empowered to decide on matters within their mandate, described in their terms of reference (ToR). Committee chairs are required to submit the committee's agenda and travel plans for field visits to the Speaker's office so that the Hluttaw administration office can provide logistical and administrative support to the committee.

Hluttaw committees report to the Speaker; the Speaker reviews the report and consults with the Deputy Speaker. In most Region and State Hluttaws, not all committee reports are considered in the plenary session.[24] Those reports that have not been endorsed by the Hluttaw at the plenary session are not approved Hluttaw documents. This means, for instance, that such reports may not be considered binding by the government. One exception in this area is the practice established in the Rakhine State Hluttaw, where the Speaker tables all committee reports at the plenary session.

Recommendation 5: Hluttaws may consider tabling all committee reports for review at the plenary session.

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[18] For examples, see Beetham, Democracy in the Twenty-first Century, pp. 120ff.

[19] One practical option could be to expand the Hluttaw Administrative Committee by including MPs to participate in it (see recommendation 21) and by expanding its mandate to include management of Hluttaw business.

[20] See Benchmark 4.2, "Party Groups", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[21] Ibid.

[22] For example, the current Shan State Hluttaw has already received 80 complaint letters (as of November 2017) and the Mandalay Region Hluttaw has received 800 letters, petitions and complaints (as of November 2017). Most complaints received deal with land issues.

[23] At the time of writing, all the Speakers are male.

[24] For example, the Shan State Hluttaw, Mandalay Region Hluttaw and Mon State Hluttaw. In the Tanintharyi Region Hluttaw, on the last day of each session, the Speaker highlights the recommendations made by committees to the government and urges the government to address the issues raised in committee reports.

Functioning of the plenary

The Hluttaw is required by the Rules of Procedure to hold a regular plenary session at least once per year.[25] In reality, however, sessions are more frequent. For example, the Rakhine State Hluttaw has developed a Hluttaw calendar that sets four timelines for holding plenary sessions each year. The Speaker determines the process and measures required to hold the session.[26] Before the start of the plenary, the Hluttaw administration office prepares for the session. Region and State Hluttaws have shorter sessions each year than the Union Hluttaw. By July 2017, 16 months into the mandate, most Hluttaws have had six or seven sessions.[27] Sessions are typically shorter, lasting around one week. Plenary sessions are chaired by the Speaker and, in his absence, by the Deputy Speaker. During the plenary session, the DDG provides procedural advice to the Speaker or Deputy Speaker on any procedural matters that arise.

The Notice for a Regular Session is a logistical document that does not include substantive information about the bills, questions or proposals to be considered during the session. The Notice is sent so that MPs are able to submit their questions and proposals within the time period specified in the Rules of Procedure.[28] Notices of session are sent to the district offices of the General Administration Department (GAD),[29] which distribute them to the MPs and obtain confirmation of their attendance.[30]

The Daily Agenda for the plenary session is finalized by the Speaker with the support and advice of the DDG and the Director. The Daily Agenda has three parts: 1. Question period; 2. Bills debate; and 3. Proposals. Questions for the government can be raised as starred (*) questions, demanding a response delivered in person by the minister, or unstarred questions for which a written response suffices. A proposal is a motion by an MP that requires the government to take a certain action.

Good Practice in Action
Plenary and Speaker

In reviewing questions and proposals from MPs the Speaker shows restraint and remains politically neutral (highlighted in Mon State Hluttaw).

The Hluttaw applies criteria for vetting questions and proposals, i.e. lack of duplication, precision, relevance. The "relevance criterion" is defined broadly by the Speaker to ensure MPs have equal opportunity to pose questions and submit proposals without hindrance.

The Mon, Tanintharyi and Shan Region and State Hluttaws publish the transcript of plenary proceedings and the full text of all items tabled and approved. The Hluttaws are making efforts to publish these documents sooner after the session. Summaries of plenary session and committee meeting discussions are published on the Hluttaw website (Mon and Mandalay Hluttaws).

The Shan State Hluttaw has established a system of focal points of MPs from all parties to deal with business and committee appointments.

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[25] Art. 174 of the Constitution: "The Speaker of the Region or State Hluttaw shall convene the regular session at least once a year. The maximum interval between regular sessions shall not exceed 12 months". Under art. 28 of the Region or State Hluttaw Law, Hluttaw sessions shall be called by the Speaker. Under art. 33 of the Region or State Hluttaw Law, when the Chief Minister notifies the Speaker to convene the Hluttaw, s/he "shall convene a Special meeting or an emergency session of the Hluttaw as soon as possible".

[26] This varies, based on nature of the session (regular, special and/or emergency session). Regular sessions require 21 days' notice of the session being given to the MPs, while special sessions require 15 days' notice and emergency sessions require only three days' notice.

[27] UNDP Professional Development Programme for Region and State Hluttaws, Participant Survey Analysis Report, unpublished (September 2017).

[28] Questions must be submitted to the Hluttaw 10 days in advance of the session. Proposals must be submitted 15 days in advance of the session.

[29] The 2008 Constitution, the 2010 State and Region Governments Law and 2010 Self-Administered Zone and Region Law provide the legal framework for the GAD's role as the administrator of the Regions and States (2008 Constitution, arts. 260, 287, 288 and 2010 State and Region Governments Law, arts. 2(j), 3(b), 61).

[30] Some Region and State Hluttaws use electronic and social media to deliver notices of sessions to MPs. For example, the Mon State Hluttaw sends invitations (e.g. notices of session) to MPs via the electronic messaging service Viber.

The agenda is prepared to accommodate the number of questions and proposals received from MPs. If there are more questions, proposals and bills[31] than usual, the session may have to be extended, but sessions usually do not exceed 10 days. As a general rule, MPs do not receive information on the upcoming business, such as a draft version of the agenda or a business paper in advance of the session. The agenda can only be finalized on the last day before the session (in the evening) because MPs must confirm their attendance the next day if they have a question or a proposal to present in the plenary. As a result, they receive the draft agenda only on the day of the plenary session and therefore have limited time to prepare for the business before the plenary. Additionally, the administration office needs to ensure that the relevant minister is available to attend the plenary session to answer MPs' starred questions.[32] The administration office shares a copy of the draft agenda with the government in the afternoon prior to the sitting, not later than 4 pm. This lack of opportunity for MPs to prepare for the session necessarily limits the quality of the debate at the Hluttaw.

Recommendation 6: Hluttaws may consider instituting and distributing to MPs a "business paper", including information on prospective business in the upcoming week or two weeks. This will ensure widespread knowledge of proposals and questions in advance of MPs moving them and would assist MPs to adequately prepare for the plenary's review of proposals and questions, and enable the government to prepare its response to proposals and questions in advance. The final agenda may, of course, vary from what is foreseen in the business paper. [33]

The Speaker reviews all proposals and questions and liaises with the government regarding scheduling them for the plenary. The criteria applied for vetting questions and proposals are usually: (lack of) duplication, precision and relevance. The Speaker decides which questions and proposals are to be presented in the session.[34] A proposal

presented at the plenary by an MP must be seconded by one other MP in order to be debated. However, if one or more MPs object to the proposal being debated, the proposal will only be debated if one third of the MPs vote in support of debating it. The proposal is then debated in the plenary and, if accepted, the Hluttaw issues a decision, which the government is bound to implement.

In some Region and State Hluttaws, the Speaker and the administration review and discuss proposals by MPs with the government and, if the government is opposed to the proposal, the proposal may not be tabled for vote in the plenary.

Recommendation 7: Hluttaws may consider adopting detailed criteria for vetting MPs' questions, to ensure that vetting does not infringe MPs' rights and privilege of asking questions of government ministers. Although questions may be checked to aid precision and avoid duplication, determining a question's relevance ought to be the prerogative of the MP who submits it.

Recommendation 8: Hluttaws may consider developing a practice of recording the Speaker's precedent-setting formal rulings to inform and guide the Speaker (and future Speakers) in the consistent exercise of the Speaker's function.

Recommendation 9: Hluttaws may consider a change in practice (and amendment of by-laws if necessary) to allow for plenary resolutions that express the will of the Hluttaw but are not necessarily binding on the government. [35]

Document management in all Region and State Hluttaws continues to be paper based. Bills, questions and other Hluttaw documents are usually received in hard copy and processed on paper. This limits the ability of the Hluttaw to process documents in a timely manner and to publish them.[36]

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[31] Art. 10 of the Region or State Hluttaw Law stipulates as key mandates of the Hluttaw representatives: (a) to submit bills in accordance with the Constitution and (b) to submit proposals and to raise questions with the permission of the Speaker.

[32] For non-starred questions, the administration office collects answers from the government, and copies of the questions and answers are handed to the MPs upon their arrival at the Hluttaw for the session.

[33] See Benchmark 2.4, "Agenda" and Benchmark 6.3, "The Public and Legislation", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[34] In the Mandalay Region Hluttaw, when proposals are submitted by MPs to the Speaker, they are reviewed by the Speaker with the support of the administration. Proposals are kept secret and become public only if the Speaker decides to table them in the plenary. If the Speaker decides not to present a proposal in the plenary, the Speaker may or may not give reasons for the rejection to the MP whose proposal it is.

[35] See Benchmark 6.1.3, "Legislative Functions/General", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[36] UNDP, Results of the ICT Survey of Region and State Hluttaws, unpublished (August 2018).

Recommendation 10: In coordination with other Region and State Hluttaws, and drawing on the experience of the Union Hluttaw, Hluttaws may consider establishing an e-parliament system and related ICT infrastructure.[37] Hluttaws may also consider creating a dedicated ICT service within the Hluttaw administration.

The plenary session in most Region and State Hluttaws is open to the public and broadcast on satellite TV. Votes in the plenary are likewise public, with the exception of some sensitive votes, such as, for example, for the election of the Speaker, which is by secret ballot.

All Region and State Hluttaws publish the transcript of plenary proceedings and the full text of all items tabled and approved. This transcript is often only available several weeks after the session, which makes it less useful and interesting to the public. Several Hluttaws are making efforts to publish these documents sooner after the session. The Hluttaws keep the final laws approved in their libraries for reference, but do not publish them. At the Region and State levels, no official gazette exists. Hence the existing legal framework of the region or state is not fully available to the public.[38]

Most Region and State Hluttaw administration offices provide newsletters to MPs to distribute in their constituency.[39] The newsletter summarizes the business dealt with during the session of the Hluttaw. In addition, a comprehensive journal or "Session Publication" is produced for the purpose of record keeping, which contains the full texts of bills, questions and proposals, a copy of which is also distributed by most Region and State Hluttaws to MPs after each plenary session. Several Region and State Hluttaws maintain websites and Facebook pages that publish news items on their work. Efforts on outreach to the public are limited by the absence of a dedicated service.

> "Some schools are starting to visit the Hluttaw and the Speaker welcomes them. [On] one visit … when the Hluttaw was not in session in 2017, the Speaker met the students and gave them the rules of the Hluttaw to study."
>
> **(Daw Khin Mya Mya, Deputy Director-General, Mandalay Region Hluttaw)**

Recommendation 11: Hluttaws may consider creating a media and public relations service to reach out to the public and inform the public of the work of the Hluttaw.[40]

Recommendation 12: Hluttaws may consider expanding their activities in educating the public (including schoolchildren) about the work of the Hluttaw and its MPs.[41]

Recommendation 13: Hluttaws may consider investing in staff capacity to enable them to produce and publish plenary transcripts, and to ensure committee meeting minutes are prepared and available to MPs and the public, within three days of the sessions, as prescribed in the Rules of Procedure.[42]

Recommendation 14: Hluttaws may consider creating a repository of laws approved at the Hluttaw and publishing them (e.g. through an official gazette) to ensure full public access to all region/state legislation in force. This could be made available online once ICT infrastructure and Hluttaw resources permit.[43]

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[37] See Benchmark 2.7, "Records", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[38] The Attorney General's Office in late 2018 launched the Myanmar Law Information System, providing public access to union and region and state legislation. It is, however, not clear whether the information in the system is complete.

[39] For example, at the end of each session, the Mandalay Region Hluttaw administration office provides 50 copies of the Hluttaw newsletter to each MP to distribute in his/her constituency. The newsletter contains the full text of the questions and proposals and the answers of the government ministers for that session of the Hluttaw.

[40] See Benchmark 6.3, "The Public and Legislation" and Benchmark 9, "Accessibility", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[41] See Benchmark 9.1, "Citizens and the Press", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[42] Rules for the Pyithu Hluttaw, art. 38.

Functioning of committees

The work of committees is governed by the Hluttaw's Rules of Procedure. In addition to the provisions in the Rules of Procedure, each committee's work is governed by its own ToR. The Hluttaws' Rules of Procedure and the committees' ToR were originally developed in 2013 [44] and, in most Region and State Hluttaws, have not been amended. However, proactive initiatives have been taken by some Hluttaws in reviewing the committees' ToR, with good effect. [45]

Recommendation 15: To improve committee effectiveness, Hluttaws may consider:

▌ Regularly reviewing the Rules of Procedure (Hluttaw by-laws) to ensure that committee procedures, powers and roles are clearly defined, paying particular attention to the role of committee members and the role, if any, of the non-elected expert advisory groups;

▌ Reviewing committee ToR to ensure that they enable each committee to do its work effectively, with clear responsibilities assigned, and to ensure a process whereby committees can seek to have the ToR amended as necessary.[46]

A Region or State Hluttaw committee consists of the Committee Chair, Committee Secretary (akin to Deputy Chair in other jurisdictions) and committee members. All members are appointed to the committee by the Hluttaw Speaker. The role of the committee chair is to call and chair the meetings of the committee, request documentation from the government and, where necessary and in consultation with the Speaker, ask a member of the government to attend a committee meeting. [47] While, in some Region and State Hluttaws, committee chairs are free to initiate committee investigations and studies within the mandate/ToR of the committee, [48] in others, committee chairs must liaise and consult with the Speaker prior to initiating an activity. [49] In all regions and states, the committee chair submits the committee's agenda and travel plans for field visits to the Speaker's office

Good Practice in Action
Committees

Committees can determine their own business independently, with limited guidance by the Speaker.

In the Rakhine State Hluttaw, all committee reports are consistently tabled at the plenary.

Committees have ToR outlining their mandates. In the Mon State Hluttaw, the ToR have been amended by the Hluttaw.

