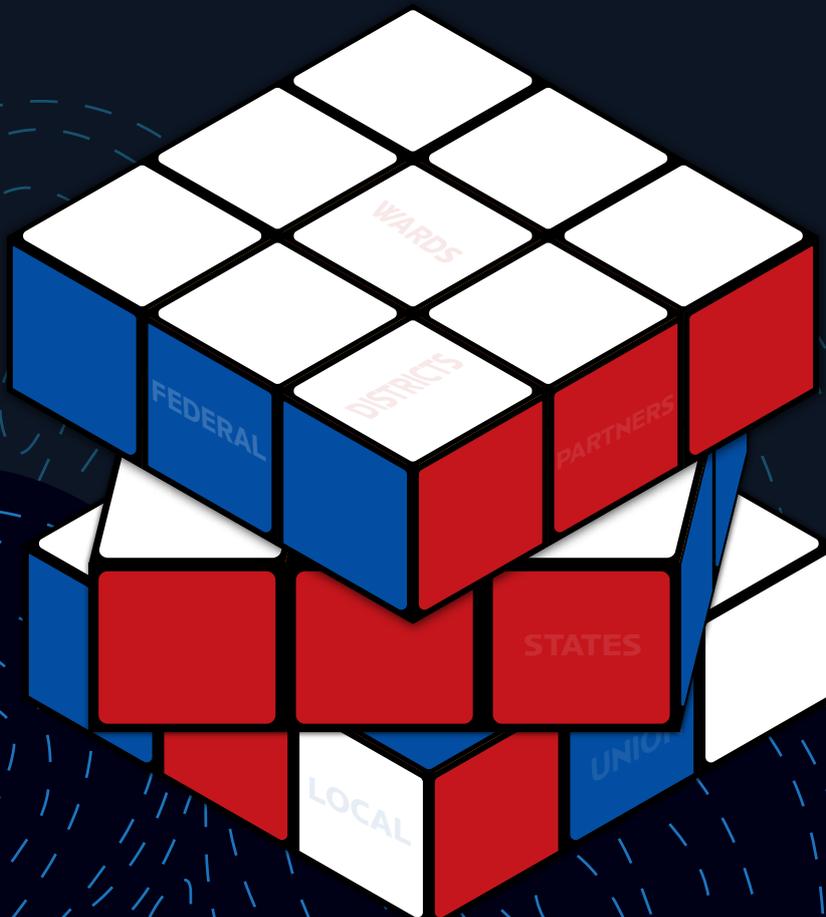


LOCAL SELF-GOVERNMENT IN THE FUTURE  
FEDERAL DEMOCRATIC UNION

**CREATION**  
**OF THE STATES**  
**PARTNERS**  
**OF THE UNION**



SHINE KO KO LWIN | JUNE 2022



## **SALWEEN INSTITUTE FOR PUBLIC POLICY**

Salween Institute for Public Policy is a Burma/Myanmar think tank contributing to the development of public policy: producing relevant policy analyses and providing policy-oriented empowerment training to leaders of communities throughout the country. Through a combination of research, training and technical assistance, we empower community leaders and advocate to policymakers about just and effective approaches to peace building, policy making and community development.

### **WE BELIEVE**

- that equality and the right to self-determination for all ethnic nationalities are fundamental to building a peaceful and prosperous nation.
- that cultivating a strong intellectual foundation is crucial to fostering muchneeded social cohesion among Burma/ Myanmar's pluralistic communities.

# FOREWORD

Designing federalism has been at the center of all major political debates in Burma since before its founding. Among the most discussed have been issues of voluntary association and the sovereignty of federal units, a union coming-together versus holding-together, external versus internal self-determination, state constitutions, secession, separation of powers as well as residual powers—the list goes on and on.

What all of these topics have in common is that they require a deep understanding of the relationship between federal and state government, of how power is shared between the two, and of their respective roles and functions. Likewise, similar understanding is necessary when it comes to the relation between state government and local governments within its territory.

Yet, among many records accessible to us that we have read, studied, and reviewed, there have been very few discussions and deliberations surrounding the issue of local government in the future federation of Burma—be it in the context of federal or state constitutions. One of such rare writings is an article titled *State Constitutions, Federalism and Ethnic Self-Determination* by the late Dr. Chao-Tzang Yawngghwe (2003), in which he proposed that “one area that might be rewarding to look into is a system of administration where power is democratically decentralized” (p. 95).

The author further explained that, in such a system, local communities within a state—defined ethnically or otherwise—are administratively empowered by this state’s constitution to manage their own affairs, autonomously of control from the top (i.e., the state government). In addition, Dr. Yawngghwe stated that “this system [of democratic decentralized administration] is compatible with the principle and practice of democracy and at the same time recognizes and acknowledges the self-determination aspiration of various ethnic groups and cultural segments” (p. 96).

The current paper discusses the benefits of local self-government—essentially the same kind of administrative arrangement Dr. Yawngghwe described in his article—through a comparative study of local self-governments in diverse federal systems around the world, but also through an in-depth look into and analysis of the local government system in Burma from a federal and democratic perspective. Since local self-government is a system that neither the people of Burma nor its leaders have experienced before, we hope this paper will serve as a key resource for the country’s leaders, policy makers, legal scholars, and aspiring federalists.

**Salween Institute for Public Policy**



# PREFACE

I am a learner who believes in federalism and democracy. I have an aspiration that one day, people in Burma will live peacefully, under a federal democratic system, in which law and order will prevail and equality will be guaranteed. I want to see no more fighting in our states and regions—instead, I wish for the voices of local people to be respected, their rights exercised, and the benefits of development felt in their daily lives.

Before I see my aspiration come true, I would like to clarify what I wanted to accomplish with this paper. Personally, when it comes to democracy, the democracy that I want is not a sort of democracy led by a heroic leader; likewise, it is neither a democracy offered by ex-dictators nor transitional democracy imported through foreign superpowers. Instead, I want a democracy that guarantees citizen participation—for citizens to have the right to exercise their democratic rights by participating in and deciding on the matters of their communities equally and freely. I believe that this sort of democracy must begin with the country's local units.

In the same vein, when it comes to federalism, I am not inspired by a federal system that only considers the union and states, but one that also takes into account local interests and voices. In other words, federalism must be designed with a sense of respect for local people and their needs—if it does not consider the role of local self-determination and autonomy, it becomes irrelevant. This is because I believe that local autonomy is the foundation of a tranquil and developing union.

When reading this paper, I would like the readers to think like local citizens and keep the sense of belonging to local communities in their mind. At the same time, I would like the readers to consider my kind advice as to what kind of local government could enhance democracy and local autonomy in the future federal democratic union.

I would like to thank Dr. Radka Antalikova who helped with the editing of the paper. Many thanks also go to Elaine Moore who helped with the initial process of writing, and Ying Tzarm who contributed with the superb design layout and to my colleagues from the Salween Institute for Public Policy. Last but not least, I am really grateful to the readers for carefully reading this paper.



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# INTRODUCTION

Since the beginning of Burma's regime transition in 2010, the political discourse in the country has been dominated by three inter-related terms: peace, federalism, and democracy. Importantly, genuine federal democracy has become widely seen as the way to resolve the on-going conflicts among the nation's diverse groups. The coup d'état staged by the Tatmadaw on February 1st, 2021, has paradoxically reinforced this view even further, and made the struggle of the country's democratic forces and ethnic groups towards a true federal democratic union even more resolute. As a part of this struggle, distribution of power between the union and states and regions as well as decentralization of power to local governments are some of the most crucial issues to consider (Keil & Heinemann-Gruder, 2019).

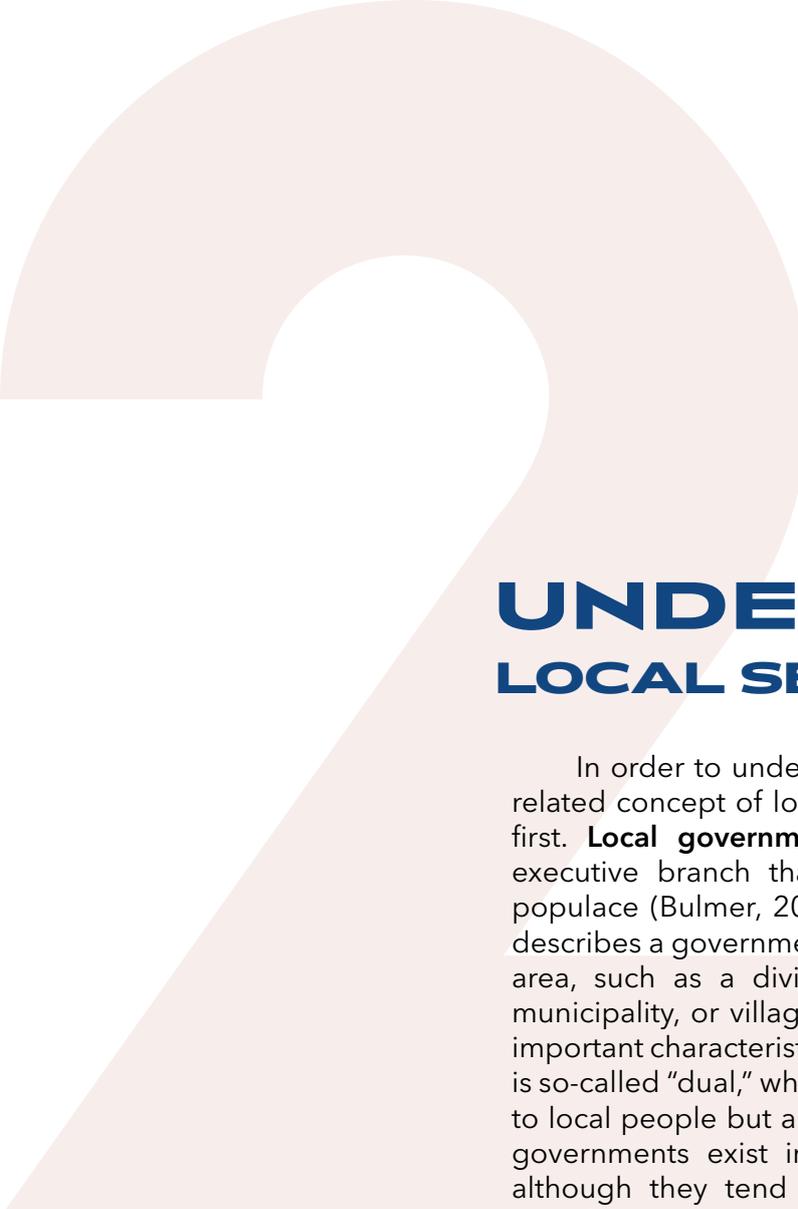
The current local government system of Burma had been centralized over several decades, and this can be clearly evidenced in the country's laws and institutions. A potential legal reform—whether in the form of a new federal constitution or state constitutions (or both)—could change that, particularly by designing Burma's local governments as institutions promoting democratic decentralization and citizen participation.

At the same time, stakeholders in the previously held peace process had reached an agreement that Burma's states should have their own constitutions (Ei Ei Toe Lwin, 2018). This opens up a possibility for local governments to be legally established through the respective state constitution drafting processes. In fact, local governments might become one of the most important discussion topics in this regard since they could be designed as institutions promoting democracy and citizen participation in the future federal democratic union of Burma. Studying and applying the concept of local government is thus one of the prioritized issues today, since it has a potential to consolidate and enhance federalism and democracy in Burma tomorrow.

What would be the role of local governments in the context of Burma's federalism? How should the local level government system be reformed? What are the possible challenges for this traditionally centralized administration system? In order to answer these questions, it is important to first differentiate between local government and local self-government. While **local government** refers to more traditional models that typically guarantee only limited authority to local units, **local self-government** describes more recent models that bring about the highest degree of decentralization of power and are therefore said to be more efficient (Endicott, 2011). Specifically, these models encourage local democracy and autonomy through promoting local elections and citizen participation on the one hand, and responsiveness, responsibility, and accountability of local authorities on the other hand (United Nations

Development Programme-Government of Germany, 1999). Thus, it can be argued that local self-government is a more relevant term when it comes to designing the future federation of Burma.

The primary objective of this paper is to contribute to the emergence of a local self-government system in Burma. In order to do that, the paper will first introduce the concept of local self-government, which is commonly practiced in federal countries around the world, and present the necessary arrangements for a local self-government system. Next, the paper will study local self-government systems of four federal countries through a comparative analysis of their practices and principles. Here, two old federations in the West (Canada and Switzerland) as well as two late federations in Asia (India and Nepal) will be presented. After that, the paper will analyze the present local administration system of Burma, and point out the characteristics that need to be changed in the future local self-government system. Finally, the paper's recommendations will propose the structure of two possible local self-government systems: one that would emerge through simple decentralization and the other through true federalism.



# UNDERSTANDING LOCAL SELF-GOVERNMENT

In order to understand local self-government, the inter-related concept of local government needs to be discussed first. **Local government** refers to a layer of a country's executive branch that has direct relations with the local populace (Bulmer, 2017). In other words, local government describes a government body which has authority in a certain area, such as a division, district, township, sub-township, municipality, or village tract (Pyidaungsu Institute, 2017). An important characteristic of a local government system is that it is so-called "dual," which means that it is not only accountable to local people but also to the upper-tier government. Local governments exist in both unitary and federal countries, although they tend to have more authority in the latter (Steytler, 2005).

Building on the above definition, **local self-government** is a local government that is even closer to its citizens, and thus further consolidating local democracy and autonomy. More concretely, "True [local] self-government implies a democratically elected body representing the local inhabitants with sufficient autonomy and resources to pursue locally determined priorities" (Pyidaungsu Institute, 2017, p. 66). In order for local self-governments to emerge as highly autonomous units, they need to be transferred a considerable amount of authority from the central or state government (Institute for Democracy and Electoral Assistance, Support to Participatory Constitution Building in Nepal/UNDP, & Forum of Federations, 2014). This transfer represents the highest degree of decentralization of power called **devolution** (see Box 1). Full devolution of authority, revenues, and decision-making is a particular feature of local self-government systems, while the traditional local government systems only allow deconcentration or delegation of power (Decentralization Thematic Team, 2017; see Box 1).

## **DEVOLUTION**

is decentralization of political and fiscal power that is fully allocated to a local authority in terms of decision-making processes, fiscal matters, and resource management. This allocated authority is entirely independent and self-governing. In addition, the authority has clear jurisdiction of functions and powers within an established territory where it provides public services.

## **DELEGATION**

is a form of administrative decentralization, referring to the redistribution of administrative responsibilities towards semi-autonomous government units or agencies that maintain accountability to the central state but are not fully controlled by it.

## **DECONCENTRATION**

is another form of administrative decentralization, referring to only a territorial dispersion of specific administrative responsibilities towards local public structures that act on behalf of the central government without any autonomy of their own. In other words, this means that local units are simply implementing the assignments given by the central government.

*(adapted from Kundishora, 2009)*

Apart from devolution of power, local self-government is also based on the so-called **subsidiarity principle** (Broadway & Shah, 2009). The subsidiarity principle states that “powers should be exercised at the lowest level of government at which they can be efficiently exercised” (Institute for Democracy and Electoral Assistance, Support to Participatory Constitution Building in Nepal/UNDP, & Forum of Federations, 2014, p. 61). In other words, this principle relies on the notion that the state should be built from the bottom up, with tasks and responsibilities delegated to the lowest possible level of government (federal, state, or local; Bieri & Wenger, 2018). In recent years, the subsidiarity principle has been applied in local self-government systems around the world, especially in the European Union member states (see Box 2) and late federations like Nigeria and Nepal. Interestingly, the subsidiarity principle is not exercised in the world’s oldest federation, the United States (see Box 3).

#### **Box 2. The principle of subsidiarity and the European Charter for Local Self-Government**

**Before the Maastricht Treaty, subsidiary to local level was already a core element of the European Charter of Local Self-Government, which was promulgated in 1985 by the Council of Europe. In this legal instrument, Article 4 Paragraph 4 explicitly mentions that “powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law” (Council of Europe, 1985). Moreover, Article 2 of the treaty also guarantees the legal foundation of local self-government, stating that it should be recognized in domestic legislation and constitutions.**

### Box 3. Dillion's Rule and Home Rule in the United States

The United States, the oldest federation in the world, proudly applies rules called Dillion's Rule and Home Rule in its local government system. *Dillion's Rule* refers to the 1868 decision of John. F. Dillion, judge of the Iowa Supreme Court, in which he promulgated that local governments were the limbs of the state, if the state was the body. This meant that local governments could only exist in accordance with state legislation. The judge's decision helped increase the uniformity among local governments in the country and prevent abuse of power by local authorities. *Home Rule* is a decision by Justice Cooley in 1871, which challenged the decision of Judge Dillion, since it allowed local governments to exercise certain competences autonomously, without state intervention.

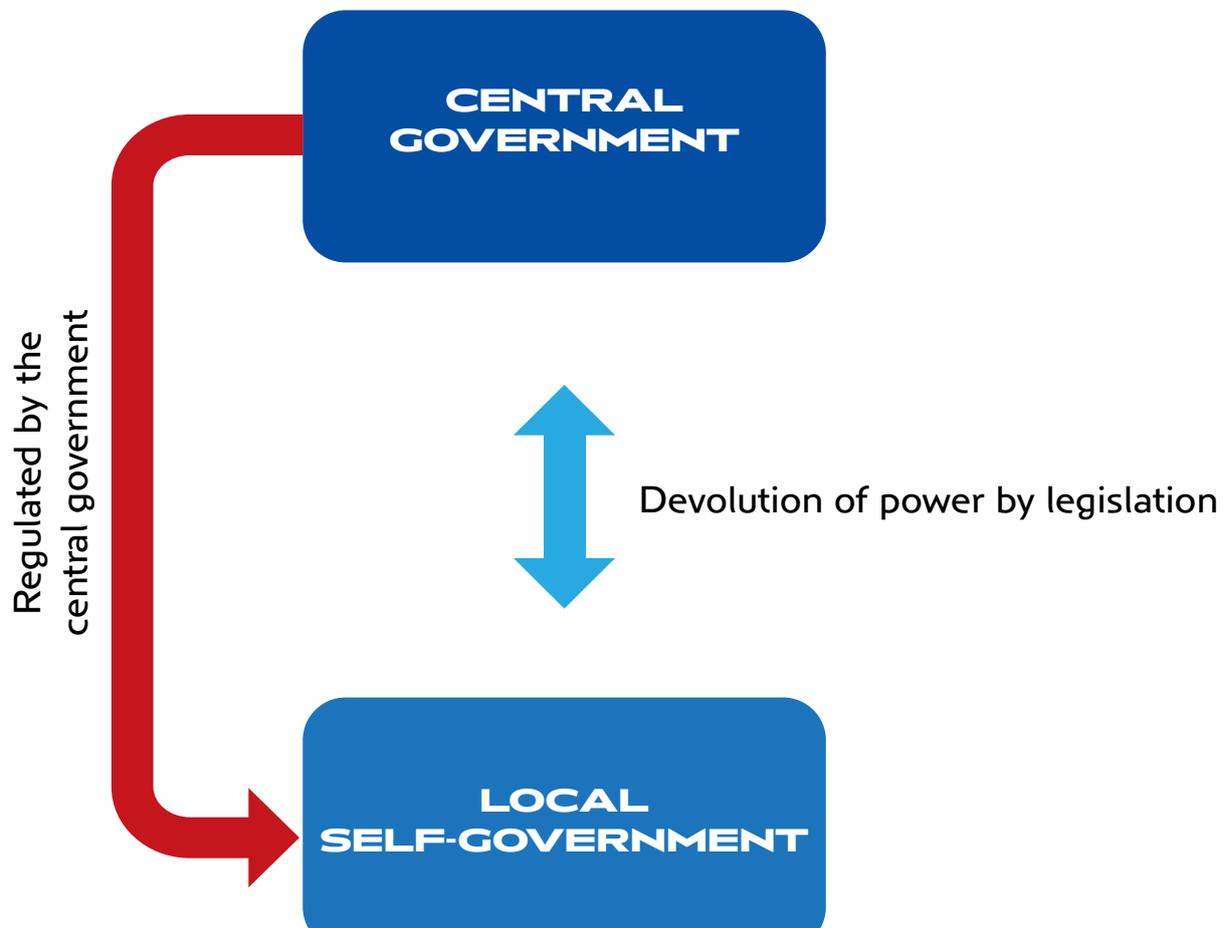
Today, both of these rules are applied in the local government system; that is, local governments are the limbs of the state, but they can practice functions and powers without any interventions by the state. This makes the local government system in the United States unique, since it emerged through judicial decisions, and not the executive or legislative branches, as is the case in other federations.