The establishment of a Complaints Committee to undertake inquiries relieves other committees of workload (Mandalay Region Hluttaw, Shan State Hluttaw and Mon State Hluttaw).

so that the Hluttaw administration can provide logistical and administrative support to the committee.

Region and State Hluttaws have important specialized committees that have different mandates. The Legislative Committee (or Bill Committee) reviews bills submitted by MPs or the government.[50] The Public Finance Committee reviews the budget proposal and the report of the Auditor-General's Office. The Government Pledges and Undertakings Vetting Committee reviews how the government implements proposals adopted by the Hluttaw and pledges made by the government at the plenary session. In order to respond to challenges posed by having ethnically diverse populations, the Region and State Hluttaws have

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[43] See Benchmark 2.7, "Records", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[44] As of mid-2016, few of the newly constituted 2nd Region and State Hluttaw committees have had ToR or budgets at their disposal, and the most common answer given by chairs regarding their committee's role was to "directly help citizens"; see UNDP survey of committee chairs, unpublished (June 2016).

[45] The Shan State Hluttaw has developed ToR for the committees of the Hluttaw and has amended them. In the Shan State Hluttaw, there was no committee aligned with the Ministry of Natural Resources and the Speaker has recently (2017) formed an affairs committee aligned with the Ministry.

[46] See Benchmark 3, "Committees", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[47] See Rules of the Pyithu Hluttaw, Chapter 7, Role of Committees.

[48] For example, in the Shan State and Mon State Hluttaws, committee chairs are free to initiate committee investigations and studies within the mandate of their committee. In the Mon State Hluttaw, contrary to the practice in some other Region and State Hluttaws, the Budget Committee now holds public consultations and committee hearings.

[49] For example, the practice in the Mandalay Region Hluttaw is for committee chairs to call committee meetings after reporting to the Speaker.

[50] In some Region and State Hluttaws (e.g. Shan State Hluttaw) there is the practice of creating a "consultation or advisory group" or "legal scrutiny commission" involving non-parliamentarian experts, such as retired legal experts, university professors and retired officials, to provide advice during the review of draft bills. Art. 24 of the Region or State Hluttaw Law authorizes the establishment of teams to study matters, including citizens with expertise in such teams.

a National Races Affairs Committee,[51] which reviews the situation of the ethnic people and issues relevant to their languages and culture. A Hluttaw Representatives Scrutiny Committee reviews the eligibility of MPs and notes the attendance of MPs during the plenary session.[52] Beyond these specialized committees, the suite of functional committees (i.e. committees dealing with specific subject matter) in the different Region and State Hluttaws varies widely. Understandably, the smallest Hluttaws, with few MPs, make do with a limited number of committees, while larger Hluttaws tend to have 10 or more committees. Where the committee system is aligned to the suite of government line ministries, coordination and oversight of the government will be greatly facilitated.

Recommendation 16: Hluttaws may consider adopting a full suite of subject-matter committees that mirrors the full range of government policy areas and functions, so that every government ministry has a counterpart committee [53] that can oversee its activities and input into bills. [54]

Meetings of committees are triggered differently, depending on the role of the committee. For example, meetings of the Legislative Committee (referred to as the Bill Committee in some Region and State Hluttaws) are held if there is a draft bill from the government or from an MP. The Speaker refers the draft bill to the Legislative Committee. Additionally, the Committee Chair can call a meeting of the Committee if the Chair or a member of the Committee wants to review and/or amend a law.

Committee meetings usually take place in the days before or following the plenary sessions, to ensure committee members can be present for these meetings.[55] Committees issue reports with recommendations, which are submitted by the committee chair to the Speaker. [56] Committee meetings are private and most Hluttaws consider committee reports to be private as well. This may limit the committees' effectiveness in consulting the public.

Good Practice in Action
Committees

The Shan State Hluttaw has established a system of focal points of MPs from all parties to deal with business and committee appointments.

Committees conduct field visits to consult the public and gather facts when looking into particular matters or drafting legislation.

The Mandalay Region Hluttaw Legislative Committee coordinates the review of bills with the relevant subject-matter committee.

The Hluttaws use advisory groups of non-member experts to access legal expertise when drafting and reviewing bills, as well as other technical expertise, such as auditing.

In all Region and State Hluttaws, the work of most subject-matter committees is complaints based, i.e. an investigation is triggered by an individual complaint that is submitted to the committee by a constituent or an MP or referred to the committee by the Speaker. [57] Other committee activities include reviewing the budget and other bills. Committee inquiries designed to look at matters of broader relevance across the region and state are not regularly undertaken, which limits committees' effectiveness in practicing oversight.[58]

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[51] The National Races Affairs Committee is supposed to work together with National Races Affairs Ministers, who have a separate races affairs budget (of approximately MMK 100 million annually) for race relations and ethnic languages and culture support. There seems to be little interaction or coordination between the Ministers and the Committee.

[52] The Hluttaw Representatives Scrutiny Committee is mandated by the Region or State Hluttaw Law, art. 31.

[53] One Hluttaw committee could cover a number of related policy areas to ensure the number of committees does not become too large and thereby become a burden for the Hluttaw and its MPs. This would be a risk, in particular for small Hluttaws.

[54] See Benchmark 3, "Committees", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[55] Interestingly, the Region or State Hluttaw Law (art. 23) expressly allows the Speaker, if necessary during the period between Hluttaw sessions, to "select parliamentarians and give them responsibilities as committee members and at the next earliest session obtain approval for such decisions".

[56] As mentioned earlier (see Role of the Speaker and the Deputy Speaker), only in the Rakhine State Hluttaw has the practice been established whereby the Speaker tables all committee reports at the plenary session.

[57] Most complaints received by the Region and State Hluttaws are land related.

[58] "Oversight mechanisms are most appropriate for addressing issues that are systemic. Distinguishing between an individual problem that can be resolved and one that points to wider issues is important. These wider issues might include faulty delivery of a service or implementation of government policy or a law that is ineffective or wrong." Inter-Parliamentary Union (IPU) and UNDP, Global Parliamentary Report 2017: Parliamentary Oversight: Parliament's Power to Hold Government to Account (Geneva, 2018), p. 17.

Recommendation 17: To improve committees' contribution to the plenary, Hluttaws may consider ensuring that subject-matter committees are able to conduct regular inquiries into matters under their purview and mandate, including implementation of relevant policies and legislation and the performance of their respective line ministries. [59]

Committees report that they face challenges in their work resulting from unclear jurisdictions and overlap of mandates with that of the Union.

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"Committees face challenges in managing the expectations of people who see the Hluttaw MPs as problem solvers, but the limited mandate is an issue. The challenge is that often the issues brought up by the public cannot be addressed within the committee's authority. For instance, in Tanintharyi, 70 percent of livelihood is [earned] through fishing [on] the high seas. However, the existing law is not practical for Tanintharyi Region and [it] is not within the power of the Tanintharyi Region Hluttaw to implement or change it. It is under the authority of the Union Hluttaw. Thus, when people complain about issues related to fishing [on] the high seas, the Region Hluttaw cannot address the complaints. We reported this to the Union Hluttaw, but this matter does not seem significant at the Union level as the majority of the country relies on freshwater fishing."

(U Bo Htwe, Chair, Agriculture, Livestock, Fishery and Environmental Affairs Committee, Tanintharyi Region Hluttaw)

Recommendation 18: Hluttaws may consider ways of coordinating the work of their committees with that of the relevant committees in the Union Hluttaw. [60]

Role of the Hluttaw administration

The Hluttaw administration manages the Hluttaw administration office, Hluttaw staff and the Hluttaw budget and provides services to the Hluttaw plenary and the committees. After comprehensive administration reform in 2017, Region and State Hluttaw administrations are part of the Pyidaungsu Hluttaw Administration in terms of organization, but perform independently, guided by the Hluttaw Speaker. The DDG is the head of the Region or State Hluttaw Administration/Secretariat. The DDG reports to the Speaker. The DDG also acts as Secretary to the administration and management body. [61] The current Hluttaw administration structure is uniform across all Region and State Hluttaws and consists of four sections, divided into eight units for: (1) Plenary Sessions, (2) Affairs Committees, (3) Laws, (4) Motions and Questions, (5) Administration and Finance, (6) Administrative and Support Services, (7) Complaint Letters and Reports and (8) Library, Archives and Research. All documents put forward at the Hluttaw are received by the administration. There is not a parliamentary "Table Office" at the Hluttaw where documents are formally tabled, and which registers and updates the flow of documents as they are processed by the Hluttaw. Several different units have responsibilities for different documents, which makes central tracking of document status and circulation of information to MPs potentially complicated. A majority of Hluttaw staff are women, and women are also comparatively well represented in the administrative leadership – six of the 14 DDGs of Region and State Hluttaws are women.

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[59] See Benchmark 3, "Committees", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[60] IPU's Framework on the Parliamentary Contribution to Democracy suggests that parliaments put in place mechanisms for regular consultations between national and subnational parliaments on national policy issues. See IPU, Evaluating Parliaments: A Self-assessment Toolkit for Parliaments (Geneva, 2008), pp. 25ff.

[61] The Rakhine State Hluttaw administration is currently considering recommending to the Speaker to include representatives of each political party represented in the Hluttaw as members of the Hluttaw administration and management body.

Organogram for Region and State Hluttaw Administrations

PLENARY SESSION

AFFAIRS COMMITTEES

AD

LAWS

QUESTIONS/ MOTIONS

AD

DD

ADMIN/ FINANCE

ADMINSTRATIVE AND SUPPORT SERVICES

AD

COMPLAINT LETTERS AND REPORTS

LIBRARY, ARCHIVES AND RESEARCH

AD

DD

D

DDG

DDG - Deputy Director General
D - Director
DD - Deputy Director
AD - Assistant Director
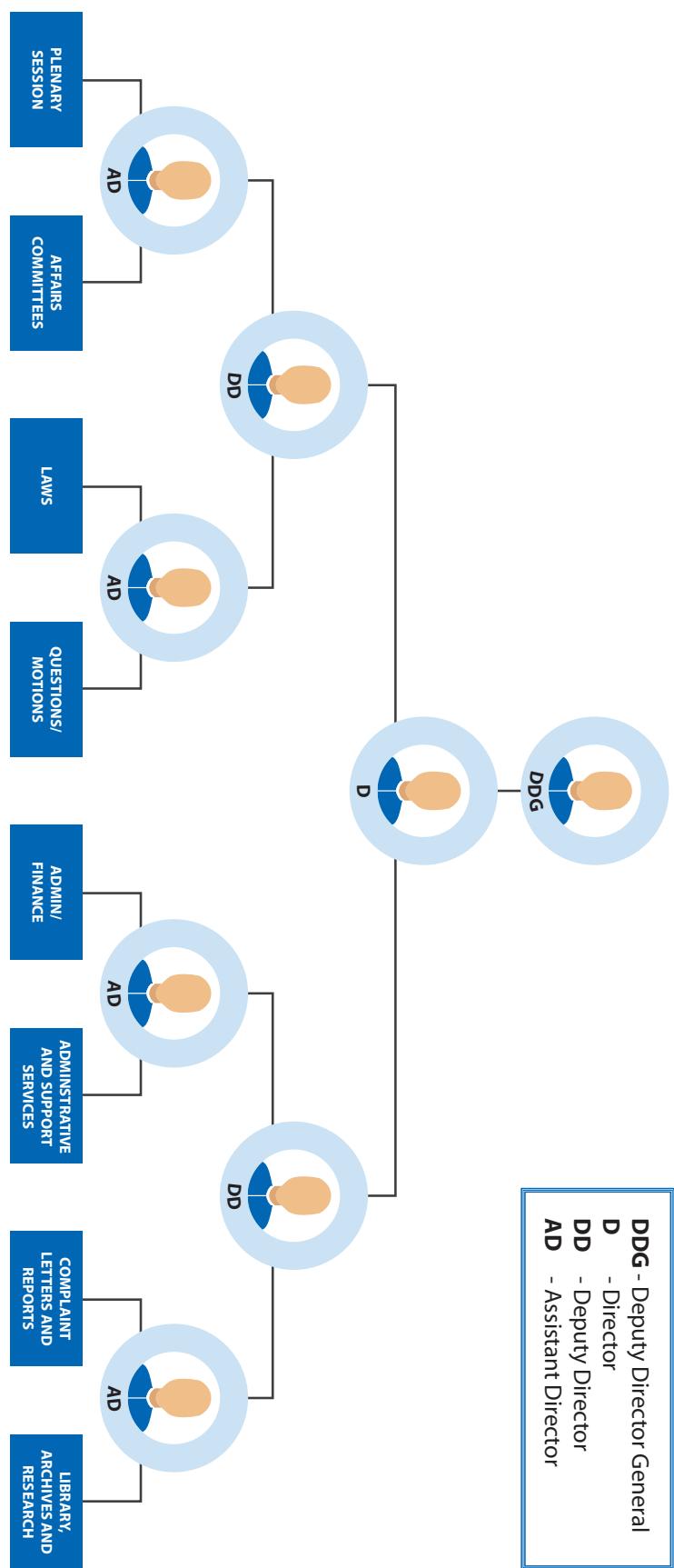
Duties and Functions of Sections and Units in the Region and State Hluttaw Administrations

Section (1)		Section (2)		Section (3)		Section (4)	
Unit (1) Plenary Sessions	Unit (2) Affairs Committees	Unit (3) Laws	Unit (4) Motions/ Questions	Unit (5) Admin/ Finance	Unit (6) Administrative and Support Services	Unit (7) Complaint Letters and reports	Unit (8) Library, Archives and Research
1. Invitation to the sessions (regular, ad-hoc/ special, closed door) 2. Agenda 3. Voting for Selecting/ electing and forming structures 4. Minutes/ Records of sessions	1. Forming committees and structures 2. Vetting of MPs 3. Ethnic affairs 4. Communication and Relations with NGOs 5. Reports	1. Submitting bills 2. Approving Bills 3. Issuing the law 4. Matters related to laws, by-laws, rules and regulations, notification, directives and procedures, etc. 5. Making laws according to the Article 188, Schedule 2 6. Changing the demarcation of the boundaries	1. Matters related to Questions 2. Matters related to Motions 3. Investigations related to questions/ Motions 4. Matters related to guarantees and pledges	1. Matters to be communicated with the president, the Chief Ministers of S/R 2. Work related to MPU 3. Successful organization of sessions and necessary admin work 4. Work related to Speaker and Deputy Speaker 5. Finance matters 6. Media relations 7. Reporting special cases in timely manner 8. Vehicles 9. International and in-country travel and expenditures for receiving guests	1. MP affairs 2. Staff affairs 3. Administrative and staff support 4. Fuel 5. Buildings 6. Furniture 7. Natural disasters	1. Complaint letters and reports 2. Investigation and hearings	1. Work related to library, archives and research 2. Speeches and main points of speeches 3. Newsletter 4. Collections and storage of data on S/R 5. ICTs 6. Record keeping

Services to the Speaker, committees and plenary

The administration office provides services to the Speaker, the MPs, the plenary and the committees. It manages the Hluttaw documentation and the Speaker's schedule, and organizes all correspondence received at the Speaker's office. The DDG advises the Speaker and the MPs in their respective roles on how to comply with the rules and procedures of the Hluttaw. The functions performed by the Hluttaw administration office in support of the Speaker include the DDG:

▌ Reviewing incoming complaints, prior to sending them to the Speaker;

▌ Carrying out all the preparations for the plenary session;

▌ Liaising with the government and external organizations.