*(Russell & Boström, 2016)*

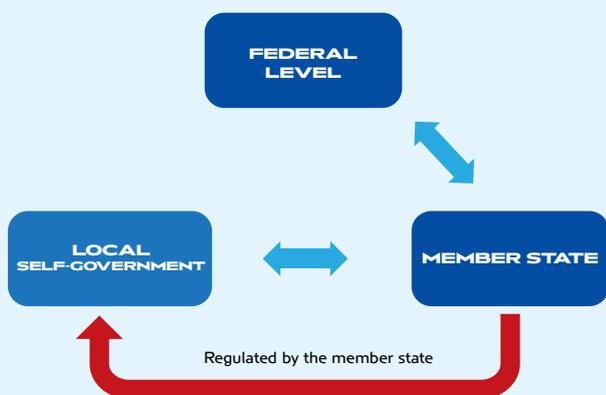
Applying the principle of subsidiarity in unitary and federal systems has different implications. In unitary systems, states can form local self-governments only by devolving power (see Figure 1), while federal states have two options of power-sharing to local self-governments. Namely, in some federal states, central governments distribute their exclusive powers to member states first and then, member states share their power to local self-governments by devolving it. In this case, local self-governments are creations of states in a so-called **dyadic system** (see Box 4.a). Alternatively, federal states can also devolve power to local self-governments directly. This system is called **triadic**, since it allows the interaction among all three tiers of government (union, state, and local; see Box 4.b). Finally, a **mixed system** also exists, in which local self-governments are created by states (similarly to the dyadic system) but with national recognition (see Box 4.c; Belser, 2019).

**FIGURE 1.**

**Applying the principle of subsidiarity in unitary states through devolution of power**



## Box 4. Diversity of local self-government systems in federal countries

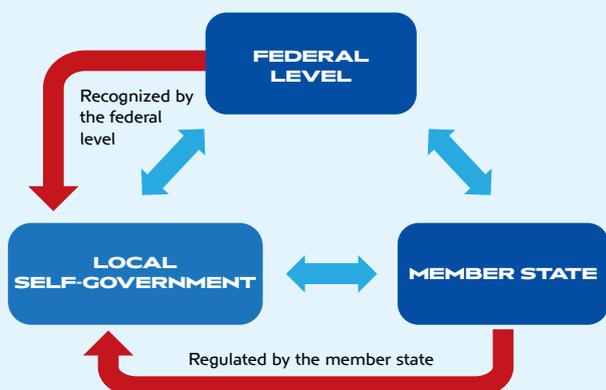
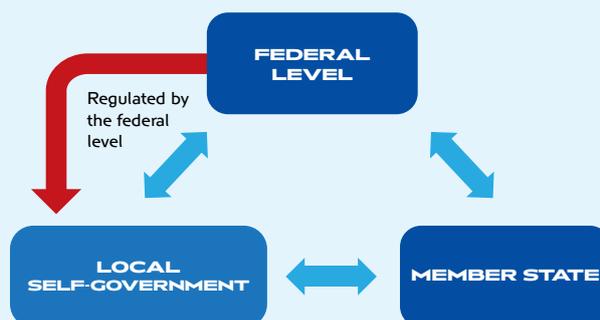


### A. DYADIC SYSTEM

In a dyadic system, local self-governments are under the exclusive power of the state and not the central government. Local self-governments are here regarded as subordinate units of states, which delegate powers and competences to them through the state legislation or state constitutions. The dyadic system therefore does not guarantee local-central relations without the recognition by the state government.

### B. TRIADIC SYSTEM

A triadic system is a federal system with three tiers of government. Local self-governments are regulated at the national level and imposed to all states. In this system, all three tiers of government operate interactively.



### C. MIXED SYSTEM

A mixed system is based on a dyadic federal system but features national recognition of local self-governments. This means that the functions and powers of local self-governments are regulated by national and state laws. In this system, local self-governments are the apparatus of the central level but hand-maidens of states.

(Belser, 2019)

**All in all, the main differences between local government and local self-government are as follows:**

1. Local self-government practices the principles of subsidiarity and devolution of power, whereas local government is only based on deconcentration or delegation of power. This means that practicing a local self-government system is most likely done through a bottom-up approach of power-sharing, while local government uses top-down power-sharing.
2. Local self-government is detached from federal or administrative units as a specific layer of government, whereas local government has a dual function: as a unit of both local government and state administration.
3. Local self-government can appoint staff responsible to relevant councils, while in local government, officers are responsible to central authorities who appoint them.
4. Local self-government forms councils whose members are elected and accountable to the residents and the law. The authorities from upper tiers do not have the power of intervention to defer, displace or dissolve these councils formally or informally. In contrast, local government councils may be composed of elected or non-elected members, and they are under control of the upper-tier authorities who have the power to suspend, supersede and dissolve them.
5. Local self-government has a substantial amount of authority in governing, while local government can only enjoy some degree of assigned power (Kaur, 2010).

Finally, another related concept is **local governance**, which is understood in a broader sense than both local government and local self-government, since it has a wider perspective on administration and stakeholder participation. More concretely, local governance involves not only local (self-) government, but also other stakeholders and processes, such as various kinds of networks and organizations, and the interaction between them. In other words, local governance is not a government system, but a process of operating such system, which typically requires collective, multi-stakeholder performance. Hence, while local (self-) government usually refers to a body of local authorities, local governance describes administrative processes and activities of government institutions at the local level. Similarly to local government and local self-government, local governance exists in both unitary and federal systems.

## 2.1. BENEFITS OF LOCAL SELF-GOVERNMENT

One of the advantages of local self-government is that it can consolidate local democratic governance by bringing government closer to the people. More concretely, since local self-government represents and is elected by local citizens, it can gain more understanding of local community needs, and consequently, deliver efficient services and encourage innovation at the local level. Through regular local elections, citizens become more politically aware and active on the one hand, and government becomes more accountable and transparent on the other hand (Manor, 2013).

In terms of political representation, local self-government promotes inclusiveness. In ethnically diverse communities, for example, local self-government acts as a channel through which everyone can engage in politics, which increases interaction and cooperation among ethnic groups, and thereby consolidates peace and stability in the long run. From a gender perspective, local politics offer a great opportunity for increasing women participation in decision-making processes. Gender quotas in particular empower women to participate, make decisions, and promote their rights in local affairs. This way, local self-governments become more gender-sensitive and gender-inclusive, and female citizens become able to access equitable services through deliberation processes with local authorities (International Knowledge Network of Women in Politics, 2018).

Finally, from a development perspective, local self-government can more easily cooperate with the private sector and civil society in local affairs than traditional local government. Through this cooperation, service development and innovation become more flexible and reflective of local needs, which is often difficult or even impossible to achieve by exclusively government actors (Mihajlović & Elamon, 2012).

## 2.2. ARRANGEMENTS FOR LOCAL SELF-GOVERNMENT

In general, there are five types of arrangements that are necessary to consider in every local self-government system:

**1. Legal arrangements:** Without clear recognition and regulation by laws, the role of local self-governments can remain rather vague. Hence, the first thing to consider is which level of government—state or union—should be responsible for issuing legislation to regulate local self-governments. For instance, local self-governments can be legally recognized by national

constitutions, state constitutions, ordinary central legislation, or ordinary state legislation (Broadway & Shah, 2009). It is important to note that while legal arrangements typically describe the roles and competences of local self-governments, they can—to some extent—also reflect the limitations of their power.

**2. Administrative arrangements:** An indispensable part of local self-governments' administration is the assignment of their functions and powers since limited powers inevitably constrain the functions of any government. Local self-governments can be assigned their functions and powers by upper-tier governments at the central or state level. Some functions and powers are assigned as exclusive powers, which means that these can be performed without the participation of other tiers of government. Sometimes, according to the law, powers of different tiers of government overlap; in this case, these competences become joint or shared responsibilities, which local self-governments and upper tiers of government implement cooperatively. Finally, some powers are not mentioned in the law, but might appear under certain conditions; these kinds of powers are called discretionary powers and are especially applicable to local affairs (Commonwealth Local Government Forum, 2017, 2019).

Apart from functions and powers, administrative arrangements also address another point of dispute which is: Which level should be the highest tier of local self-government? According to the administrative structure of each country, districts or townships can be the highest tiers, while townships, towns, wards, and villages can be sub-tiers (Newton, 1982). Typically, having too many tiers at the local level leads to inefficient administrative costs and long deliberation processes.

**3. Political arrangements:** The legitimacy of a true local self-government is based on the holding of free and fair elections in which local residents participate. The electoral process and the formation and composition of local bodies are essential tools for strengthening local democracy, especially with regard to ethnic minority and women representation.

**4. Fiscal arrangements:** Even when a local body has enough functions to perform, an absence of fiscal power would significantly constrain the execution of these functions. For this reason, the power to levy taxes, fees, and charges, local budgeting, municipal borrowing, and inter-governmental transfers need to be all clearly described under the local self-government arrangements. Fiscal resources of local self-governments around the world reveal no single, definite form, but there is a fundamental difference between developed and developing countries in this respect, linked to their overall wealth

and the nature of their economy (Shah & Shah, 2006). Specifically, while property taxes, income taxes, and fees are major financial resources in developed countries, local self-governments in developing countries mostly depend on financial transfers from the higher tiers of government. When it comes to administrative principles of fiscal arrangements, the subsidiarity principle encourages the allocation of financial powers to the lowest level of government possible, contributing to effective governance and efficiency in fulfilling local needs (Broadway & Shah, 2009).

**5. Inter-governmental arrangements:** Finally, according to the law, local self-governments have to interact with other tiers of government; that is, have inter-relations (or inter-governmental relations) with them. Especially in a federal system, the cooperation between the union-state-local levels is intrinsically important for local governance. In general, such inter-relations can be used:

- a. To facilitate bilateral consultation structures and mechanisms;
- b. To share information and advice to local authorities;
- c. To develop cooperation mechanisms;
- d. To ensure good financial practices;
- e. To regularly upgrade the delegation of responsibilities; and
- f. For other good practices (European Committee on Local and Regional Democracy, 2007).

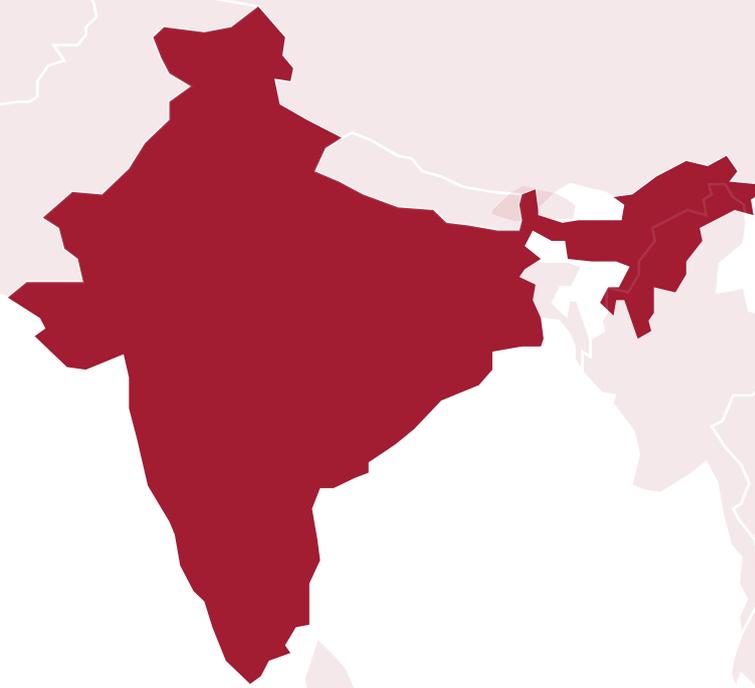
Apart from vertical, union-state-local inter-governmental relations, horizontal relations among local self-governments are also possible. Horizontal relations are often legally entrenched in respective laws or constitutions. Under certain conditions, local self-governments can also have informal inter-relations on an ad hoc basis and within specific sectors (Phillimore, 2013).

Finally, it is important to note that all of the above arrangements are inter-linked with each other; if one of them is not strong enough, this will affect the overall autonomy and effectiveness of local governance.

# LOCAL SELF- GOVERNMENTS IN FEDERAL SYSTEMS:

## A COMPARATIVE STUDY

Local self-governments in federations around the world differ in their legal status, fiscal autonomy, and responsibilities. In order to illustrate this diversity, local self-government systems of India, Canada, Switzerland, and Nepal will be presented in this section. Even though these countries have different languages, sizes of population, ranges of territory, and political histories, what they have in common is that they practice local self-government systems in their own, unique way. Learning about the roles of local self-governments in these federations could help imagine and design a similar system in Burma.



### 3.1. INDIA

The Republic of India has one of the oldest traditions of strong self-government at the local level, dating back to the pre-Moghul period of the 16th century. During the British colonial era, this tradition was abolished and replaced with a centralized system of local government that ruled on behalf of the imperial power. After gaining independence in 1947, India formed a union with a centralized federal system. The tradition of local self-governance was only restored in 1992 (Broadway & Shah, 2009).

The legal status of local self-governments in India was explicitly adopted in the 73rd and 74th amendments to the 1992 Constitution. The main reason behind placing these provisions into the constitution was to protect local development plans and remove the state governments' power to suspend, supersede, and dissolve local councils (Commonwealth Local Government Forum, 2019). Thus, local self-governments are legally created by the union constitution and dependable on the union government.

In India, two distinct types of local self-government exist: urban and rural. In the urban administrative form, municipal corporations are the first tier, municipal councils are the second tier, and ward councils are the lowest tier of government. For the rural government, district, town, and village councils are formed as separate tiers (Tutorials Point, n.d.). Yet, neither urban nor rural local self-governments are assigned general administrative duties or offer sole responsibility social services. As seen in Table 1, Indian local self-governments mostly perform with joint responsibility, and offer only a few discretionary services. That is why the structural form of this local self-government system has been described as centralized (Commonwealth Local Government Forum, 2019).

**TABLE 1.****Services provided by India's local self-governments  
(adapted from Commonwealth Local Government Forum, 2019)**

NO.	SERVICE	RESPONSIBILITY SERVICE		DISCRETIONARY SERVICE
		SOLE	JOINT	
1	Pre-school			✓
2	Adult education		✓	
3	Welfare homes			✓
4	Local roads		✓	
5	Transport		✓	
6	Theaters and concerts		✓	
7	Museums and libraries		✓	
8	Parks and open spaces		✓	
9	Sports and leisure		✓	
10	Religious facilities		✓	
11	Water supply		✓	

The formation of local councils and terms of their elections are governed by laws adopted by each state. The elections use the first-past-the-post (FPTP) system and councilors are elected directly. A basic quota system requires that women are allocated about one-third of local self-government seats but state amendments have raised this to 50%. The method used to select mayors varies according to the situation in each state; both direct and indirect elections are in use. Mayors and councilors serve five-year terms.

In general, local self-governments in India do not have access to revenue, since fiscal resources are allocated by the state-level government and other external organizations. Nearly all administration is funded by the central government. In addition, grants from the central government to local self-governments are fixed equally. The Central Finance Commission makes a tentative provisional budget for every five-year period (Commonwealth Local Government Forum, 2019).

When it comes to inter-governmental relations, the three levels of government (central government ministries, state-level ministries, and local self-governments) are supposed to come together in meetings and engage in dialogue. Local self-government representatives can also meet with ministers or officials from relevant ministries on an ad-hoc basis.

On the whole, India's system of administration is triadic, since it is the central government that—through the union constitution—creates local self-governments and imposes these to all states. The three tiers then interactively perform their functions and powers. The degree of decentralization of power from the central government to local self-governments in India could qualify as devolution from a political perspective, but not in financial terms. The fiscal dependence of local self-governments on the central government makes the Indian federal system rather centralized, and thus only quasi-federal.

## 3.2. CANADA

Canada is one of the oldest federal countries, established in 1867. There are a total of 3,598 municipalities (local self-governments) within the federation, and all of them fall under the jurisdiction of provinces (states).

Legally, local self-governments in Canada are not vested in the national constitution; however, Section 92(8) of the Constitution Act, 1867 gives the provinces "exclusive powers to make laws in relation to 'municipal institutions in the province'" (Canada, 1867). This means that the relevant legislation is made by provinces but implemented by local self-governments.

Canada's administrative tiers consist of cities, towns, villages, and hamlets. The local self-government system as a whole is not uniform, since provinces have exclusive powers over their local self-governments. Over time, local self-governments in Canada have acquired more responsibilities and functions and are now jointly responsible for a larger portion of general administration and social service delivery than is typically the case in other federal countries (see Table 2).

All administrative tiers use a council form of government, which is typically composed of an odd number of locally elected members. In structure and composition, council leaders and members are elected as administrators, chiefs, and mayors based on wards. Generally, the FPTP electoral system is used when electing councilors from single-tier and lower-tier governments. In addition, council members elect wardens in rural municipalities. Gender quotas are set at one-third or three-fifths (Commonwealth Local Government Forum, 2017).

**TABLE 2.**  
**Services provided by Canada's local self-governments**  
(adapted from Commonwealth Local Government Forum, 2017)

NO.	SERVICE	RESPONSIBILITY SERVICE		DISCRETIONARY SERVICE
		SOLE	JOINT	
1	Police		✓	
2	Fire protection		✓	
3	Civil protection		✓	
4	Electoral register		✓	

5	Family welfare services			✓
6	Welfare homes			✓
7	Social security			✓
8	Primary care			✓
9	Hospitals	✓		
10	Health protection			✓
11	Housing			✓
12	Town planning	✓		
13	Regional planning			✓
14	Roads	✓		
15	Ports			✓
16	Airports			✓
17	Water and sanitation	✓		
18	Refuse collection and disposal	✓		
19	Cemeteries and crematoria	✓		
20	Slaughterhouses			✓
21	Consumer protection		✓	
22	Museums and libraries		✓	
23	Parks and open spaces	✓		
24	Sport and leisure	✓		
25	Religious facilities		✓	
26	Gas services			✓
27	Water supply		✓	
28	Electricity			✓
29	Local economic development		✓	
30	Tourism		✓	

From the perspective of fiscal resources and autonomy, Canada's municipalities determine their own property tax rates, which is their single most important source of revenue. This taxation covers the cost of most provided services except those which are funded by provincial and federal governments. Fiscal transfers from provincial and federal governments also exist, both for general and specific purposes (e.g. education).

Regarding inter-governmental relations, provincial leaders and the federal government meet, typically once a year, to discuss fiscal matters, housing, energy, transportation, culture and heritage as well as other relevant issues.

Given the above, Canada's local self-government system can be categorized as dyadic, since local self-governments as here regarded as full competences of provinces. Provinces guarantee the existence and regulation of local self-governments, which is similar to how the Dillion's Rule is applied in the American federalism (see Box 3).



### 3.3. SWITZERLAND

The Swiss Confederation consists of 26 states (cantons), established in 1848. These cantons are made up of about 3,000 local self-governments or municipalities (also called communes) that are divided into six types: territory-based municipalities; Bürgergemeinde or 'civic communities' (which are based on hereditary citizenship); hybrid municipalities (which mix territorial and hereditary citizenship); church municipalities; school municipalities; and assistance municipalities.

When it comes to the legal status of local self-governments in Switzerland, the Swiss Federal Constitution of 1999 contains a specific article in which municipalities are entrenched. This article clearly mentions the legal prevalence of cantonal law over municipalities, and how the federal government takes into account the role of municipalities in the country's political system.

Municipalities are regarded as sub-tiers of cantons and are the lowest administrative division of government (Bulliard, 2005). Swiss local self-governments perform and implement services within altogether 13 areas (see Table 3), which is more than in other countries. As shown in Table 3, local self-governments provide sole responsibility and joint responsibility services but do not pursue any discretionary powers.

**TABLE 3.**  
**Services provided by Swiss local self-governments**  
 (adapted from Bulliard, 2005)

NO.	SERVICE	RESPONSIBILITY SERVICE		DISCRETIONARY SERVICE
		SOLE	JOINT	
1	Local roads	✓		
2	Public transport		✓	

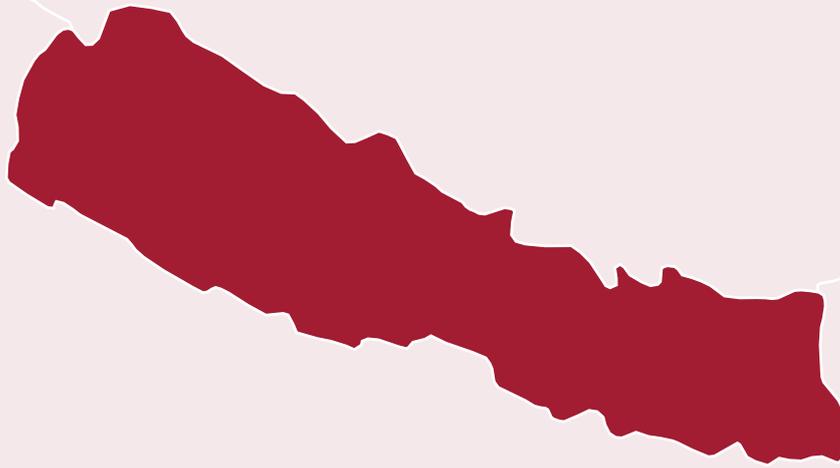
3	Social welfare		✓	
4	Environmental care		✓	
5	Local land use planning		✓	
6	Citizenship		✓	
7	Primary schools	✓		
8	Local infrastructure	✓		
9	Local police	✓		
10	Fire protection	✓		
11	Health care	✓		
12	Communal taxes	✓		
13	Waste disposal	✓		

Because separation of powers (into legislative, executive, and judiciary) is in Switzerland exercised at the local level, local self-governments here are strongly structured, with separate organs. Some municipalities have two organs: an electoral and an executive body, while other municipalities have three organs: an electoral body, an executive, and a parliament. Some communes still practice direct democracy: an old tradition where people assemble to vote. If a citizen reaches the eligible age, she or he has the right to vote in local elections. In Neuchâtel and Jura Vaud cantons, foreigners have the right to vote as well, while the Appenzell Ausserrhoden Canton allows foreigners to vote only if they have established residence in the canton for at least three months. As an extension of this practice, foreign citizens also have the right to be elected after they have resided in the canton for five years.