The role of the administration office in supporting the functioning of the plenary includes:

▌ Sending invitation letters (i.e. notice of the plenary session) and receiving questions and proposals from MPs; [62]

▌ Reviewing questions and proposals for the plenary and advising the Speaker on their appropriateness;

▌ Drafting the Daily Agenda based on the number of items, i.e. number of questions, proposals and draft bills received by the Hluttaw;

▌ Preparing documentation for the plenary for MPs;

▌ Planning travel and processing per diem payments for MPs;

▌ Preparing logistics and facilities, organizing security and coordinating and notifying the Departments of Electricity, Communications and Municipal Affairs.

Hluttaw administration offices in the Region and State Hluttaws also provide services to committees, mostly in terms of logistics and secretariat services, including:

▌ Organizing logistics for committee field visits (e.g. staff cars and fuel and staff members to support committee travel);

▌ Organizing payment of daily allowances for committee members to attend committee meetings;

▌ Supporting committees in note-taking and typing up documents.

In some Hluttaws, staff are assigned to specific committees, which allows them to specialize and potentially become more effective in delivering improved services.[63] The DDG drafts the letters to the government requesting approval for committees to conduct field visits. Once these are approved by the government, the GAD informs the township concerned that the committee will be travelling to it.[64]

Committee Chairs from Mon State and Tanintharyi Region Hluttaws simulate a hearing with government and the public.

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[62] MPs' questions are most often sent to the Hluttaw administration via the Hluttaw website, via Viber and by express mail.

[63] The Mandalay Region Hluttaw administration has a good system of assigning staff to committees. It has established three teams, each comprising two Hluttaw staff who specialize on certain committees. These teams are assigned to support the functioning of all committees. The administration hopes to have dedicated staff for each committee in the future.

[64] MPs do not need permission from the GAD or the State Government to hold meetings in their own constituency. However, MPs need GAD permission to undertake field trips outside their constituency. MPs need a "Movement Order" (M.O.) signed by the local GAD officer.

Hluttaw budget and human resources

The Hluttaw budget is developed based on the Hluttaw's internal priorities and needs as identified by the administration.[65] Hluttaws' administrations have developed a template to be completed by the Administration and Finance Unit based on the Hluttaw's previous budget(s). There are two headings in the annual budget of the Hluttaw: Capital expenditures and Recurring expenditures. The DDG sends the draft budget to the Deputy Speaker, who reviews it and sends it to the Speaker. Upon approval by the Speaker, the budget is sent to the government for inclusion in the Region or State budget proposal. Increasingly, Hluttaws allocate their scarce resources based on well-defined institutional development objectives. The practice in the Mon State Hluttaw in developing its budget, for instance, is guided by the Mon State Hluttaw Strategic Plan 2018–2022, which yields a number of benefits.

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"The strategic plan is a roadmap for the development of the Hluttaw. It sets development objectives and identifies actions and, as it has been adopted by the Hluttaw, it also signals to the public and the government the will and direction for development of the Hluttaw. The plan guides the Hluttaw in budgeting and helps us identify needs year over year. Since it was adopted also with the votes of the government MPs, it helps us justify proposed expenditure in our draft Hluttaw budget vis-à-vis the government, because we can quote the needs as identified in the plan which the government also agreed to. The plan allows us to prioritize actions based on needs, and sequence them appropriately, which is easier because we have thought about our needs and defined them well in the form of the plan."

(U Aung Naing Oo, Deputy Speaker, Mon State Hluttaw)

Recommendation 19: Recommendation 19: Hluttaws may consider developing Hluttaw strategic plans along with detailed implementation plans that will support the effective allocation of resources to Hluttaw development priorities.[66]

In administrative terms, the human resources of Region and State Hluttaws fall under the Pyidaungsu Hluttaw Administration as part of the civil service and are therefore covered by civil service rules. The Pyidaungsu Hluttaw

Good Practice in Action
Administration

The Region and State Hluttaws' administration functions independently of, while benefiting from the support of, the Pyidaungsu Hluttaw Administration.

Hluttaws have a management body to deal with management issues, which brings together the Speaker, Deputy Speaker and senior administration staff.

In the Mon State Hluttaw, the administration office provides research services to committees.

In the Mandalay Region Hluttaw, MPs are assigned to committees on the basis of their interest in the subject matter and staff are consistently assigned to a particular committee, which builds capacity and expertise and improves the committees' effectiveness.

The Mon State Hluttaw uses its strategic plan in determining priorities for funding through the Hluttaw budget.

Administration signs off on the Hluttaws' recruitment of gazetted officer-level staff but is not involved in other aspects of Region or State Hluttaw administration.

The administration and management body is composed of the Deputy Speaker, the DDG and senior staff and oversees Hluttaw management and staffing issues. It approves appointments to the Hluttaw administration office and, for gazetted officer-level appointments, forwards the decision to the Pyidaungsu Hluttaw Administration for clearance and coordination with the Union Civil Service Board (UCSB). Region and State Hluttaw administrations report to the Pyidaungsu Hluttaw Administration on staffing and recruitment. Now that the Region and State Hluttaws have autonomous Hluttaw staff, the Hluttaw administrations are focused on ensuring that their capacity is built.

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[65] Art. 80 of the Region or State Hluttaw Law: "The Hluttaw shall prepare an annual budget plan of expenditures for the Hluttaw Office, Hluttaw Representatives offices and for Hluttaw businesses and send it to the relevant authorities through the Region or State Government".

[66] See Benchmarks 5.4.2, "Parliamentary Staff/Organization and Management" and 5.1.3 "Parliamentary Staff/General", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

Good Practice in Action
Staff

The Region and State Hluttaws cooperate with the Union Hluttaw and other Region and State Hluttaws to exchange views and conduct training programmes for Hluttaw staff, realizing synergies and benefiting from peer experience.

The Region and State Hluttaws have moved quickly in recruiting new staff.

The Mon and Shan State Governments respect the independence of the Hluttaw in determining its own budget.

Recommendation 20:[67] I Hluttaws may consider adding representatives of political parties to the Hluttaw administration and management body to ensure consensus in the Hluttaw on administration and provision of services to MPs.[68]

The Union-level Hluttaws have started to provide limited support to the Region and State Hluttaws with regards to staff training on parliament-specific functions, including information and communications technologies (ICT) for parliament. Staff of Region and State Hluttaws who join the Hluttaw from outside the public service and those who come from other branches of the Union civil service have not received parliament-specific training.

Recommendation 21: In order to continue investing in their human resources, Hluttaws may consider:

▌ Prioritizing professional development of Hluttaw staff, continuing the current focus on core skills;

▌ Expanding cooperation with other Region and State Hluttaws and the Union Hluttaw in developing these core skills through an induction programme for new staff hired for parliamentary work;

▌ Recruiting or assigning qualified staff members to provide professional services to committees, including conducting research and drafting briefings and reports;

▌ Developing training and professional development capacity in the Hluttaw, possibly through establishment of a separate training unit, if feasible. To being with, the Hluttaws may consider developing a training focal point network with cooperation with other Region and State Hluttaws and the Union-level Hluttaws;

▌ Expanding the professional development portfolio to include professional development for MPs.[69]

"With the change in the staff system, there is more motivation, both on the part of the staff to build capacity related to the functioning of the Hluttaw, and on the part of the institution, since the posts are now permanent Hluttaw posts with little staff turnover."

(Dr Khin Maung Htay, Deputy Speaker, Mandalay Region Hluttaw)

[67] One practical option could be to expand the Hluttaw Administrative Committee by including MPs to participate in it (see recommendation 2) and by expanding its mandate to include management of Hluttaw business.

[68] See Benchmark 5.4, "Parliamentary Staff/Organization and Management", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[69] See Benchmark 5, "Parliamentary Staff", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

Part 2: Hluttaw–Government Cooperation

The second part of this report reviews the Hluttaw's cooperation with the government in Region and State governance. It focuses on the policymaking process, the legislative and budget processes and oversight.

Fishing boats on Aleman Island in Tanintharyi Region

Cabinet functioning: Practice

Myanmar's 14 regions and states have their own governments, with their specific functions, rights and duties laid out in the Constitution.[70] The Region or State Government is headed by the Chief Minister, appointed by the President of Myanmar from among the members of the Region or State Hluttaw and affirmed by the Hluttaw. The Chief Minister, once appointed by the President, appoints Cabinet Ministers from among the MPs, with the affirmation of the Hluttaw.[71]

The Region or State Government is supported administratively by the GAD, which forms an Office of the Region or State Government ("Government Office") headed by the Secretary of the Region or State Government. Departments of Union ministries that are present in the region or state report to the relevant region or state line minister, in addition to their reporting lines within the structure of the Union ministry. For administration and day-to-day activities, the minister relies on the Government Office, not their line ministry. The Government Office has a Cabinet Support Unit,

Good Practice in Action
Working with Executive Government

In Mon State, the Chief Minister participates in the regular monthly Hluttaw coordination meetings and provides information on the work of the government.

In Mandalay Region, joint investigation teams comprise both government officials and MPs.

In Shan State, MPs are involved in state government inspection teams, undertaking field visits in relation to the issuing of mining licences, for example.

The Advocate-General is involved in bill review in the Hluttaws.

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[70] Chapter V of the Constitution describes the formation of the Region and State Governments and Schedules Two and Five list the legislative and taxation subjects for which the Region and State Governments are responsible. In cases of legislative jurisdictional dispute, art. 46 of the Constitution provides for referral of disputes to the Constitutional Tribunal. Art. 326 of the Constitution allows the Speaker of the Region or State Hluttaw to simply request and obtain an interpretation, resolution or opinion of the Constitutional Tribunal on any such matters.

[71] Unlike purely parliamentary systems of government, there are limits on the ability of the Hluttaw to influence the selection of the government. A nominee for the position of Chief Minister or Minister can only be rejected by a majority of members of the Hluttaw if the nominee clearly does not possess the formal qualifications required under the Constitution: art. 261(d) (in the case of Chief Minister) and art. 262 (in the case of Minister). As a result of this constitutional arrangement, no candidate for the position of Chief Minister has been rejected by a Hluttaw, and a Chief Minister may be faced with a permanent opposition majority in parliament.

which provides services to the Cabinet and ministers, including minutes of discussions, documentation, reporting and correspondence. The Government Office also receives reports addressed to it by the departments and reviews those reports. Often, line departments send their reports directly to the Government Office, copying them to their line minister.

In some regions and states, the Cabinet meets formally every week, while in others, it meets every two weeks or even just once per month. [72] The regular Cabinet meeting is attended by the Chief Minister, the ministers and the Advocate-General. In addition to the ministers, the Secretary to the Cabinet and selected staff members also attend Cabinet meetings. Directors of departments responsible for a matter being discussed in Cabinet may be invited to join the meeting and provide information and input. Minutes are reviewed two to three days after the meeting and the Chief Minister signs the Cabinet documents. Implementation of Cabinet decisions is assigned to individual ministers. [73]

Ministers submit their ministries' items prior to the Cabinet meeting so that the items can be added to the agenda. At the Cabinet meeting, the relevant minister presents the case and explains the relevant issues. All ministers have an equal vote. Once Cabinet makes a decision, the decision is recorded by the Government Office, which follows up to ensure that the decision is implemented in the time specified.

In all regions and states, the Speaker is the main Hluttaw counterpart for the Chief Minister. The Speaker contacts the Chief Minister or the ministers, whenever necessary. The DDG is the liaison person between the Hluttaw administration and the Government Office and ministry departments and, when necessary, the DDG contacts the Secretary of the Region or State Government.

Some Region and State departments have developed effective relationships with the Hluttaw. The following is an interesting case study of a land dispute resolution mechanism adopted by the Chief Minister of the Mandalay Region in cooperation with the Hluttaw.

Case Study: MPs' Direct Participation in Mandalay Region Governance

Most proposals presented by MPs at the Mandalay Region Hluttaw are related to land disputes. This story is related to a case in which a key proposal on land issues was adopted by the Hluttaw.

In Pyin Oo Lwin, land had been granted by the government for a coffee plantation. However, coffee planting did not occur; only about 20 out of 50 acres were planted and the rest was sold. The proposal to address this issue was successful, and the Speaker himself visited Pyin Oo Lwin for a period of two weeks to check on the issue.

The Chief Minister became involved and wanted government staff and MPs to be involved because he felt that the system works more effectively if government and MPs work together.

The Chief Minister decided to form an "Investigation Team on Proposals on Land Confiscations" to investigate the lands confiscated. The Investigation Team, acting informally as a commission (i.e. an ad hoc committee), was split into three teams because it had to conduct investigations in three different constituencies. Each such team was composed of: the Chair—either the Deputy Speaker or an MP, usually the MP who submitted the proposal (a Hluttaw representative); the Secretary, who is a regional-level director of the Land Management Department (a government representative); and members of the investigation team, who are MPs, often MPs who presented and/or supported the proposal and/or MPs from constituencies whose populations have borne the impacts of the land dispute.