Regarding fiscal resources and autonomy, municipalities and cantons hold joint power of taxation over income and wealth as well as profits and capital. Significantly, the federal government guarantees fiscal equalization over cantons in the national constitution. Every year, 3 to 4% of the national budget is collected by municipalities, serving as a self-funding resource for local administration. Local self-governments collect 16 different types of taxes and all of these resources are shared with cantonal governments based on ratios. On the whole, 43.2% of expenditures for local public services in Switzerland are provided by local self-governments (Ethnic Nationalities Affairs Center (Union of Burma), 2018). According to the Swiss tradition, local self-governments enjoy not only fiscal autonomy but also autonomy over language, citizenship, and foreign economic relations (Bulliard, 2005).

Inter-governmental relations in Switzerland vary across cantons, since they are predominantly informal. Some cantons, like Fribourg, clearly encourage formal inter-municipal relations in their cantonal constitutions.

From a constitutional point of view, Switzerland practices a dyadic system. However, since its local self-governments are nationally recognized and regulated by both national and sub-national level legislation, the system appears more mixed than dyadic in practice.



### 3.4. NEPAL

**The new Federal Democratic Republic of Nepal was founded on September 20, 2015 through adopting a federal constitution. The republic is divided into seven provinces, which were formed by grouping the country's 77 districts.**

The legal status of Nepal's local self-governments is expressed in Articles 214 to 237 of the Constitution of the Federal Democratic Republic of Nepal, prescribing local executive, legislative, and financial procedures as well as inter-relations at the national level. The functions and powers of local self-governments are also clearly stipulated in the national constitution in accordance with Schedules 8 and 9. The role of local self-governments as the third tier of government is thus clearly expressed and entrenched in the constitution, based on the notion of division of power (Paudel & Sapkota, 2018).

According to Schedule 8 of the constitution, local bodies in Nepal have a wide range of powers (see Table 4). In addition, all three tiers of government share many concurrent powers. District development committees are the highest tier of local self-government, while urban municipalities and village development committees represent the lower tiers (Nepal, 2015).

Nepal has two types of local self-government: a municipal executive for urban areas and a village executive for rural areas. Every executive body must comprise at least four female and two ethnic minority members in accordance with the constitutional quota. These members are elected by their respective municipal or village assemblies (Manor, 2013), whose powers are vested in Schedules 8 and 9 of the constitution. These assemblies must have two executive leaders, five ward committee members, and two minority leaders as well as at least two women from each ward, equaling at least 50% female participation (Nepal, 2015). District development committees are responsible for the coordination of municipalities and villages. All local bodies exercise the FPTP system for elections and not more than two terms of five years are allowed.

Fiscal resources and autonomy of Nepal's local self-governments are guaranteed in three ways: through the Local Consolidation Fund; local revenues; and grants from the government, loans, and other sources.

Regarding the inter-governmental arrangements, Article 232(8) of the constitution states that:

***The Government of Nepal may, in pursuant to the Constitution and Federal Law, provide necessary support and directives to the Village Executive and Municipal Executive on its own or through the Provincial Government. It shall be the duty of the Village Executive or Municipal Executive to abide by such directive. (Nepal, 2015, p. 109)***

Thus, both federal and provincial governments can have direct relations with local self-governments in order to provide them with administrative support or to cooperatively implement directives with them. If there are any political disputes at the provincial level, the State Assembly is to maintain coordination among the local bodies.

Nepal is a federal system with three tiers of government, and can be categorized as a triadic system. Local self-governments are regulated on the national level and imposed to all provinces. All three tiers of government interact in terms of administration and legislation. At the time of designing the constitution, the principle of subsidiarity was added to ensure that functions and powers would be exercised as close to local communities as possible.

**TABLE 4.**  
**Services provided by Nepal's local self-governments**  
**(adapted from Nepal, 2015)**

NO.	SERVICE	RESPONSIBILITY SERVICE		DISCRETIONARY SERVICE
		SOLE	JOINT	
1	Municipal police	✓		
2	Local tax	✓		
3	Local statistics and record		✓	
4	Basic and secondary education	✓		
5	Higher education		✓	
6	Basic health and sanitation		✓	
7	Local markets	✓		
8	Environment conservation		✓	
9	Local roads	✓		
10	Land and building ownership		✓	
11	Social welfare		✓	
12	Water and electricity	✓		
13	Museums		✓	
14	Royalty from natural resources		✓	
15	Vehicles permit		✓	

### 3.5. COMPARATIVE ANALYSIS

In this section, the four previously described local self-government systems will be compared and contrasted on a number of indicators (see Table 5). For instance, legal arrangements in the two Asian countries are rather similar, since both India and Nepal have only a single (national/federal) constitution that designates the role of urban and rural local self-governments through its provisions and schedules. According to these local self-governments' legal status, they are politically exclusive tiers of the democratic electoral process and have fair functions and powers. As a consequence, they do not only engage with the states but also with the union-level governments, resulting in a triadic system. The local self-governments in the two countries also have financial and inter-governmental relations among all three layers of government (i.e. vertical relations), although Nepal's constitution also allows for horizontal relations at the district level. In any case, local self-governments in these two countries can also have informal relations, without legal recognition.

**TABLE 5.**  
**Comparison of local self-governments of India, Canada, Switzerland, and Nepal**

ARRANGEMENTS	INDIA	CANADA	SWITZERLAND	NEPAL
<b>LEGAL</b>				
<b>Legal recognition</b>	Federal recognition and regulation	Federal recognition, state regulation (exclusive matter of provinces)	Federal recognition, state regulation (exclusive matter of cantons)	Federal recognition and regulation
<b>ADMINISTRATIVE</b>				
<b>Government type</b>	Urban/rural	Municipalities	Municipalities	Urban/rural
<b>Functional power</b>	Fair	Strong	Strong	Strong
<b>POLITICAL</b>				
<b>Government composition</b>	Council composed via democratic elections	Council composed via democratic elections	Council composed via democratic elections	Council composed via democratic elections
<b>Female participation</b>	At least 50%	At least 33%	No provision	At least 50%

ARRANGEMENTS	INDIA	CANADA	SWITZERLAND	NEPAL
<b>FISCAL</b>				
<b>Financial power</b>	Weak	Strong	Strong	Strong
<b>INTER-GOVERNMENTAL</b>				
<b>Inter-governmental</b>	Vertical relations among all tiers of government	Vertical relations among all tiers of government	Vertical and horizontal relations among all tiers of government	Vertical and horizontal relations among all tiers of government
<b>LOCAL GOVERNMENT SYSTEM</b>				
<b>Local self-government</b>	Triadic	Dyadic	Mixed	Triadic

On the other hand, Canada and Switzerland have both federal-level and state-level constitutions, and their federal constitutions stipulate that their respective local self-governments are exclusive matters of the states. However, the implications of this stipulation are different in the two countries. For inter-governmental relations, Canadian local self-governments need to mainly engage with the respective state governments because of their given legal framework. Therefore, Canada practices a dyadic political system. In the Swiss case, the federal constitution recognizes the local self-governments as sub-tiers of the cantons, but the federal government can also have direct relations with them in practice, resulting in a mixed political system. The federal-state-local relations can be regarded as informal; that is, not stipulated in the national constitution.

From a functional and fiscal perspective, local self-governments in Canada, Switzerland, and Nepal are rather strong. They can pursue exclusive revenues, funds, grants, and other resources, while performing with mostly sole and joint responsibility. They can also collect local revenue taxes and receive transfer grants from the state governments without having direct relations with the federal government. In contrast, exclusive revenue powers are not allowed in the Indian federal system, and so local self-governments are financially dependent on the union- and state-level governments. Here, local self-governments cannot enjoy any sole responsibilities whatsoever, which reflects the role of these local self-governments in the Indian federal system.

Finally, what all of these local self-government systems have in common is that they utilize the council form of government as well as the democratic electoral process. The composition of councils in all countries except Switzerland considers women participation as well. All in all, even though two of these countries are considered “developing” and the other two “developed,” all of them practice strong local democracy in their federal systems.



# LOCAL GOVERNMENT SYSTEM IN BURMA: AN IN-DEPTH LOOK

Article 288 of the 2008 Constitution<sup>1</sup> states that “administration of the district and township level shall be assigned to the Civil Services personnel” (Burma, 2008). Because of this constitutionally-centralized structure of government in the Republic of the Union of Burma, there is no third-tier level of government in the country. At the same time, there are four official categories of local government organizations that have some level of deconcentrated or delegated power:

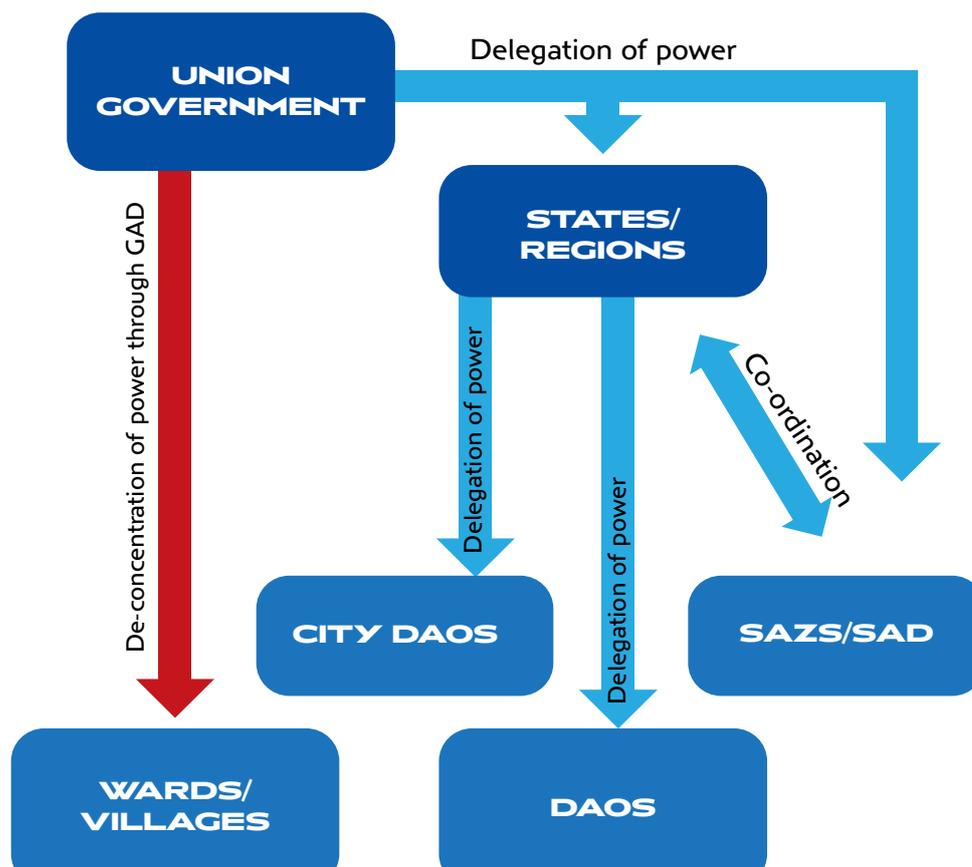
1. Ward and village tracts;
2. Township municipalities (Development Affairs Organizations; DAOs);
3. City municipalities; and
4. Self-administered division (SAD) and zones (SAZs).

Since the current administration system of Burma (see Figure 2) features only fragmented forms of local government, it is quite challenging to directly compare and contrast it with the local self-government systems previously presented as case studies. However, by analyzing the legal, administrative, political, fiscal, and inter-governmental arrangements in Burma in a similar way as those in India, Canada, Switzerland, and Nepal, it is possible to identify how these arrangements could be made more federal and democratic, allowing for greater power-sharing between all three layers of government.

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<sup>1</sup> Even though the legitimacy of the 2008 Constitution in the post-coup Burma has been questioned both internationally (International Commission of Jurists, 2021) and domestically, the country's local government system still operates under the same structures, and thus is described in this paper accordingly.

**FIGURE 2.**  
Current administrative system of Burma



## 4.1. WARD AND VILLAGE TRACT ADMINISTRATION

Ward and village tracts are legally provided for in the Union Constitution and represent local administration units that are closest to Burma's citizens. In reality, however, they do not have the authority to provide services to these citizens, since their functions and powers are fully regulated by the Union Government through the General Administration Department (GAD) of the Ministry of the Home Affairs Office. In doing so, the central government takes on the role of the overall administrator of ward and village tracts, which is in contrast with the administration of DAOs that operate under the authority of state and region governments (see Figure 2; Action Committee for Democracy Development & Progressive Voice, 2018). On a legal basis, wards and village tracts are not the sub-ordinate tiers of DAOs but have to work in coordination with them.

In 2012, wards and village tracts were through a presidential decree given the right to hold elections under Article 289 of the Union Constitution. However, the electoral system used at this level is limited, since only one member from each household can vote. Eligible household representatives, who must be 18 years of age or older (and are nearly always men), vote in clusters through a secret ballot to elect 10 household leaders. These 10 leaders then vote for the administrator of the respective ward or village tract. In the final step, the election of ward and village tract administrators is overseen by advisory bodies which are organized by the township-level

administration of the Union Government (Kyed, Harrison, & McCarthy, 2016). Even though they are elected by the people, ward and village tract administrators do not fully represent them, since they are accountable to district and township administrators who are the civil personnel of the GAD. Moreover, central government officials from each township have the authority to force ward and village tract administrators to resign. This way, the GAD dominates local governance, since power to ward and village tracts has simply been deconcentrated (see Figure 2). Following the 2016 election, there were 16,785 ward and village tract administrator seats across the country. Of these seats, women made up just 0.41% of the total in urban areas and 0.21% in rural areas, respectively (Arnold, Ye Thu Aung, Kempel, & Kyi Pyar Chit Saw, 2015).

From a fiscal perspective, ward and village tract administration relies on the union budget through township GADs and other funding sources. Ward and village tract administrators receive only a small monthly subsidy for office expenses.

When it comes to inter-governmental relations, ward and village tracts engage in vertical relations only, being held accountable to the Union Government.

## **4.2. DEVELOPMENT AFFAIRS ORGANIZATIONS**

On the basis of Schedule 2 of the 2008 Constitution, DAOs are legally responsible to state and region governments (see Figure 2). Specifically, state and region governments promulgate development affairs laws, which are designed to delegate power between the state/region Department of Development Affairs and local communities.

Municipalities have a long history in the Burma administration system, having enjoyed a wider range of assignments, functions, and powers since the colonial government era than other state and regional ministerial departments. Under the military rule, the role of municipal authorities diminished, but during the dramatic change to a quasi-democratic system, the Union Solidarity and Development Party government re-introduced DAOs in 2012 and transformed them into functions of states and regions. Today, all townships in Burma have their own DAOs, which are important urban agencies with the responsibility to provide a significant range of social services as well as to oversee local economic governance. According to the 2008 Constitution, 330 townships comprise the fundamental units of the administration system of Burma, and about 400 municipal offices exist under the decentralized supervision of states and regions (Arnold, Ye Thu Aung, Kempel & Kyi Pyar Chit Saw, 2015).

DAOs are not political institutions, but service providers, and thus do not have any political authority. In each township, DAOs have Development Affairs Committees with a delegate model of representation, consisting of selected and appointed persons only and hence not allowing broader participation of and election by citizens. Each of these Township Development Affairs Committees is composed of seven members, four of whom are selected and three of whom are government officials from the GAD, Department of Rural

Development (DRD), and DAO. The committee's functions and powers are simply to assist the DAOs of state and region governments.

DAOs have fiscal authority to some extent. They can pursue fees, charges, local taxes, and fines for their own funding, even though there are some limitations to these set in the laws adopted by states and regions. DAOs have also the authority to manage and spend funding on their own development affairs. Powers delegated by the state and region governments and their self-funded powers make DAOs more powerful than other forms of local government in Burma (Bissinger, 2016).

Finally, since DAOs function as delegated forms of government and are created by state/region governments, they are accountable to these governments through vertical inter-governmental relations (Arnold, Ye Thu Aung, Kempel & Kyi Pyar Chit Saw, 2015).

### **4.3. YANGON AND MANDALAY CITY DEVELOPMENT COMMITTEES**

City municipalities in Yangon and Mandalay exist under the legal jurisdiction of respective city development laws, and are jointly administered by the regional and union executive branches.

From an administrative perspective, city municipalities are more active and efficient than other forms of local government in Burma, and play a crucial role in service delivery to the country's two biggest cities (Arnold, Ye Thu Aung, Kempel, & Kyi Pyar Chit Saw, 2015). The regional level of the Department of Development Affairs (i.e. Township Development Affairs Committees within the city areas) operates under the leadership of these city development committees.

In 2014 and 2015 respectively, Yangon and Mandalay held city development committee elections. Since then, the Yangon City Development Committee (YCDC) comprises seven committee members, four of whom are elected. Under the supervision of this committee, 12 district-level and 99 township-level committee members run the city's development affairs. As a sign of progressive change, a new YCDC law was introduced in 2019, making all Yangon residents aged 18 years and above eligible voters. This legal framework has also allowed the voting of six members of the YCDC and of three positions (Chairman, Member 1 and Member 2) in each of the 33 townships in the Yangon city area (New Myanmar Foundation, 2019). In this sense, the composition of the YCDC is more democratic than of other forms of local government in Burma. Still, the committee is run under a delegate model of government, composed by both appointed and elected members. In comparison, the 13-seat Mandalay City Development Committee (MCDC) has six elected members centrally but none in the district- and township-level committees. Compared to the YCDC, the MCDC is then less democratic, both in composition and elections.

When it comes to fiscal and inter-governmental arrangements of city municipalities, these are similar to the arrangements of DAOs described previously.

## 4.4. SELF-ADMINISTERED DIVISION AND ZONES

The legal authority of Burma's five SAZs and one SAD is constitutionally entrenched and specifically created in coordination among all tiers of government.

Interestingly, although the Union Government has separated and shared sovereign powers (legislative and executive) to the SAZs/SAD in Schedule 3 of the Union Constitution, their functions and powers are not greater than those of local governments in other countries. This is because the exclusive powers of the SAZs/SAD cannot be fully exercised, since their competences overlap with those of state and region governments. Coordination between the two layers of government in terms of local development affairs is thus necessary. While rural and urban planning as well as other social and local services are guaranteed locally, SAZs/SAD can pursue only some responsibilities within their administered areas (see Table 6; Burma, 2008).

**TABLE 6.**  
Services provided by SAZ/SAD administrative bodies

NO.	SERVICE	RESPONSIBILITY SERVICE		DISCRETIONARY SERVICE
		SOLE	JOINT	
1	Urban and rural projects	✓		
2	Construction and maintenance of roads and bridges	✓		
3	Public health	✓		
4	Development affairs	✓		
5	Prevention of fire hazards	✓		
6	Maintenance of pastures	✓		
7	Conservation and preservation of forests	✓		
8	Preservation of natural environment in accord with union law	✓		
9	Water and electricity	✓		
10	Markets	✓		

**Note:** In practice, most of these functions and powers need to be coordinated with the relevant state and region government.

The political system of the SAZs/SAD is quite complex, since it features overlapping responsibilities of hierarchical governments. To start with, the formation of the SAZs/SAD administrative bodies (called “Leading Bodies”) is prescribed in the Union Constitution. Each body has to be composed by at least 10 members that belong to one of the following groups: 1) Members of state and region parliaments that are elected within the SAZs/SAD; 2) Personnel from the Defense Services responsible for security and border affairs; and 3) Other representatives selected by the two previous groups. In addition, the chairperson of each Leading Body must be a representative of the relevant state or region parliament, nominated by the members of the Leading Body, and appointed through the approval of the President of the Union (Burma, 2008). Since the Leading Body does not include any elected members, its composition can be considered undemocratic.

In the next step, the Leading Body creates the Local Development Affairs Committee, the local executive body. Each Local Development Affairs Committee has nine members (both selected and appointed; see Table 7), and its purpose is to supervise the Township Development Affairs Committee, which implements local services and also comprises both selected and appointed persons (Kokang Self-Administered Zone Leading Body, 2016).