The process begins with the Chief Minister establishing the ToR for the investigation, including the subject of investigation and the investigation period; the teams are formed, carry out investigations and report to the Speaker, and the Speaker then submits the report to the Chief Minister. The Chief Minister reviews the report and refers it to the minister of the relevant ministry/department to deal with the problems and find solutions. It should be pointed out that these reports were not considered by the Hluttaw's plenary or its committees.

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[72] In Tanintharyi Region, the Cabinet meets formally once per month, while informal Cabinet meetings are held daily from 8.30–10.30, where decisions are reviewed based on minutes of the Cabinet meeting and signed off.

[73] In Shan State, there is also a "full batch" Cabinet meeting held on the last day of the Hluttaw plenary session, in which, in addition to those who attend the regular Cabinet meetings, the National Races Affairs Ministers and representatives from the self-administered zones participate. This Cabinet meeting is held to discuss ethnic affairs. In such meetings, the Ethnic Affairs Ministers have a vote.

This kind of collaborative working relationship between Hluttaw and Executive lies at the heart of effective committee operation, whether in oversight of government, reviewing draft laws or developing public policy solutions. MPs bring special skills and knowledge about the community that makes them very effective at investigating and resolving long-standing public policy challenges.

A collaborative approach similar to the one described above is easily adapted from international best practice in committee inquiries, with a Hluttaw committee the ideal vehicle to carry out such work. In practice, committees can work collaboratively with ministers to design the ToR for an inquiry or investigation, ensuring that it is relevant and appropriate. The committee can conduct the investigation as a Hluttaw process with full cooperation with the Executive and transparency throughout. Committees can make use of experts from within the Executive, as advisors or as experts providing evidence. When the committee has completed its work, its report to the plenary is also given to the Executive.

Recommendation 22: Hluttaws may consider developing an adapted form of "joint investigation teams", with collaboration between the Hluttaw and Executive operating through Hluttaw committees.

The law-making process

Policy and legal drafting

Lack of resources, data and research support—a consequence of the lack of a dedicated Region or State administration—make it difficult for the Region and State Governments to develop policies and to identify and propose necessary bills based on policy. [74] Consequently, Region and State Governments, in general, have no policy framework specific to their region or state. The government has no dedicated staff or mechanism for policy development, and ministers are often physically remote from "their" line ministries. [75] Most priorities are set in line with the Union Government policy framework; for example, environmental priorities are identified on the basis of the national environmental and climate change policies. [76]

> "It is nearly two years since we came into office. Instead of drawing up separate policies and implementing them, the focus is on implementing the directives given by the Union Government."
>
> **(Region/State Minister, interviewed in November/December 2017)**

In the absence of a specific policy platform at the Region and State levels, Region and State Hluttaws and Governments have proposed bills covering broad areas of regulation under Schedule Two of the Constitution. MPs have also been active presenting proposals for individual projects that would be funded under the budget. Region and State Hluttaws identify the need for bills, based on MPs' experience in constituency work and through visits to townships, where they observe issues on the ground.

Recommendation 23: In order to improve Executive–Hluttaw collaboration and governance effectiveness, Hluttaws may consider:

▌ Together with the Executive, studying good practice in policy development and implementation, with a view to developing a policy-based approach to legislation and budgeting;

▌ Encouraging the Executive to present a yearly government programme for the Hluttaw's review and to report to the Hluttaw on its implementation;

▌ Encouraging the Executive to provide sufficient details of planned legislation and government capital projects in this policy programme to enable the Hluttaw members to make informed decisions;

▌ Collaborating with the Executive to ensure that the budget, government pledges and projects are in line with the policy programme;

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[74] The 2008 Constitution did not provide for the creation of an independent administrative body for the states and regions. See Hamish Nixon and others, State and Region Governments in Myanmar, pp. 25-35.

[75] The Mandalay Region ministries, for example, face some challenges due to the fact that the ministry departments are not located in the Region Government compound administered by the GAD, where the ministers are located.

[76] For example, for the environment there is an Environmental Conservation Committee at the Union level, headed by the Vice-President and by the Union Minister of Environment and Natural Resources, which meets every four months and sets policies. Region and State Ministers work on environmental protection in coordination with the Union Minister through the Environmental Conservation Committee. The 14 Region and State Ministers of Environment are members of this committee. Region and State Ministers on this committee provide a monthly report to the Union Minister on their implementation activities. Similarly, in the area of forestry, there is policy at the Union level. Each region and state has its own performance target and the Region or State Minister oversees collection of data by the township offices of the Forest Department and submits it to Union-level departments for monitoring of the implementation of the plan.

Process Flow of Bill Review at a Region or State Hluttaw

STEP1

The bill is tabled at the Hluttaw by government or MPs and received by the Hluttaw Speaker.
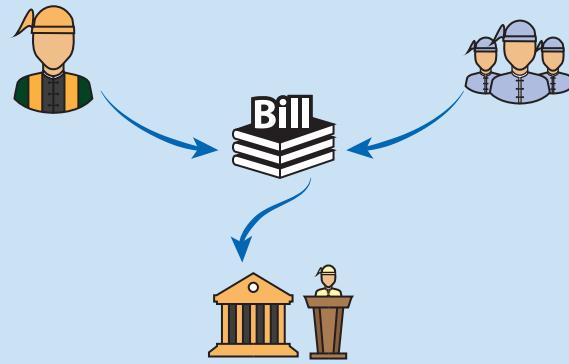
STEP 2

At the committee Review Stage the Hluttaw Speaker refers the Bill to the Legislative Committee. The Legislative Committee reviews the bill, compiles amendments and issues a report on the bill to the Speaker

Advocate General provides legal advice

LEGISLATIVE COMMITTEE

OTHER COMMITTEE

Amendments

Amendments
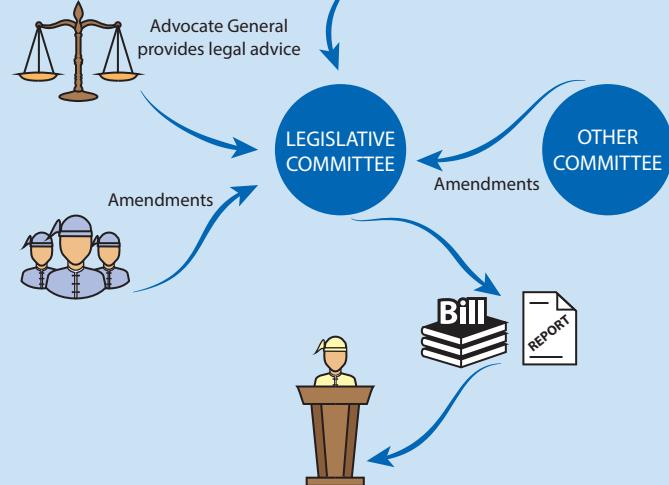
Bill

REPORT

STEP 3

The Speaker schedules the committee report and bill for review in the Plenary. The Legislative Committee Chair presents the Committee Report with recommended amendments on the Bill in the Plenary. The Plenary reviews the bill in a single reading and approves it. MPs can propose further amendments during this reading.
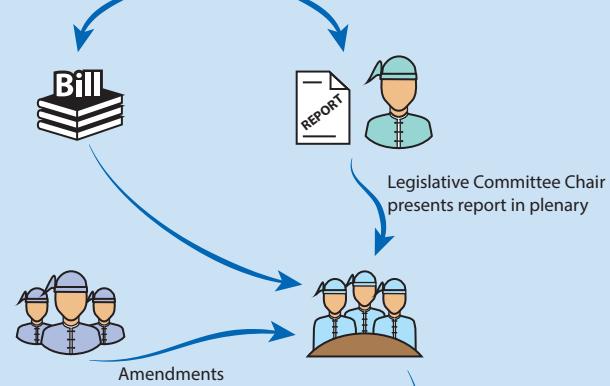
Bill

REPORT

Legislative Committee Chair presents report in plenary

Amendments

STEP 4

The approved bill is submitted to the government, prior to the end of the session, for signature and promulgation by the Chief Minister. Once promulgated, the final law is then published.
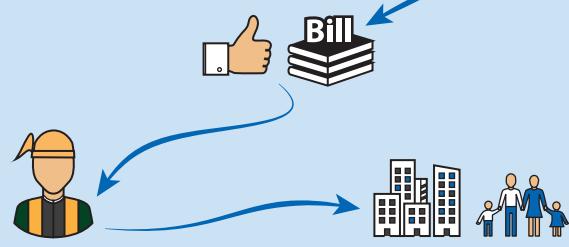
Bill

■ Cooperating with the Executive in the development of a legislative agenda, based on the agreed policy priorities, to achieve effective implementation of the programme.

There are three bills that can be drafted exclusively by the State Government (Cabinet): (i) budget and supplementary budget bill (the State budget); (ii) planning bill; and (iii) revenue/taxation bill. [77] These bills, in most Region and State Hluttaws, are reviewed not by the Legislative Committee but by the Public Finance Committee, or, in some cases, they are directly scheduled by the Speaker to be discussed in the plenary. Bills, other than the three government-initiated bills mentioned above, may be introduced by MPs or by any state-level body or government department. The draft bills must fall within the topics in Schedule Two of the Constitution. [78]

Government bills are drafted by the relevant government ministry proposing the bill. Line ministries usually have lawyers or experts on staff who draft these bills, depending on the size of the department. Upon request, the Advocate-General provides legal advice to the focal department during the drafting stage of the bill. All bills, including bills drafted by the government and bills drafted by the Hluttaw, must be sent to Cabinet for its consideration. Cabinet considers the purpose and objective of the draft bill and sends it to the Advocate-General for legal review and advice. The Advocate-General's review of the draft bill is to ensure that it complies with the formal legal drafting criteria set by the Attorney General of the Union, including, inter alia, consistency with Schedule Two of the Constitution, the existing legal framework, national policy, security of people and property, national unity, culture of the national races and international legal obligations; use of appropriate legal language; and that it is implementable. [79]

The Advocate-General of the Region or of the State usually consults the Attorney General of the Union Office during the draft bill review process and during legal advisory stages at the commencement of bill drafting processes. For bills that touch on matters in Schedule One of the Constitution, the Advocate-General of the State is required to consult the Attorney General of the Union. The edited draft bill is sent by the Advocate-General back to Cabinet and, once Cabinet approves the draft bill, the bill is submitted to the Hluttaw.

Region and State Governments and Hluttaws often face major challenges in drafting and approving legislation for areas that fall partly under their jurisdiction and partly under the jurisdiction of the Union Government and the Union-level Hluttaws. For example, quarries are within the jurisdiction of the regions and states, while gem mining and licensing are within the Union's jurisdiction. In some sectors, the Union Government and the Region and State Governments have been cooperating and developing innovative systems and models to deal with jurisdictional concerns and to ensure good operation of these industries, for instance in the field of licensing mines. [80]

VTAs and Household Heads at a meeting with their MP in Pin Laung Township of Shan State

[77] Art. 190 (b) of the Constitution.

[78] Arts. 188–190 of the Constitution.

[79] The Attorney-General of the Union Law, The State Peace and Development Council Law No. 22/2010, 28 October 2010, art. 28.

[80] An innovative "model mining licensing system" has been set up to deal with jurisdictional challenges in the mining sector between the Union and regions or states. This system is being replicated throughout Myanmar. A central licensing database has been put in place. In the case of a new licence request, the relevant Union ministry checks the application against the database. A Natural Resources and Environment Committee has been set up at the Union level to review licensing requests. A state-level committee has also been established. The state-level committee conducts field visits, together with MPs and Department of Mining officials, and hears community concerns. The committee issues a report. The committee report is considered by the State Minister and the Natural Resources and Environment Committee and submitted to Cabinet for discussion. Cabinet recommends action to a Union-level licensing committee.

Legislative review and role of the Legislative Committee

The Legislative Committee (also referred to as the Bill Committee) is a standing committee with a clear mandate to review Hluttaw- and government-proposed bills, to amend laws and to provide legal advice to other committees.

The steps involved for review of a draft bill by the Hluttaw are as follows:

Step 1: A bill tabled in the Hluttaw is circulated to all MPs and submitted to the Bill Committee for both formal/legal and substantive review. If it is a bill initiated by the Hluttaw or by an MP, the draft bill is submitted to the Advocate-General [81] and the government for review and comment, prior to being tabled at the next session's plenary. The Advocate-General reviews the bill to ensure that it is legally sound and free of formal errors.

Step 2: The Bill Committee reviews the draft bill, usually during the Hluttaw recess, which allows sufficient time for review. The draft bill is reviewed substantively and formally, with the participation of staff of the Advocate-General Office. If a draft bill before the Legislative Committee involves issues related to an area handled by a subject-matter committee (i.e. an ad hoc committee), in many Hluttaws, the Legislative Committee Chair may refer the draft bill to the relevant ad hoc committee for review and comment (e.g. if the draft bill deals with environmental issues, the bill may be referred to the Environment Committee to review and provide comments back to the Legislative Committee).

Recommendation 24: To improve committee contribution to the plenary, Hluttaws may consider ensuring that the Hluttaw Legislative Committee involves the relevant subject-matter committee when reviewing bills from the line ministry.

Government department representatives, retired lawyers and experts may also participate in the committee meetings.[82] The committee receives and considers proposed amendments by MPs and reports to the Speaker on the results of its review.

Step 3: The Speaker schedules the bill for its reading at the plenary. At the plenary, the Speaker reads out the bill clause by clause, including any proposed amendments. If an MP does not agree with a clause, there is a discussion and vote. MPs debate the bill and vote on it clause by clause. Once a bill is scheduled in the plenary, MPs usually have three to four days to discuss it and propose amendments to it in the plenary. At the end of this process, if there are no further objections,

Good Practice in Action
Cooperation with the Government:
Law-making and Oversight

The Advocate-General is consulted by the Bill Committee on bill review to ensure compliance of bills with the constitutional and legal framework and formal standards.

The Advocate-General attends the Hluttaw's plenary sessions and, on the request of MPs, provides comments on bills under consideration. The Mon State Hluttaw's subject-matter committees regularly request documents from their line ministry and invite the minister to appear before the committee.

The Mon and Shan State Governments respect the independence of the Hluttaw in determining its own budget.

the bill is approved without a further vote. In this current process, bills undergo only one reading in the plenary. This limits the opportunity of the Hluttaw to consider the bill in a consistent and structured way. In the multi-stage reading process practiced by almost all modern parliaments, a first reading would consider the policy aspects and general considerations of the bill before it is advanced for detailed consideration to the committee stage followed by the second clause-by-clause reading of the bill and consideration of amendments. In a third reading, internal inconsistencies and errors that may have arisen during the detailed review can be corrected. The multi-stage reading process also allows the Hluttaw and its committees to consult the public before a final reading of the bill occurs.