**TABLE 7.**  
**Members of a Local Development Affairs Committee**  
*(adopted from the Kokang Self-Administered Zone Leading Body, 2016)*

<b>CHAIRMAN</b>	Member of the SAZ Leading Body
<b>TWO MEMBERS</b>	Selected by township elders
<b>TWO EXPERTS</b>	Selected for the social sector by local civil society organizations
<b>TWO EXPERTS</b>	Selected for the education sector by local educational organizations
<b>EXECUTIVE OFFICER</b>	Appointed from the DAO of SAZ/SAD
<b>DISTRICT OFFICER</b>	Appointed from the DRD of SAZ/SAD

According to the legal framework of the 2008 Constitution, there are no provisions for the SAZs/SAD’s fiscal authority; the Township Development Affairs Committee has the authority to only collect taxes for the state or regional Department of Development Affairs. The SAZs/SAD thus pursue budget allocation for their administrative costs from the respective state and region governments. This allocated budget is drawn annually, and the spending of it is coordinated with the state/region governments.

Similar to DAOs and city municipalities, the SAZs/SAD have delegated units of upper-tiers government that have a vertical way of intergovernmental relations (with both state/region governments and the Union Government; see Figure 2).

## **4.5. INFORMAL LOCAL GOVERNMENTS IN ETHNIC REVOLUTIONARY ORGANIZATIONS-CONTROLLED AREAS**

Currently, there are 21 active Ethnic Revolutionary Organizations in the country and many other revolutionary forces after 2021 coup d'état happened. Some of these provide social services to citizens residing in their controlled areas, often creating an overlap with the services available through the central government administration. A notable example is the Karen National Union, which through its various departments provides services to over 1 million people across 12 townships and seven districts in Karen State, eastern Bago Region, and parts of Mon State and Tanintharyi Region. Importantly, the Karen Education Department, together with international non-governmental relief and development partners, jointly support 1,294 schools attended by 141,623 students (Jolliffe, 2016).

Similarly, the Kachin Independence Organization provides education services to over 23,000 students in primary, middle, and high schools and colleges, and supports 61 hospitals and village clinics. In the areas of the Karenni National Progressive Party in Kayah State, there are 460 primary schools, 33 middle schools, and 12 high schools. A distinct characteristic of the EROs' local services is their close relationship with community-based organizations: a good example of participatory democracy at the local level. Without a doubt, these services will need to converge with formal local governance in the future (Jolliffe, 2016).

## **4.6. ANALYSIS OF THE CURRENT LOCAL GOVERNMENT SYSTEM FROM A FEDERAL AND DEMOCRATIC PERSPECTIVE**

Historically, the concept of local self-government is not unfamiliar to Burma. Already the 1947 Constitution mentioned "municipalities and other local authorities for the purpose of local self-government or village administration" (Burma, 1947). In 1953, the Union Parliament adopted the Democratic Local Government Administration Act, which devolved power to local self-governments at district to village and ward level, and delineated democratic values, horizontal accountability, and deliberative processes (Parliament of the Union of Burma, 1953). However, the proposed system never got to be fully implemented, since the act was annulled in the 1963 coup d'état.

These two historical records document the vision of a local self-government system in Burma that could have been achieved through genuine federal democracy. Instead, it was crushed by military dictatorship and single-party system implemented after 1963. Although the 2008 Constitution re-introduced local governments to the country's administration many years later, it did so without fully implementing the necessary federal and democratic principles. As a result, the current local government system of Burma still does not live up to these principles in a number of ways.

For the first, the system is legally centralized. As seen in Table 8, the various forms of local government can be divided into two categories: in the first category, government units are created by the Union Constitution and administered

by the Union Government, such as ward and village tracts. In the second category, government units are also created by the Union Constitution but instead imposed to all states/regions and self-administered areas, such as city development committees and Township Development Affairs Committees. These can pursue their authorities without the intervention of union laws and government, but only to some extent.

For the second, administrative functions and powers are currently not under the jurisdiction of elected local government but of the central government and state and region governments, which means that decisions of the upper tiers of government do not reflect the needs of local communities. Based on this, it can be argued that such administrative arrangements deviate from the subsidiarity principle as well as from the definition of a true local self-government presented at the beginning of this paper.

For the third, in the current political system, local elections and local councils are nearly absent. On the one hand, community leaders in ward and village tracts are not elected by all eligible voters but by single votes from each household, and DAOs' township committees are composed with selected and appointed members only. On the other hand, the delegate model of representation is used across most of the government units (see Table 8), which is in contrast with the council form of government employed in all of the previously described case studies (see Table 5). Burma's political arrangements can be considered undemocratic, neglecting citizen participation and the voice of local people (Action Committee for Democracy Development & Progressive Voice, 2018).

For the fourth, all units except ward and village tracts collect taxes, fees, and charges for the Union Government, and all their spending powers are funded by the Union Government as well; thus, these units do not have financial authority within their own administration. Even though township and city DAOs have a decent amount of self-funding capacity, they still face many limitations in terms of their spending. Since the degree of every government's fiscal authority should be consistent with the extent of its functions and powers, proper fiscal decentralization has to be considered in the future.

Finally, the current system only allows for vertical relations between the Union Government and all the other government units, which indicates a pure vertical form of centralization—a historically rooted practice in Burma. In this constitutional scenario, federal standards like the subsidiarity principle and devolution of power are not as completely implemented as in the four federal countries earlier presented as case studies. With respect to federalism and more democratic decentralization, states and the union should have their exclusive authorities, and both horizontal and vertical relations should be present among all tiers of government.

When it comes to the specific government units, DAOs can be considered as the most decentralized: a) They have the characteristics of a committee with majority community representation; b) Are fully detached from the Union Government; c) Are partially self-funded by local communities; and d) Their expansive mandate covers many essential services. However, they still do not represent a true form of municipal government like those present in Canada or Switzerland. This is because, first, the Township Development Affairs Committees are not composed through a democratic electoral process, and instead include selected persons from each township. This also means that the right to vote is here not guaranteed for eligible citizens.

The second reason is that although DAOs are not controlled by the Union Government, their power is still not fully devolved from the state and regional level. In the future, DAOs need to evolve into municipal governments (Arnold, Ye Thu Aung, Kempel, & Kyi Pyar Chit Saw, 2015) and, at the same time, other local government organizations, such as the GAD at the township level and ward and village tracts, need to converge with DAOs into local self-governments. If Burma is truly committed to progressing towards federalism and democracy, the centralized control exercised through the GAD and ward and village tracts has to be reformed and power should instead be distributed to states and regions.

**TABLE 8.**  
**Local government system of Burma**

ARRANGEMENTS	WARDS AND VILLAGES	DAOS	YCDC/MCDC	SAZS/SAD
<b>LEGAL</b>				
Legal recognition	Constitution/union law	State/regional laws	Regional laws	Constitution
<b>ADMINISTRATIVE</b>				
Government type	Rural/urban	Urban	City municipality	Leading Body
Functional power	Weak	Fair	Strong	Fair
<b>POLITICAL</b>				
Government composition	Elected, responsible to the Union Government	Both selected and appointed	Both selected, elected and appointed	Both selected and elected
Female participation	No provision	No provision	No provision	No provision
<b>FISCAL</b>				
Financial power	Funded by the Union Government	Self-funded	Self-funded	Funded by states/regions
<b>INTER-GOVERNMENTAL</b>				
Inter-governmental	Vertical	Vertical, administered by state/region Development Affairs Ministry	Vertical, administered by state/region Development Affairs Ministry	Vertical, in coordination with state/region governments
<b>LOCAL GOVERNMENT SYSTEM</b>				
Local government	Centralized	Power delegated to town DAOs	Power delegated to cities and towns	Power delegated to recognized areas



# CONCLUSION AND RECOMMENDATIONS

Burma's transition to a federal democracy has been severely constrained by the provisions of the 2008 Constitution. On the one hand, the limited degree of power distribution to local governments cannot articulate genuine federalism; on the other hand, the extent of citizen participation and representation, multi-ethnic inclusion, gender equality, and accountability of local authorities does not live up to the standards of a fully functioning democratic system. When we compare Burma's local governments with those in other countries, it is clear that Burma continues to operate under a system of centralized control.

A number of visible constraints need to be eliminated in order for a democratic local self-government system to be formed. First, instead of being centralized, power should be devolved to local communities. Second, the fragmented units of government ought to be replaced by a convergent form of local self-government. Third, the system as a whole needs to allow more interaction, through both vertical and horizontal relations. Finally, local democratic institutions (councils and executive functions) should be created and deliberation processes along with citizen participation should be enhanced, which could ultimately encourage the inclusiveness and involvement of diverse ethnic, religious, and gender groups.

On the basis of these transformations, municipal (urban) and rural governments under the supervision of state/region governments could be reformed in the future, while institutions that reinforce the central government's control, such as the GAD, should be avoided. In addition, adequate and effective arrangements (legal, political, administrative, fiscal, and inter-governmental) for all forms of local self-government need to be clearly and precisely formulated. Finally, perspectives emphasizing multi-ethnic inclusion, gender equality, citizen participation, and the contribution of civil society organizations should also be a part of the design of future local self-governments.

Ultimately, the envisioned reform outlined above will ensure the creation and institutionalization of a third layer of government, which in turn will maintain democracy and promote active citizenship in the long run. In the process of designing this third layer, the following two paths of recommendations should be considered.

## **5.1. RECOMMENDATIONS FOR ESTABLISHING THE LOCAL SELF-GOVERNMENT SYSTEM THROUGH DECENTRALIZATION**

Although decentralization will not lead to the emergence of true local self-governments in Burma, it could still be an effective tool for strengthening the country's states/regions and local communities for the upcoming federal system. To this end, devolution of power and the principle of subsidiarity will have to be exercised under the legal framework of the 2008 Constitution, thereby creating a triadic model of local self-government (see Figure 3). At the same time, democratic reform through the formation of councils, implementation of local elections, and fiscal decentralization based on 67 districts will have to be implemented as well (Tinzar Htun, & Raynaud, 2018). For this gradual approach, more specific arrangements are recommended as follows:

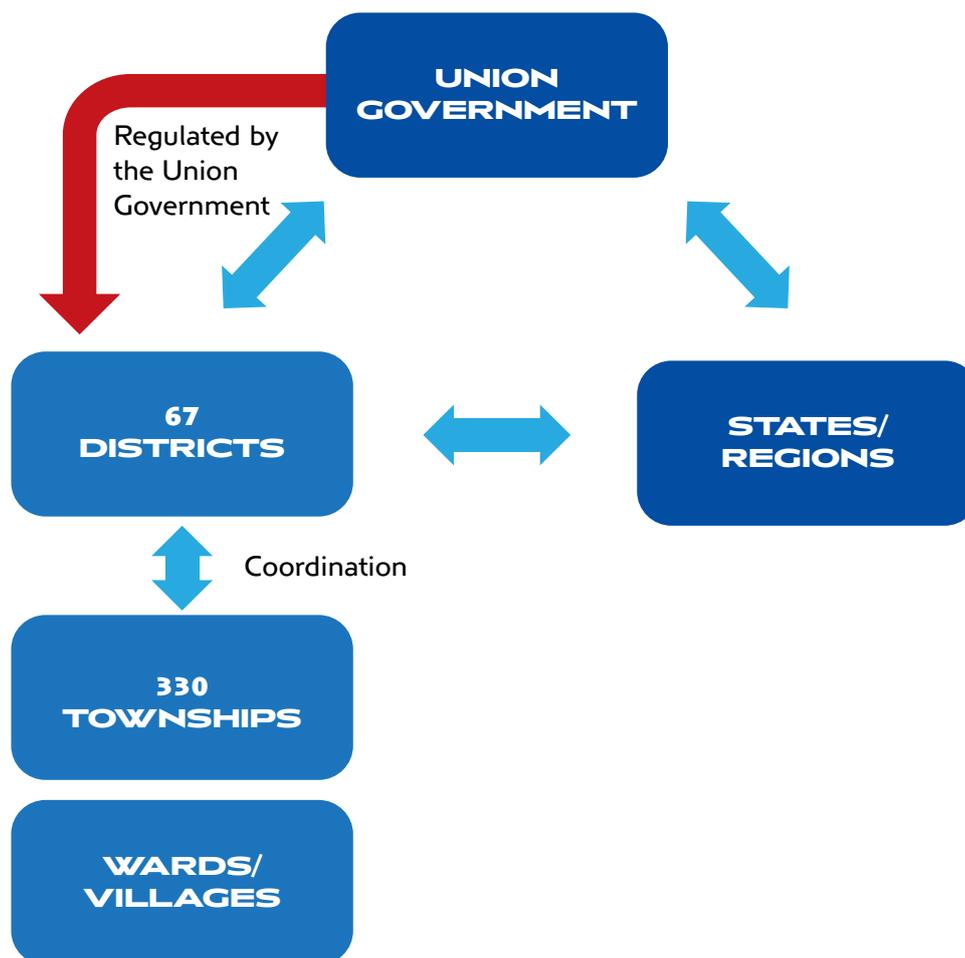
### **LEGAL ARRANGEMENTS**

1. Since the 2008 Constitution does not allow elected positions in the district and township level administration, these constitutional provisions will have to be amended.
2. The Union parliament should adopt a democratic local self-government law in order to establish local self-governments, and devolve power to state/regions and local units (districts, townships, and ward and village tracts).

### **ADMINISTRATIVE ARRANGEMENTS**

3. Local government units (districts, townships, and wards and village tracts) will need to be combined into a convergent model of local self-government, with hierarchical tiers based on the democratic process (see Figure 3). All administration and service departments should operate under the executive leadership of local elected councils and executive organs.
4. Districts should play a coordinating role in the local self-government system. District committees, composed of elected members, should coordinate among different townships, between townships and districts, and among different districts within the same state or region.
5. Local DAOs should act as service departments of local self-governments, thereby constituting the third tier of government.

**FIGURE 3.**  
**Model of decentralization into local self-governments**  
**under the 2008 Constitution**



## POLITICAL ARRANGEMENTS

6. Democratic elections should be guaranteed in districts, townships, and ward and village tracts. All local councils and executive organs shall be composed and led by elected persons instead of selected and appointed positions. Every eligible voter (aged 18 years and above) should have the right to vote instead of voting being accessible to household leaders only.
7. For the sake of a more inclusive democracy and appreciation of diversity, affirmative action for women participation, youth, and ethnic minority groups in decision-making positions should be adopted.

## FINANCIAL ARRANGEMENTS

8. Reformed local self-governments should be assigned more financial authority as well as taxation and spending powers. Relevant financial laws should be adopted by state and region parliaments.

## **INTER-GOVERNMENTAL RELATIONS**

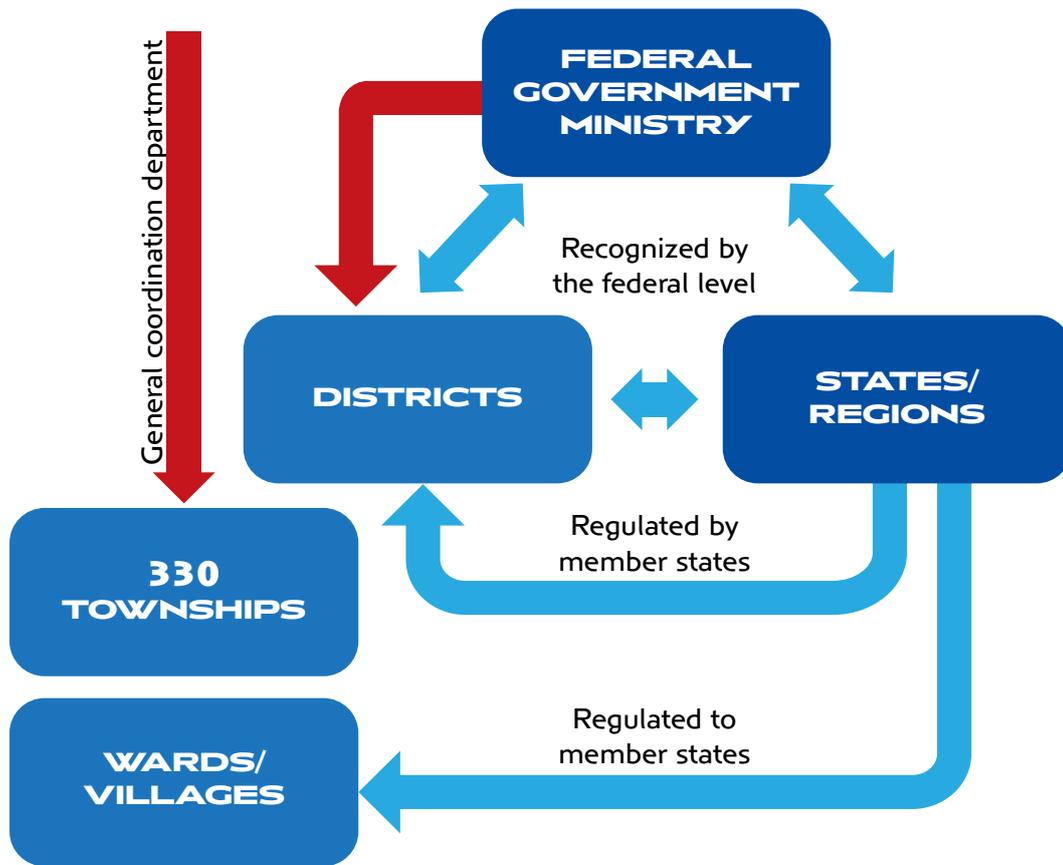
9. Efficient inter-relation systems should be implemented between all layers of government. Instead of a top-down model of relations, state/region governments and local self-governments should be treated as equally important. Horizontal relations should be imposed in the institutional culture and practice as a form of cooperative implementation. Both vertical and horizontal relations are important, and should be legislated in the law, procedures, and mechanisms.

### **5.2. RECOMMENDATIONS FOR ESTABLISHING THE LOCAL SELF-GOVERNMENT SYSTEM THROUGH FEDERALISM**

Envisioning local self-governments within a true federal system will be more straightforward than under the principle of decentralization. Since states will have their own constitutions, this approach will also be more interactive, with specific arrangements falling under the jurisdiction of respective states. Draft state constitutions already available offer some suggestions as to how Burma's local self-government system could look like in the future. For example, the Kachin State constitutional draft (Article 13) proposes townships as the fundamental units of local level administration in accordance with the legislation of the state parliament (Kachin State Constitution Drafting Committee, 2017). The Kaw Thoo Lei State constitutional draft (Section 7) describes districts as the highest tier and towns, wards, and villages as lower tiers of local government, all operating under a district body and with functions and powers assigned in accordance with the state legislation (Kaw Thoo Lei (Karen State) Future Constitution Drafting Committee, 2017). The Chinland constitutional draft (Article 183) gives the Chinland legislative body the power to form, amalgamate, suspend, supersede, or dissolve local government units as well as to adopt laws regarding elections, voting, functions and powers, and financial transfers (Chin Forum, 2017).

Since all of these draft state constitutions envision local governments as operating under the rule of state legislative bodies or government administration, Burma's states will most probably demand that the current government units (ward and village tracts, DAOs, city municipalities, and SAZs/SAD) are reformed and combined into an integrated model. In this model, local self-governments will be the exclusive power of the states and form the sub-tier of the state governments. Such arrangements will then correspond to the dyadic model of local self-government, similar to the one used in Canada. However, based on the more specific recommended arrangements presented below, the final system will be mixed (see Figure 4):

**FIGURE 4.**  
Model of power sharing into local self-governments through federalism



## LEGAL ARRANGEMENTS

1. Before a new federal constitution is adopted, local self-government matters should be handled as competences of states.
2. The future federal constitution should recognize and guarantee the role of local self-governments in the country's administration system. Here, local self-governments will be the exclusive matter of states in accordance with the states' self-determination. Thereby, a mixed system of local self-government system will emerge (see Figure 4).
3. For the purpose of democratic decentralization and subsidization, future state constitutions should devolve power from state governments to local self-governments. State constitutions should also entrench the functions and powers of local self-governments and create local councils and executive bodies through democratic elections.

## **ADMINISTRATIVE ARRANGEMENTS**

4. States should subsidize their functions and powers to local self-governments (districts, townships, and wards and villages), and thereby increase their performance.
5. Instead functioning under dual administration, township councils should be accountable under local laws and to local people only.
6. At the district level, district local self-government coordinating committees should be formed, coordinating between townships and the Union and state governments (see Figure 4).

## **POLITICAL ARRANGEMENTS**

7. At the township level, councils should be composed of elected persons and township leaders. Under their jurisdiction, ward and village tracts could pursue democratic elections and governance.
8. All local council members should be chosen through elections accessible by all eligible voters, aged 18 years and above.
9. For subsidizing, local level powers should be assigned and recognized through consultation with local populace at the township level.
10. To enhance gender equality and women participation, at least 30% of women in local councils should be prescribed and enforced by law in the electoral process.
11. All tiers of local self-governments should practice separation of power (into legislative, executive, and judiciary branches).

## **FISCAL ARRANGEMENTS**

12. The union and state governments should transfer grants and consolidated funds to local self-governments (districts, townships, and ward and village tracts); at the same time, township local self-governments should pursue their own local taxes.

## **INTER-GOVERNMENTAL ARRANGEMENTS**

13. For the purpose of inter-governmental relations, the GAD should be transformed into a union level coordinating department in order to coordinate between union level departments and local self-governments (see Figure 4).

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