Recommendation 25: Hluttaws may consider establishing a multi-stage "reading" process in the plenary to allow MPs to receive adequate notice of a bill to be given its initial reading, after which the bill would be referred to committee for review and reported back to the plenary for debate, at which time the bill would be considered for further deliberation or final vote.

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[81] The Advocate-General of the Region or State is appointed by the Chief Minister, approved by the Hluttaw and confirmed by the President. The Advocate-General of the Region or State (like the Auditor-General) is a member of the Cabinet but is not an MP; see The Attorney-General of the Union Law.

[82] As mentioned earlier (see footnote 44), in many Region and State Hluttaws, there is an "advisory group" of legal experts that supports the Bill Committee in reviewing draft bills. In others, such as the Mon State and Shan State Hluttaws, there is no such practice, but their Legislative Committees have non-parliamentarian experts who provide legal advice to the committee.

Step 4: The approved bill is submitted to the government, prior to the end of the session, for signature and promulgation by the Chief Minister. Since the regions and states do not have official gazettes, draft bills and final laws are not consistently published. They are recorded and kept, usually at the Hluttaw library, which can make them difficult to access. Some Hluttaws publish copies of the approved laws on their websites.

> "The lack of an Official Gazette or easy access to up-to-date laws poses a challenge to the Advocate-General Office. The Union has an Official Gazette but I do not know whether states and regions have a Gazette. The Mon State Hluttaw administration office keeps records of laws passed by the Hluttaw, but not in an electronic form."
>
> **(Daw Aye Aye Moh, Advocate General, Mon State)**

Implementation of legislation by the government

The duty to implement legislation and oversee the implementation of laws lies with the Region or State Government.[83] Each minister is responsible for ensuring that implementing legislation and regulations are drafted and overseeing the implementation of laws related to the department under his/her responsibility. Draft regulations must be submitted to the Hluttaw plenary for review by MPs to ensure that the regulations are effective to implement the law.[84] Regulations also need to be approved by Cabinet before they become law. Most Region and State Hluttaws are concerned with the level of implementation of existing laws in their region or state and often cite a lack of regulations to implement legislation. The Hluttaws have not yet, however, reviewed the level and quality of implementation of legislation in a systematic way.

Recommendation 25: Subject-matter committees may consider conducting inquiries into the implementation of legislation and the performance of their line ministries to identify problems and help find solutions in the implementation of legislation.[85]

The Research Team in a Meeting with VTAs and household Leaders in Kyunsu Township of Tanintharyi Region

[83] Government is required under art. 258 of the Constitution to report to the Hluttaw on implementation of laws.

[84] However, draft regulations do not necessarily need to be approved by the Hluttaw to enter into force. If the Hluttaw fails to take action, they enter into force automatically.

[85] There is an emergent practice among many parliaments to routinely scrutinize the government's performance in implementing the legislation that parliaments have passed. See Franklin De Vrieze and Victoria Hasson, Post-legislative Scrutiny: Comparative Study of Practices of Post-legislative Scrutiny in Selected Parliaments and the Rationale for its Place in Democracy Assistance (London, Westminster Foundation for Democracy, 2017).

Budget approval and expenditure oversight

Formulation of the Region and State budget proposal and review by the Hluttaw

The formulation of the Region or State budget is the responsibility of the Region or State Government. It involves the production of an annual (capital investment) plan and a draft budget that covers current and capital expenditure. The process is led by the government's planning and budget departments and the Planning Minister and Budget Director.[86] The identification of priorities for the annual plan starts with the township planning process. In most regions and states, MPs seek to participate in this planning process in their township early in the process and help identify the priorities of their townships.

Good Practice in Action
Working with the Government and the Budget

In Mon State and Tanintharyi Region, during the process of government drafting of the budget, there is already informal coordination between the Budget Minister and the Budget/Public Finance Committee of the Hluttaw on the budget proposal.

The Mandalay Region Hluttaw Planning and Finance Expenditure Vetting Committee involves subject-matter committees in the review of the budget allocations of their line ministries.

In the Tanintharyi Region Hluttaw, individual members of the Public Finance Committee are assigned by the Committee Chair to individually review the allocations for different departments, which is an efficient, time-saving practice.

The Public Finance Committee of the Tanintharyi Region Hluttaw is supported by a Finance Commission consisting of budget experts, which advises it during the budget review process.

After approval by the Cabinet, both the planning bill and budget proposal are introduced in the Region or State Hluttaw.[87]

Hluttaws report having very limited time—often only a few days—for the review of the budget. Once the budget bill is formally submitted to the Hluttaw, the Speaker is usually forced to table it for review in the plenary during the same plenary session in which it is submitted. The Speaker tasks the Hluttaw Public Finance Committee with a review of the budget proposal, and the Public Finance Committee prepares a report with recommendations, which is submitted to the Speaker. Due to the complicated budget process, there is very limited time for the Public Finance Committee to engage other committees to review budget allocations for their respective line ministries, for MPs to review budget allocations for their respective townships and for the Hluttaw to consult the public on the budget. In a few regions and states, there is informal coordination between the Hluttaw and the government during the budget formulation stage, which benefits both the Hluttaw and the government. It allows the Public Finance Committee more time to review the government proposal; this allows the government to gauge the Hluttaw's position on the budget, which can help avoid extensive amendments during the formal budget review process.

In most Region and State Hluttaws, the Auditor-General of the Region or State is present in the plenary session when the budget bill is tabled, debated and voted on.[88]

> "A challenge for MPs is that, at the township level, they may have established a list of 10 potential projects under the planning process, prioritizing the first three of them, and the government may decide to fund the last four projects under the budget bill. MPs face challenges explaining that to constituents."
>
> **(U Aung Kyaw Thu, Budget, Planning and Economy Monitoring Committee Chair, Mon State Hluttaw)**

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[86] In Shan State, two ministers are involved in the budget planning and development process. The planning bill (i.e. the government plan) is presented at the plenary by the Planning Minister whereas the Budget Bill is presented by the Finance Minister.

[87] The process is described in detail in Roger Shotton, Zin Wint Yee and Khin Pwint Oo, State and Region Financing, Planning and Budgeting in Myanmar: What Are the Procedures and What Are the Outcomes? (Yangon, Renaissance Institute; The Asia Foundation, 2016), pp. 45ff; see also De Vrieze and Hasson, Post-legislative Scrutiny. The process in Shan State is outlined in footnote 78. In Mon State, during the budget development process, the Planning Minister holds informal meetings with the Chair of the Budget, Planning and Economy Monitoring Committee and the Speaker, and with all other MPs to brief the Hluttaw on priorities and allocations planned in the budget. Three or four rounds of meetings take place to reach a consensus before the submission of the budget bill to the plenary.

[88] In Shan State, for example, the Auditor-General attends the plenary session during the budget bill debate and vote, by invitation from the Hluttaw. This is also the practice in Mon State.

Once the budget bill is approved by the Region or State Hluttaw, the government submits it to the Union Finance Commission, which aggregates the different budget proposals received from all regions and states and combines them with the Union budget. The Commission often makes changes to the budgets prior to approving them. The Union budget bill is then approved by the Union Hluttaw, and the requisite Region or State budget is then returned to the Region or State Hluttaw for further approval, which is a formality since there is no possibility of making changes or amendments at this stage. The purpose of this step to ensure that the Region or State Hluttaw is aware of the final budget document and is able to coordinate with the budget and revenue departments of the government. Notwithstanding the involvement of the Union Finance Commission in the review of the Region and State budgets, there is currently no coordination mechanism between Union Hluttaw committees and Region and State Hluttaw committees in the budget review process, which has resulted in overlaps and duplication of funding for activities.

A boat arriving at the jetty of Aleman Island in Tanintharyi Region

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"When a matter is a Union matter, Committee members often are not able to access the Finance Minister's or the Auditor-General's records. There has been some overlapping/duplication and financial waste discovered by the Committee, e.g. cases of double submission of project proposals to be funded under the Union and the Region budget. For example, there was a case where a proposal to build a school was sent to both the Union Government and the Region Government. This resulted in two schools being built only a short distance from each other, one with the Union budget and the other with the Region budget."

**(U Aung Than Thun,
Public Finance and Expenditure Vetting Committee Chair, Mandalay Region Hluttaw)**

Region and State Governments do not currently submit financial statements on the implementation of the budget to the Hluttaw. However, most of them prepare a supplementary budget, which is submitted to the Hluttaw later in the year. The allocation of the supplementary budget provides the Hluttaw with indirect information on how the government is performing in the implementation of the budget. The approval process for the supplementary budget is similar to the budget approval process.

Recommendation 27: To improve the Hluttaw's role in the budget process, Hluttaws may consider:

▌ Engaging with the Executive—formally or informally—during the budget formulation process, to allow more time to consider the budget;

▌ Engaging themselves in the reform of the budget process to ensure a future budget calendar allows more time for review of the budget proposal;

▌ Reviewing budget, planning and taxation bills by a specialized Public Finance Committee;

▌ Involving subject-matter committees in the review of the budget allocations for the line ministries they oversee;

▌ Drawing on the knowledge of individual MPs gained from the planning process in their townships when reviewing the budget proposal;

▌ Requesting dedicated reporting on the implementation of the budget in the framework of the semi-annual activity reports prepared by the government pursuant to Article 258(b) of the Constitution.[89]

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[89] See Benchmark 7.2, "Financial and Budget Oversight", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

Government financial reporting and audit

The Auditor-General Office is the main institution providing oversight of government's financial expenditures. There is an Auditor-General of the Union and 14 Auditor-Generals of the Region or State. Audit standards for the Union and the regions and states are set by the Auditor-General of the Union Office. The Auditor-General's mandate is prescribed in the Auditor-General of the Union Law. For the Regions and States, these standards require the auditing of the receipts and expenditures of the Region or State organizations, agencies and public enterprises to ensure that they comply with the Budget Law and procurement standards. This financial audit covers the receipts and expenditures of those organizations, incurred under the Union budget and the Region or State budgets. In addition, the Chief Minister and the Auditor-General of the Union can assign other audit duties to the Auditor-General of the Region or State Office. Auditors-General of the Region or State hold regular meetings with the Auditor-General of the Union to coordinate and to receive guidance. The Auditor-General at each level is responsible to the respective Union, Region or State Government, and all audit reports are received by these respective governments.

There is a pending amendment to the Auditor-General of the Union Law that allows Region and State Hluttaws to request that the Auditor-General of the Region or State carry out financial and other audits, including inventory and performance audits, and that the Auditor-General review project expenditures of projects being implemented by ministries and state enterprises or even private contracting companies. This amendment means that, upon receipt of a letter from the Speaker, the Auditor-General can start an investigation or audit. The law had not come into force at the time of writing. This law will bring the mandate of the Auditor-General more into line with international standards, whereby audit institutions are primarily responsible to parliament, not the government, as is the case in Myanmar. [90]

Recommendation 28: Hluttaws may consider making use of the new powers granted to the Region and State Hluttaws under the revised Auditor-General of the Union Law (as soon as that law comes into force) and request that the Auditor-General audit important projects.

The auditing process in Myanmar is structured to respond to the country's administrative framework, as follows:

▮ The Auditor-General of the Union Office audits union-level organizations.

▮ The Auditor-General of the Region or State Office audits state-level organizations;

▮ District and township auditing officers conduct audits of organizations at the district and township levels and report to the Auditor-General of the Region or State Office.

Each of the Auditor-General Offices uses an "Audit Documentation System". There is a Guideline Manual adopted by the Attorney General of the Union Office. It is a common system for the whole country. It includes forms to be completed and step-by-step methodology to collect information and enter it into the forms, discussion memos and templates provided.

The Auditor-General has technical staff who conduct inspections and investigations.[91] Typically, audit teams are composed of an auditor, who is the team leader, and two staff members. After an audit inspection, the team writes a report, which is reviewed by senior staff of the Auditor-General Office before it is presented to the Auditor-General. [92]

The Auditor-General of the Region or State audits and inspects every government department, organization and agency at the Region or State level annually, and those with large expenditure (or of high priority) every six months, and issues reports to the relevant departments for their action. Inspection includes not only of financial expenditures but also of inventory, effectiveness and compliance with the law/rules. There is an administrative compliance mechanism in place to ensure an audited organization complies with recommendations. [93]

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[90] See Benchmark 7.2.4, "Financial and Budget Oversight", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[91] Audit offices in general correspond to the number of districts and townships in each region and state. For example, Shan State has 50 audit offices: one at the state level, nine at the district level and 40 at the township level. Mon State has 13 audit offices: one at the state level, two at the district level and 10 at the township level.

[92] The auditing officers at the district and township levels follow the same procedures applied by the Auditor-General of the Region or State Office, which follows the procedures prescribed by the Auditor-General of the Union Office.

[93] A report, with findings and recommendations, is sent to the head of the respective department or agency with time-frames for compliance and for response within 20 days of the date of the report. If the feedback from the department is satisfactory (i.e. recommended actions are carried out), that is the end of the process. If not, a "management letter" is sent and a second round of discussions takes place. In the case of continued non-compliance after the second round of consultations, the report is submitted to the Chief Minister. Non-compliance is reported to the Auditor-General of the Union, who may bring it to the attention of the Union ministry concerned.

Good Practice in Action
Working with the Government on the Budget

The Advocate-General is consulted by the Bill Committee on bill review to ensure compliance of bills with the constitutional and legal framework and formal standards.

The Advocate-General attends the Hluttaw's plenary sessions and, on the request of MPs, provides comments on bills under consideration. The Mon State Hluttaw's subject-matter committees regularly request documents from their line ministry and invite the minister to appear before the committee.

The Mon and Shan State Governments respect the independence of the Hluttaw in determining its own budget.

For submission to the Region or State Hluttaw, the Auditor-General produces a summary Annual Report on Audits. Individual audit reports are not made available to the Hluttaw. This Annual Report on Audits covers only "material findings" on areas that need improvement, "unusual situations" or "serious irregularities" observed in the Auditor-General's audits over one fiscal year. It may also report on specific projects in MPs' constituencies. The Auditor-General Office determines what constitutes a "material finding", applying the audit standards of the Auditor-General of the Union Office. There is no legal definition of "unusual situations" or of "serious irregularities". When reporting on "material findings", the report contains a detailed description of the case, including a summary of the communication between the audited organization and the Auditor-General Office, but it does not include the original audit data information.

Once the Annual Report on Audits is finalized, the Auditor-General submits it to the Chief Minister of the Region or State. The report is reviewed and discussed in Cabinet. Upon its approval, the Annual Report on Audits is submitted to the Hluttaw, where it is tabled in the plenary session and considered in committee.

For budget oversight, some Hluttaws have a Public Finance Committee that performs budget review and the review of the Auditor-General, and some Hluttaws have put in place a dedicated Public Accounts Committee. These committees review the Annual Report of Audits of the Auditor-General and develop their own recommendations to the government based on it. If an MP or the committee wants to inspect the full audit inspections data, a request must be sent to the Chief Minister and, upon the Chief Minister's approval, the MP can attend at the Auditor-General Office to review the documents; however, no copies of the data/records of individual audit reports have so far been allowed. In most jurisdictions, the review of audit reports on all audited organizations is the key element of parliamentary budget oversight conducted by Public Finance/Public Accounts Committees.[94] The restrictions on access to individual audit reports currently in place in Myanmar severely limit the effectiveness of the Public Accounts Committee's investigation into the government's budget performance.

Although the Auditor-General does not publish the Annual Report on Audits, it becomes available to everyone once tabled in the Hluttaw.

Recommendation 29: In order to improve Hluttaws' oversight of public finance, the Public Finance Committee may consider:

▌ During review of the Annual Report on Audits, inviting the Auditor-General to present the report and answer questions before the committee;

▌ Requesting full access to all audit reports prepared by the Auditor-General;

▌ Developing a system for following up with the government year on year on the implementation of its recommendations.

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[94] See Benchmark 7.2.4, "Financial and Budget Oversight", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

Parliamentary oversight

In addition to the work on budget oversight, the oversight function in Region and State Hluttaws is exercised by individual MPs asking questions of the government at the plenary session and by the Government Pledges and Undertakings Vetting Committee, which reviews implementation by the government of Hluttaw proposals and of the government's own pledges.[95]

In some Hluttaws, subject-matter committees oversee the work of their line ministries; for example, the Environment Committee might oversee the work of the Environment Department. In other Hluttaws, subject-matter committees do not currently oversee the work of their line ministries. Most of the oversight issues raised and dealt with in the Region and State Hluttaws are related to projects or to complaints received from constituents about government action or inaction (e.g. projects to build roads, bridges, schools, water reservoirs, hospitals or other infrastructure projects, or complaints about land).

Region and State Hluttaw committees work independently from Union Hluttaw committees. The two processes work in parallel to each other and there is currently no coordination or cooperation. However, Union committees have required State Ministers to attend their meetings and answer questions of committee members.

> "As a [Region/State] Minister I have had to answer to the Union Hluttaw Government Pledges Committee, which I feel is not adequate. I would prefer to answer only to the [Region/State] Hluttaw Government Pledges Committee."
>
> **(Region/State Minister, interviewed in November/December 2017)**

Plenary oversight

As stated earlier, at the plenary session, MPs ask starred (oral) questions of government ministers. Unstarred questions are answered in writing and copies of the answers are provided to the MPs at the beginning of the session. There is no practice of providing other MPs with a copy of the starred questions and proposals in advance of the plenary session. Only the MP posing the question or the MP presenting (and the MPs seconding) the proposal receives a copy of such documents.

This limits the ability of MPs to participate in the plenary debate. MPs play an important role in the oversight of project implementation in their constituencies. MPs face challenges because they are not experts on all subject matters before the committees, but they check on the implementation of projects and the departments' work in their constituencies and raise concerns at the Hluttaw and with the government.

Review of government pledges

A government pledge is made when a minister is asked a question by an MP or an MP presents a proposal and the minister makes a promise in the plenary of the Hluttaw to take a specified action or actions to solve the problem or to implement the proposal. All proposals approved by the Hluttaw are also treated as pledges. Government pledges are also included in the Region or State budget, but, since pledges are not part of the planning process, they need to be inserted separately by the budget department.

Pledges made at the Union level, which are related to a Region or State, are implemented at the Region or State level. All public projects and projects of state-owned enterprises, such as investments in electricity by state-owned enterprises, approved to be implemented by the Region or State Government, may be reviewed by the Hluttaw. In the context of Article 251 of the Constitution, the Cabinet ought to submit these projects to the Region or State Hluttaw as proposals for approval. [96]

MP from Thaton Township & research team in meeting with VTAs and Community Members

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[95] The Shan State Hluttaw has approved a motion that project proposals require the tendering company to provide budget and expenditures to the MPs so that the MPs can participate in oversight of the tendered projects.

[96] Art. 251 states: "The Region or State Government shall, subject to the policies adopted by the Union Government and Union Laws, implement projects that are to be undertaken in the Region or State with the approval of the Region or State Hluttaw concerned."

> "The budget is a bill. Some proposals are specific to certain sectors not dealt with by the budget bill. They are private investments proposals, for example on electricity or a jetty that the Cabinet has approved. ... These are submitted as proposals to the Hluttaw, but separate from the budget bill. The Government attends and makes presentations in committee, and the committees can inspect the projects in field visits and public hearings."
>
> **(U Aung Naing Oo, Deputy Speaker, Mon State Hluttaw)**

The Hluttaw's Government Pledges and Undertakings Vetting Committee is the Hluttaw's oversight body on the implementation of approved proposals and government pledges. The Government Pledges and Undertakings Vetting Committee regularly reviews the implementation of pledges, conducting field visits at the township level to monitor implementation. The committee also receives information on the implementation of projects from MPs, as well as complaints from the public. It has the right to ask the government to periodically submit a report on the government's pledges and their implementation. Some Hluttaws report that governments do not consistently implement their pledges,

while some government representatives report that the government does not have the financial and administrative means or the power under Schedule Two to implement certain pledges. These problems could be a result of the absence of policy platforms for regions and states on which MPs could base their proposals and which governments could consider before making pledges.

Recommendation 30: Hluttaws may consider making additional investments in the capacity of the Government Pledges and Undertakings Vetting Committee to ensure that it can effectively review all pledges by the government and report to the plenary on their implementation. [97]

Recommendation 31: The Government Pledges and Undertakings Vetting Committee may consider the government programme and policies as guidance against which to assess the government's progress in the implementation of pledges.

Recommendation 32: When reviewing the implementation of pledges by line ministries, the Government Pledges and Undertakings Vetting Committee may consider involving the subject-matter committees in the review process. Subject-matter committees could conduct committee inquiries into the implementation of pledges made by their line ministries

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[97] See Benchmark 3.2, "Committees/Powers", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

Townships selected for research on constituency work of MPs

Mandalay Region

Mogok Township
Patheingyi Township

Shan State

Pin Laung Township
Pindaya Township

Mon State

Thaton Township
Bilin Township

Tanintharyi Region

Kyunsu Township
Bokpyin Township

MYANMAR

KACHIN STATE

SAGAING REGION

CHIN STATE

RAKHINE STATE

MANDALAY REGION

SHAN STATE

MAGWAY REGION

KAYAH STATE

BAGO REGION

YANGON REGION

KAYIN STATE

AYEYARWADDY REGION

MON STATE

TANINTHARYI REGION

Part 3: Representation Function of MPs and Work in their Townships

Region and State Hluttaw MPs spent most of their time in their townships. The third part of this situation analysis considers the work of MPs in their townships, focusing on constituency work and the participation of MPs in township governance processes, including the annual township planning process.

Data on the representation work undertaken by Region and State Hluttaw MPs in their townships was gathered in two townships in each of the four regions and states targeted for this study. Data collection included: conducting comprehensive interviews with the Region and State MPs representing those townships; conducting comprehensive interviews with other key governance actors from those townships, including the Township Administrators (TAs) and Ward and Village Tract Administrators (VTAs); and holding a focus group town hall meeting with local populations, including township elders, heads of households and VTAs.[98]

Constituency work

Understanding of constituency needs and priorities and constituency work practices

Unlike MPs in the Union Hluttaw, MPs in the Region and State Hluttaws spend most of their time in their constituency. They travel to the Hluttaw to attend plenary sessions and committee meetings. The Region and State Hluttaw MPs interviewed meet constituents at their party offices and visit their communities regularly to attend community events and organize town hall meetings. At town hall meetings, the community has an opportunity to raise issues and concerns and make recommendations for MPs to take action. At these meetings, MPs brief constituents about their work in the Hluttaw and visit villages to discuss issues with constituents and hear their concerns, which they can take up in the plenary. Town hall meetings are attended by government officials, including the TA, the VTAs, household heads, village elders, teachers and departmental representatives, as well as ordinary citizens. In addition to face-to-face meetings,

Good Practice in Action
Representation

MPs engage in regular field visits to gather data about the needs of their constituents.

MPs gather data from government departments for use in their representation work in their constituency and at the Hluttaw.

MPs base their representation work at the Hluttaw on a variety of data gathered in their constituency work.

MPs record constituent cases and data gathered in the township as a basis for effective case management.

MPs in general rely on VTAs for receiving information from the community and for sharing information on their work in the Hluttaw. Cooperation between MP and VTAs results in better representation work.

Region and State MPs work well with their Union MP counterparts.

MPs use Facebook and the popular messaging service Viber to communicate with constituents. MPs do not receive financial or staff support from the Hluttaw for their constituency work but rely on party support or their own resources to cover expenses for travel or to hire staff who can support them in this work. This can make constituency work a costly affair for MPs. Several MPs interviewed for this research have reported that their expenses exceed their salaries and they rely on savings or family support to finance their constituency work.

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[98] Stakeholders in the following regions, states and townships were consulted during this study: Mandalay Region (Mogok and Patheingyi Townships); Tanintharyi Region (Kyunsu and Bokpyin Townships); Shan State (Pin Laung and Pindaya Townships); Mon State (Thaton and Bilin Townships). See the annex for a list of key stakeholders who were interviewed for this study.

Recommendation 33: Hluttaws may consider allocating resources to MPs that cover basic expenses for constituency work. Where MPs need to rely on their own and party resources, there is a risk that MPs representing smaller parties or independent MPs will struggle to be effective in representing their constituents' interests.[99]

Constituents participating in the focus groups for this study were from both urban and rural backgrounds (town dwellers, villagers, household heads and elders), were familiar with their MP and understood the MP's work for the township. They had a basic notion of the function of the Hluttaw as a representative body they could turn to resolve their concerns. Typically, constituents' perceptions of the role of their MP included the following:

▌ MPs are representatives of the people. MPs work in the community and help in its development. Local people can contact the MP and the VTA.

▌ The Hluttaw listens to the voice of the citizens; it is the link between the respective government department and the citizens, and addresses matters of concern for the citizens.

▌ The Region or State Hluttaw has representatives from the townships of the State and works together with the Union Hluttaw to represent the State's concerns.

▌ The Union Hluttaw is a body composed of different ethnic and regional representatives and makes decisions and laws for the whole country.

Constituents' knowledge about the Hluttaw's role in policy, law-making, budgeting and executive oversight is, understandably, still limited, and there is an opportunity for the Hluttaw as an institution to increase efforts to communicate its work to the public through its outreach work (see Recommendation 12).

The average size of a township is a population of 160,000 people and, as infrastructure and communication links are often weak, MPs cannot be in touch with all their constituents directly. In their constituency work, MPs cooperate closely with the VTAs, who are elected community representatives.[100] VTAs are not elected on party lists but parties endorse and support candidates to stand for election as a VTA. Understandably, MPs cooperate best with VTAs who belong to the same party as themselves. Community elders and heads of households

contact their VTA to communicate their needs and to seek help in resolving problems. The network of VTAs in their townships is therefore a prime information source for the MPs. VTAs also seek help from MPs for more complex problems that MPs could take up at the plenary session or in direct interactions with government representatives. This highlights the importance of the work of both VTAs and MPs in township governance. VTAs interviewed for this study report that current MPs consult the community on projects and encourage the population to participate in planning and governance more than MPs in the previous Hluttaw did. VTAs feel that now they can negotiate for more services for the community from the Region or State Government because they are supported by MPs at the Region/State and Union levels.

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> "The village tract administrators are natural allies for the MPs because they are elected by the citizens, so the job nature of the MP and the village tract administrators are similar. The village tract administrators' positions are long term and stable positions that do not get replaced frequently and this is helpful in developing a relationship."
>
> **(U Toe Lwin, MP for Kyunsu Constituency, Tanintharyi Region)**

In respect of most constituent concerns, including land dispute issues, which are a major problem in all regions and states, the MPs have to manage cases on their own. MPs take notes during field visits or constituent meetings, identify cases for follow-up and regularly update case information and regularly communicate back results. MPs do not have staff to support them in these duties, which is a major challenge.[101] When taking on a case, the MP typically gathers information from the VTAs and brings the issue to the attention of the relevant local government department and the TA. If not able solve the problem at that level, the MP contacts the ministry responsible to deal with the problem. As a last resort, the MP raises the concern at the Hluttaw, either as a question to the relevant minister or through a proposal to solve the problem. MPs also conduct oversight of the implementation of government-funded projects in their constituencies.

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[99] The degree and nature of the support provided to MPs varies among parliaments, from the provision of allowances for travel and incidentals to fully fledged constituency offices staffed by non-partisan staff members, as in the former Yugoslav Republic of Macedonia, but some degree of support for MPs for their work is in place in almost all parliaments. See IPU and UNDP, Global Parliamentary Report: The Changing Nature of Representation (Geneva, 2012), pp. 69ff,

[100] The Ward or Village Tract Administration Law 2012 provides for the election of Ward Administrators and VTAs pursuant to the following steps: household heads elect 10-household heads; 10-household heads elect 100-household heads; 100-household heads elect the Ward Administrator/VTA.

[101] Art. 81 of the Region or State Hluttaw Law makes provision for the Hluttaw to provide constituency offices for MPs: "The Hluttaw can allow opening of Hluttaw Representatives Offices at needed townships".

MPs receive some support for their constituency work from their respective political parties, most often in the form of office space at the party township office and volunteer support in registering and resolving constituent cases. The extent of this support varies, depending on the financial and human resources of the political party. The Hluttaws do not generally provide dedicated resources for MPs' constituency work. More than half the Region and State MPs consider that they do not have adequate resources for their constituency work.[102]

MPs do not have access to professional research services and have limited access to formal data about their township, which limits their ability to identify broader systemic concerns and needs of their townships. Typically, their research involves conducting site inspections and consulting the population to gather information and report issues to the relevant department.

Recommendation 34: Hluttaws may consider supporting MPs to attain access to objective statistical data about their constituency and support the development of the required knowledge and skills for data analysis.[103]

A good example of leadership and good constituency work by an MP was highlighted by participants at the town hall meeting in Yamone village in Kyunsu Township (Tanintharyi Region). The population had felt powerless for years, fighting two powerful mining companies without success. After the 2015 general election, their MP took up their cause and used the democratic process to enforce the population's rights.

MPs in other townships also become active as mediators in their communities. U Mann Swe Myint, MP for Bokpyin Township in Tanintharyi Region Hluttaw, successfully mediates in cases of conflict and seeks to build better relations between the Tatmadaw and Karen National Liberation Army commanders active in the townships. Daw Khin Khine Le, MP for Thaton Township in Mon State Hluttaw, is a former activist for children's education and health; in this work, since 2012, she has interacted with the Karen National Union (KNU), an ethnic armed group active in Thaton. She successfully mediated between the KNU, GAD and civil society organizations to solve a problem caused by the government granting a licence to a private company to build a cement factory on Lwin Mountain, a conservation site.

Community Meeting with MP U Toe Lwin in Kyunsu Township, Tanintharyi Region

[102] UNDP Professional Development Programme for Region and State Hluttaws, Participant Survey Analysis Report, unpublished (September 2017).

[103] See Benchmark 5.1.3, "Parliamentary Staff/General" and Benchmark 8.1, "Constituent Relations", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

Mining Site in Kyunsu Township, Tanintharyi Region

Case Study: People vs Mining Company – Kyunsu Constituency, Tanintharyi Region

Five years ago, under the previous government, two lead-mining companies took over land in Yamone village without adequately compensating the local population for their land/plantation values.

After the 2015 election, the local MPs visited the village during the break from plenary. The local populations reported on the loss of their livelihoods due to the illegal land grab and the impact of the mining on their lives, including through the contamination of a freshwater lake. The MPs could not solve this problem at the township level. U Toe Lwin, MP for Kyunsu raised the issue by way of a question at the Hluttaw.

The Natural Resources and Environment Minister visited the town with local MPs and held a meeting with the people and with the company representatives. The community's problems were heard by the Minister. The Minister formed a mediation committee (composed of the local MP as chair, the TA as secretary, and members of the local community and mining company representatives) to mediate the problem.

This committee visited the village twice and mediated the problem between the villagers and the companies and decided to award compensation to the community. The compensation was calculated on the market value of the communities' lost plantations. The company followed through with the decision made by the mediation committee and compensated those who had suffered the impact of the illegal land grab. About 100 members of the community were given what they deemed was adequate compensation. Unused lands were returned to those villagers who preferred to have the lands back instead of receiving compensation.

Another example of good leadership and good constituency work by VTAs and MPs working together was highlighted by the VTAs in Mogok Township, in Mandalay Region. After the 2015 general election, the VTAs joined forces with the MPs representing Mogok Township and used the democratic process to enforce the population's rights.

MPs interviewed for this research reported good cooperation between themselves and other State MPs and between State MPs and Union MPs representing the same constituencies. For instance, some priority development projects (e.g. bridge construction) are too expensive to include in the State budget and, in such cases, State MPs ask the Union MP to make proposals in the Union Hluttaw. In areas involving Union jurisdiction (e.g. health), all MPs work together cooperatively.

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"MPs played an important role in negotiating with the government to exempt the whole town of Mogok from the strict interpretation of this municipal law and the Municipal Department was instructed to grant permits for new construction, provided that it is in line with existing buildings and structures already built on these lands. The elders and the VTAs work well with the MPs. They recognize the MPs as leaders and their work has been made easier with the election of MPs because villagers respect the process better when the MP attends with the elders and VTAs at the community meetings."

(VTAs, Mogok Township)

Case Study: People vs City Hall – Mogok Constituency, Mandalay Region

Mogok is a picturesque town situated in a mountainous area of Mandalay Region. The main town highway was built crossing the centre of the town. In 2013, the government started enforcing a previously unenforced planning by-law, setting setback rules on new construction on properties abutting the highway.

The enforcement of the planning by-law would have a negative impact on the property values of many people who would not be able to rebuild their homes and businesses should they need to do so in the future. Since the government started enforcing the planning by-law in 2013, people have been fighting for their rights. The MPs for Mogok Township provided leadership for the population, raised the issue at the Hluttaw and negotiated with the government to achieve a beneficial solution for all parties, namely, the decision would be suspended for residents seeking to reconstruct or alter existing buildings along the highway: As reported by VTAs in Mogok Township:

IMPs interviewed for this research reported good cooperation between themselves and other State MPs and between State MPs and Union MPs representing the same constituencies. For instance, some priority development projects (e.g. bridge construction) are too expensive to include in the State budget and, in such cases, State MPs ask the Union MP to make proposals in the Union Hluttaw. In areas involving Union jurisdiction (e.g. health), all MPs work together cooperatively.

A good example of leadership, coordination and cooperation is that between Dr Khin Naing Oo, MP for Bilin Township in Mon State Hluttaw, and his Union MP colleague in fighting illegal logging in their constituency forests.

Recommendation 35: Individual MPs may consider coordinating with Union MPs to solve problems that need to be addressed at Union level and to ensure their township's development priorities are adequately addressed in the budget.[104]

Some MPs have additional responsibilities that have an impact on their work practice. For example, in Shan State, the MP for Pindaya Township is Chair of the Leading Body of Danu Self-Administered Zone (LBSAZ).[105] The additional responsibilities of this role have an impact on his constituency work and, in addition, although he attends Hluttaw plenary sessions, he does not participate in committee work since his presence in the Self-Administered Zone is required full time. The size of MPs' constituencies, their political parties and the diversity of the populations in their constituencies also have an impact on their work practices.[106]

Participation in township-level governance

Participation in township management and township planning

Day-to-day management of township-wide issues is the duty of the Township Management Committee, which meets monthly and is chaired by the TA. The Management Committee also includes the VTAs and government officials from all township departments (e.g. Migration, Planning, Police, etc.), who report on the various issues and services relating to the township management.[107] MPs work with TAs, VTAs and departmental representatives to deal with these issues. Most of the MPs interviewed for this research reported that they are invited to Township Management Committee meetings and attend when they are in the constituency.[108] For these MPs, these meetings are an important source of information for their work as representatives of the local population.

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"In the past, the development process was top down. Now the villagers and VTAs provide information and input to the State Government through the MP."

(Township Administrator, interviewed in November/December 2017)

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[104] See Benchmark 8.2, "Parliamentary Networking and Diplomacy", Recommended Benchmarks for Asia, India and South-East Asia Regions' Democratic Legislatures.

[105] The LBSAZ is an executive office and the role of the Chair is described as being akin to that of the Chief Minister insofar as the governance of the zone is concerned. The Chair governs without ministers or a Cabinet. GAD staff support the LBSAZ executive and administrative functions.

[106] Shan State Hluttaw MPs' constituency work differs from that of MPs in other Region and State Hluttaws, such as Mandalay and Tanintharyi Regions, for example, in that the Shan State population is very ethnically diverse and the elected MPs are from seven different political parties.

[107] Myanmar has long had a tradition of creating special government committees to focus problem-solving efforts; see Hamish Nixon and others, State and Region Governments in Myanmar, pp. 25–35.

[108] There are exceptions, such as the case of the MPs for Kyunsu and Bokpyin Townships in the Tanintharyi Region Hluttaw, who have not yet (up to November 2017) been invited to attend the meetings. MPs for Pindaya and Pin Laung Townships in the Shan State Hluttaw are invited but do not participate in the Township Management Committee meetings in their respective townships due to their status and responsibilities as Chairs of the LBSAZ, but they are represented at the meetings and kept informed of the discussions held at such meetings. They support the TA in submitting the annual plan to the Shan State Government with identified priorities.

The township planning process is used to set priorities for the township's (capital investment) plans, which feed into the development of the Region and State Governments' Region and State Plans (and budget) for the following year. The planning process is conducted by the Township Planning and Implementation Committee, which meets regularly. It brings together the government departments represented in the township and includes the participation of VTAs, who act as representatives of the community in the process. Typically, but not always, MPs are invited by the TA to participate as observers at the Township Planning and Implementation Committee meetings and they attend whenever the Hluttaw is not in session.[109] The planning process includes departments providing to the committee data collected from site inspections and community consultation regarding changes that may have an impact on the respective department's budget in the next budget year. Community interests and perspectives are presented by the VTAs. For MPs who are invited to participate in a well-organized participatory township planning process, as in Mon State's Thaton and Bilin Townships,[110] this process is useful in understanding the township's development priorities. Such participation allows MPs to represent their townships' interests better in the Hluttaw, most importantly when reviewing the annual priorities and allocations in the government's budget proposal. MPs' participation also allows them to better identify priorities for funding from their constituency development fund (see below).

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"The MP participates in the planning process of the township and his participation and advice has been very helpful to our Township Planning and Implementation Committee. Due to the MPs' participation and cooperation, people have more trust in the planning processes and participate in them more and more."

(U Thein Win, Township Administrator, Thaton Township, Mon State)

Recommendation 36: Individual MPs may consider consistently participating in the township planning process to enable them to adequately represent their constituents' interests at the Hluttaw, including regarding the review of the budget proposal.

Township Planning work in Paung Township of Mon State

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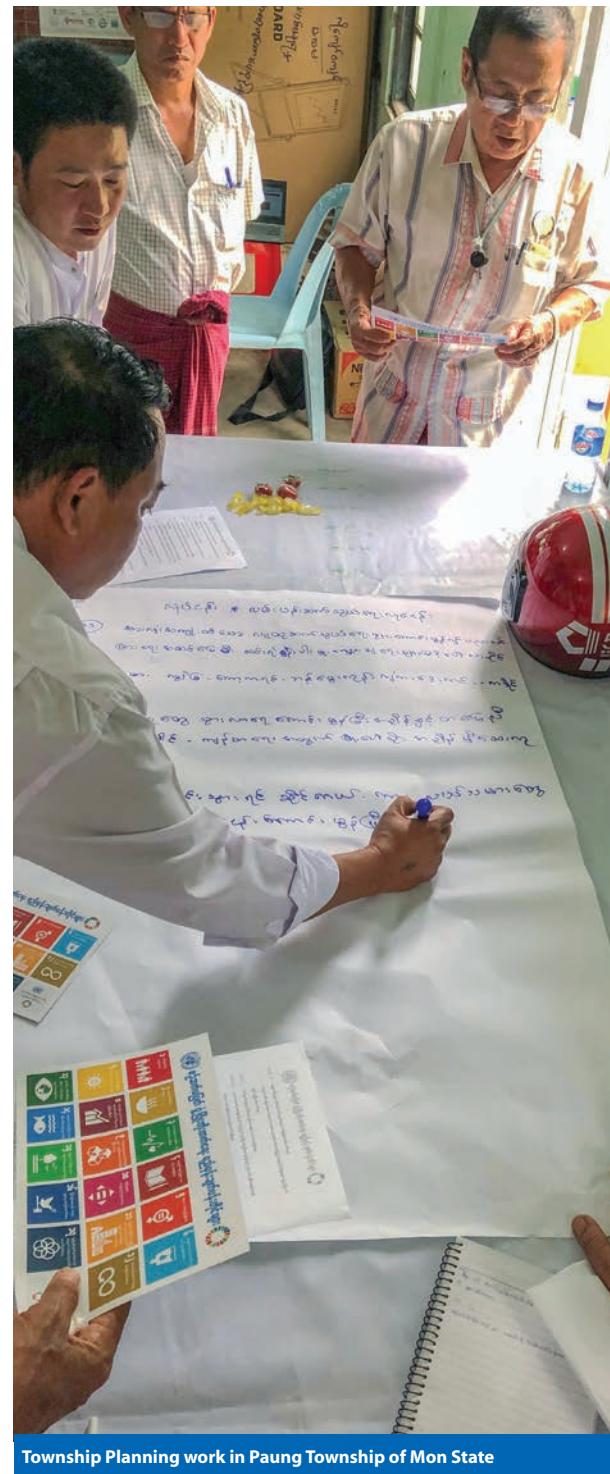
[109] It should be noted that art. 84 of the Region or State Hluttaw Law encourages consultation with MPs during the planning process: "The Hluttaw Representatives … shall be deemed by the respective administrative organizations and authorities as persons to be seriously consulted in preparing local development plans and in exploring the opinion of the people in administrative and socio economic sectors". There are townships where the TA has not invited the local MP to attend committee meetings. See also footnote 100.

[110] Thaton and Bilin Townships' Township Planning and Implementation Committees are supported in the planning process by UNDP's Township Democratic Local Governance Project, which models a participatory planning process. This process is not in place in all townships studied for this research.

Management of constituency development funds

Region or State and Union Hluttaw MPs from a township have at their disposal a constituency development fund (CDF) of Mynmar Kyat (MMK) 100 million per year to further contribute to the development of their constituency through small-scale investment projects. Each project funded cannot exceed MMK 5 million. To coordinate and oversee use of this fund, MPs form a Constituency Development Fund Committee. The Chair is the MP for the Pyithu Hluttaw and the Deputy Chair is one of the Region or State MPs. The Secretary is the TA and the Deputy Secretary is the Department of Rural Development representative.

For fund allocation, the committee develops a "priority list" based on meetings with VTAs and community interaction. It then collects related project proposals from stakeholders and decides which proposals from the priority list to fund.

MPs are often tempted to allocate the funds equally to all wards and village tracts in the township, which can hamper the effectiveness of funding. MPs' consistent participation in the township planning process should allow them to better prioritize allocations for their CDF. There is already a practice of funding projects that cannot be funded under the Region and State budgets from the CDFs, but some MPs note that the funds are inadequate for that purpose.

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"The 100 million kyats available under the community development fund per township per year is very little. It often requires villagers to contribute to the project but some villagers do not have resources to contribute, so it is a bit of a challenge."

(U Saw Thaung Tin, MP for Mogok Constituency, Mandalay Region)

MPs may not want to use the CDF simply to fund priorities not covered in the annual plan. The funds in the CDF are easier and quicker to allocate, so they could fund quick-impact projects or serve as seed funds for urgent investment in government plans.

Recommendation 37: Hluttaws may consider ensuring that priorities for the constituency development fund are complementary to the development priorities funded through other channels, including the Union and State budgets.

VTAs, supported by village elders, monitor the implementation of the projects in their villages and submit a report, which includes financial costs, to the Constituency Development Fund Committee.

Concluding Remarks

This report has shown that the practices of the Region and State Hluttaws have evolved and have differentiated rapidly from the common institutional foundation that was put in place through the common Rules of Procedure and the Region or State Hluttaw Law as recently as five years ago. The Mon and Shan State Hluttaws have made parliamentary decision-making more inclusive than originally foreseen, the Mandalay Region Hluttaw has developed its own mechanism for inquiries and the Tanintharyi Region Hluttaw has put in place an effective mechanism for managing a problematic budget review process. The practices of the Hluttaws are evolving rapidly, and the legal and procedural framework underpinning their work needs to follow suit through a review of the Rules of Procedure, ideally through an ongoing process. The fact that the Rules overlap with the Region or State Hluttaw Law, which was passed by the first Union Hluttaw to bind Region and State Hluttaws, makes this necessary process more difficult. This situation creates a legal limbo that is neither helpful nor in line with Myanmar's transition to democratic federalism. As the Region and State Hluttaws review and update their rules to reflect their evolving practice and take inspiration from the innovations implemented in other Hluttaws, the Region or State Hluttaw Law could be repealed.

The multiple duties of the Speaker as the leading decision-maker in terms of procedure, business and administration of the Region or State Hluttaw puts a burden on Speakers and Deputy Speakers that exceeds what is common in most parliaments and looks unsustainable as the Region and State Hluttaws expand their activities in the future. Hence, this report recommends that supportive and consultative mechanisms, such as a Business Committee and a party caucus system, be put in place and the Hluttaw administration committee be expanded. This would allow MPs to provide advice to support the Speaker, while the Speaker would remain the decision-maker. In some Hluttaws, mechanisms with similar functions—in Shan State, the focal point system and in Mon State, the coordination meeting—have already been put in place. These practices should be built upon.

The new Hluttaw administrations—the authority of which was transferred from the GAD to the Pyidaungsu Hluttaw Administration only in 2017—have seen a large turnover of staff, with new staff being recruited only recently. Strategic Hluttaw development plans are in place in half of the 14 Region and State Hluttaws. As the experience of the Mon State Hluttaw demonstrates, strategic plans can be a powerful tool to guide institutional development. For such a plan to be successful, the MPs and administration must buy into it. This requires the plan to translate into a tangible expansion of services by the Hluttaw administration, including in new areas such as ICT and public relations. To achieve this, each Hluttaw will need to align its budget with the development objectives expressed in its strategic plan. In institutional development, there is much to learn for the Region and State Hluttaws from the Union-level Hluttaws, where strong ownership of the strategic plan has been guiding Hluttaw development and donor support. Cooperation between Union-level and Region and State Hluttaws in areas such as training, ICT and human resources is already being explored under the leadership of the MPU. Hluttaw partners and donors should align Union-level and Region and State Hluttaw development support and technical assistance with this integrated approach to Hluttaw development, as a cost-effective route towards Hluttaw development based on peer learning and the realization of synergies.

Direct relationships between the Hluttaws and their government counterparts are still confined to the Hluttaw leadership—the Speaker on substantive matters and the DDG on administrative matters— and need to be strengthened. An overarching problem remains in the fact that Region and State Governments lack a policy support apparatus and are not able to develop meaningful policy programmes or quality draft legislation. This absence of policy at the Region and State levels is not in keeping with increasing fiscal decentralization and has a variety of negative effects on Region and State governance, including on the legislative, budget review and oversight work of the Region and State Governments and Hluttaws.

Hluttaws and MPs have been tempted to step into the policy vacuum, drafting legislation and approving proposals by MPs with budget implications that governments are unable to implement. The bill review process in the Hluttaws has evolved and, as this report has shown, there is room for improvement, but there is a need for government ministries to produce better quality bills and accompanying implementing legislation.

The budget process is complex and timelines for review of the planning bill and budget proposal are too short for a systematic review that also allows for public consultation. Hluttaws have made the best of these circumstances, and some, like the Tanintharyi Region Hluttaw, have developed informal yet effective ways of coordination with the government before the budget proposal is formally presented in the Hluttaw. Without a government policy to assess the budget against, the Hluttaws are forced to focus on details, that is, individual projects; in some Regions and States, this has resulted in a row between the Hluttaw and the government over whether the government is required to seek Hluttaw approval for individual projects before implementation goes ahead. Financial oversight will benefit from the pending amendment to the Auditor-General of the Union Law, which gives the Auditor-General greater freedom to work with the Hluttaw.

The policy vacuum in the Regions and States has led to misunderstandings and soured some Hluttaw–government relationships. This requires urgent attention and improved communication between the Union-level and Region and State Governments and Hluttaws, as negative consequences will likely increase as fiscal decentralization proceeds. As they implement increasingly large budgets, Region and State Governments require the necessary powers and support structures under Schedule Two of the Constitution to shape policy that would guide budget allocations. One way in which the Region and State Governments and Hluttaws can cooperate in building the foundations for a policy platform is through best practice committee inquiries into policy areas

or sectors, which make concrete policy recommendations. With UNDP support, a best practice inquiry was recently initiated by the Amyotha Hluttaw's Agriculture, Livestock Breeding and Fishery Development Committee. Committee inquiries at the Region and State level are set to follow.

Region and State Hluttaw MPs relish and excel at their constituency work and this report captures only a few of the many success stories. MPs are most effective where they can participate in township governance processes and township planning, and where they build relationships with TAs and VTAs. VTAs in particular are an important resource for managing two-way communication with constituents, especially in large townships. Equipped with a good understanding of their township plan, MPs can more forcefully advocate for their constituents' interests down the line, when the budget is reviewed in the Hluttaw and when projects are implemented by the government. Effective MPs are confronted with an overwhelming number of requests and complaints, many of which are carried into the Hluttaw. MPs therefore need support, in terms of both resources and professional development to help them deal with requests and complaints, educate their constituents about the Hluttaws and link constituents to their young, representative institutions.

This report is based on a survey of MPs from all Region and State Hluttaws, and on in-depth qualitative research in four Regions and States that are very different from one another and represent a cross-section in terms of size and geography. As such, the report cannot fully depict all circumstances in all Region and State Hluttaws. Throughout the report, different practices are highlighted in different Regions and States, and yet the conclusions and recommendations regarding the Hluttaws' internal functioning, their cooperation with the government and the role of MPs in their townships are equally valid for all the Region and State Hluttaws studied. They can serve as guidance for Region and State Hluttaws in their development and for the support of Hluttaw partners and donors—important priorities given the high expectations that the public has of its democratic representatives and institutions.

Annex: Interviews and Meetings Held

| SHAN STATE			
Nature of consultation	**Name**	**Position**	**Date**
Interview	U Sai Lone Seng	Speaker	21 November 2017
Interview	U Sau Aung Myat	Deputy Speaker; Chair, Legislative Committee	21 November 2017
Interview	Dr. Nyi Nyi Aung	Minister of Natural Resources and Environmental Conservation	21 November 2017
Interview	Daw Al Nan Kham	Deputy Director-General	22 November 2017
Interview	U Khin Mg Tint	Chair, Local Planning and Budget Vetting Committee	22 November 2017
Interview	U Sai Long	Chair, Rule of Law and Peace Committee	22 November 2017
Interview	U Tin Oo	Advocate-General of the State	23 November 2017
Interview	U Arkar Lynn	MP for Pindaya Township; Chair, Leading Body of Danu Self-Administered Zone	24 November 2017
Interview	U Myo Lwin Oo	Pindaya Township Administrator	24 November 2017
Community Meeting/ Focus Group, Pindaya Township		Pindaya Township VTAs	24 November 2017
Interview	U Khun Saw Aung	MP for Pin Laung Township	28 November 2017
Meeting	U Nyein Htwe	Pin Laung Township Administrator	28 November 2017
Community Meeting, Pin Laung Township			29 November 2017
Group interview, Pin Laung Township		VTAs, Ward Administrators	29 November 2017
Interview	Daw Nan Wo Hein	Auditor-General of the State	29 November 2017
Interview	U Sai Shal Talon	Minister of Finance	29 November 2017

MANDALAY REGION			
Nature of consultation	**Name**	**Position**	**Date**
Interview	U Aung Kyaw Oo	Speaker	14 November 2017
Interview	Dr. Khin Maung Htay	Deputy Speaker;	14 November 2017
Interview	Daw Khin Mya Mya	Deputy Director-General	15 November 2017
Interview	U Tin Aung	Chair, Legislative Committee	15 November 2017
Interview	U Aung Than Thun	Chair, Public Finance and Expenditure Vetting Committee	15 November 2017
Interview	U Nyi Nyi	Secretary, Natural Resources and Environmental Conservation Committee	15 November 2017
Interview	U Myat Thu	Minister of Planning and Finance	16 November 2017
Interview	U Myo Thit	Minister of Natural Resources and Environment	16 November 2017
Interview	Daw Khin Aye Swe	Auditor-General of the Region	16 November 2017
Interview	U Aung Win	Advocate-General of the Region	16 November 2017
Interview		Patheingyi Township Administrator	17 November 2017
Interview		Patheingyi Township Ward Administrator (1)	17 November 2017
Interview		Patheingyi Township Ward Administrator (2)	17 November 2017
Community Meeting, Patheingyi Township			17 November 2017
Interview	U Saw Thaung Tin	MP for Mogok Township	19 November 2017
Interview		Mogok Township Administrator	20 November 2017
Interview		Mogok Township Ward Administrator (1)	20 November 2017
Interview		Mogok Township Ward Administrator (2)	20 November 2017
Community Meeting, Mogok Township			20 November 2017

TANINTHARYI REGION			
Nature of consultation	**Name**	**Position**	**Date**
Interview	U Khin Maung Aye	Speaker	6 November 2017
Interview	U Kyi Soe	Deputy Speaker;	6 November 2017
Interview	U Kyaw Min	Chair, Bill Committee	6 November 2017
Interview	U Myint Wai	Chair, Finance, Planning and Economic Committee	6 November 2017
Interview	U Bo Htwe	Deputy Director-General	6 November 2017
Interview	U Toe Lwin	Chair, Agriculture, Livestock, Fishery and Environmental Affairs Committee	7 November 2017
Community Meeting, Yamone Village, Kyunsu Township			8 November 2017
Group interview, Yamone Village, Kyunsu Township		Kyunsu Township VTAs	8 November 2017
Interview	Dr. Le Le Maw	Chief Minister	9 November 2017
Interview	U Phyo Win Tun	Minister of Planning and Finance	9 November 2017
Interview	U Wyint Maung	Minister of Natural Resources and Environment	9 November 2017
Interview	U Thein Htun	Auditor-General of the Region	9 November 2017
Interview	U Soe Myint	Advocate-General of the Region	9 November 2017
Interview	U Mann Swe Myint	MP for Bokpyin Township	10 November 2017
Community Meeting, Aleman Kyun Island, Bokpyin Township			11 November 2017
Interview		VTA, Aleman Kyun Island, Bokpyin Township	11 November 2017

	MON STATE		
Nature of consultation	**Name**	**Position**	**Date**
Interview	Daw Tin Ei	Speaker	4 December 2017
Interview	U Aung Naing Oo	Deputy Speaker	7 December 2017
Interview	Daw Swe Swe Tun	Deputy Director-General	4 December 2017
Interview	U Aung Kyaw Thu	Chair, Public Finance and Business Affairs Review Committee; Chair, Public Complaints and General Affairs Review Committee	5 December 2017
Interview	Dr. Aye Zan	Chief Minister	6 December 2017
Interview	U Wunna Kyaw	Minister of Planning and Finance	6 December 2017
Interview	Dr. Htein Lin	Minister of Social Affairs	6 December 2017
Interview	Daw Thein Thein Oo	Auditor-General of the State	6 December 2017
Interview	Daw Aye Aye Mu	Advocate-General of the State	5 December 2017
Interview	U Tun Min Aung	Chair, Government Pledges and Undertakings Vetting Committee; Chair, National Races Affairs Committee	5 December 2017
Interview	Daw Khine Khine Leh	MP for Thaton Township; Chair, Legislative Committee	8 December 2017
Interview	U Thein Win	Thaton Township Administrator	9 December 2017
Interview		VTA, Thaton Township	9 December 2017
Community Meeting, Thaton Township			9 December 2017
Interview	Dr. Khin Naing Oo	MP for Bilin Township	11 December 2017
Interview		Bilin Township Administrator	12 December 2017
Interview		VTA, Bilin Township	12 December 2017
Community Meeting, Bilin Township			12 December 2017
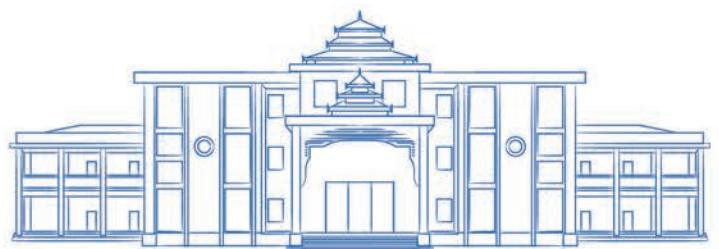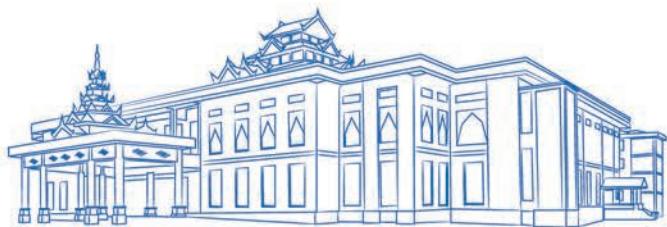
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