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## Working conditions of subnational government workers in selected South and South-East Asian countries

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# ► Working conditions of subnational government workers in selected South and South-east Asian countries

Authors / Somjita Laha, Mayurakshi Dutta





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## Abstract

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This study investigates the working conditions of subnational government (SNG) employees in select South and Southeast Asian countries, viz. Bangladesh, Nepal, Malaysia, Indonesia, and the Philippines. It is situated in the context of decentralized governance which transfers powers, responsibilities, and resources from central governments to subnational authorities for greater efficiency, accountability, and public service delivery. It also highlights the role of regional and local governments in Sustainable Development Goal (SDG) localization.

The central research question is how decentralization and subsequent governance restructuring impact the quality, quantity, and inclusivity of SNG employment. Methodologically, the report is based on secondary sources in addition to in-depth qualitative interviews of representatives from trade unions, local authorities, SNG associations and international organizations. Secondary sources include data from government reports, national labour surveys, and international organizations and legal and policy documents on SNG operations and employment.

The study shows that across all countries, there is a common challenge of balancing centralized authority with the autonomy and capability of SNGs. Human resource practices are not completely free of political interference in most countries. While recruitment and promotion are formalized and merit-based in theory, enforcement is inconsistent and politically influenced. Dismissal is regulated but can be arbitrary with varying extent of transparency. Among the SNG employees, there are significant disparities between the rights of permanent and contract workers and the latter has swelled in numbers with outsourcing as well as privatization of public services.

Social security provisions for SNG workers are unevenly distributed. Collective bargaining rights and unionization are limited and practically non-existent for contract-based employment. There is a variety of restrictions on freedom of association and right to strike in most of the countries studied. Training and capacity-building programmes are available but primarily for permanent employees and not all workers in the SNG hierarchy. Policies for gender equity in SNG employment are present but not reflected, with fewer women in senior positions and mostly relegated to low-paying and less secure jobs. Overall, the study highlights the predominant trends of informalisation and privatization in SNGs and need for fiscal autonomy along with decent work conditions and inclusivity in public sector employment.

## About the authors

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## Abbreviations

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ADB	Asian Development Bank
ADP	Annual Development Programme, Bangladesh
ADCCN	Association of District Coordination Committees of Nepal
APEKSI	Association of the Indonesia Municipalities, Indonesia
BAPPENAS	National Development Planning Agency, Indonesia
BCS	Bangladesh Civil Service
BKD	Local Government Employee Board, Indonesia
BKN	National Civil Service Agency, Indonesia
CEACR	Committee of Experts on the Application of Conventions and Recommendations, Malaysia
CIU	Confederation of Independent Unions in the Public Sector, Philippines
CNA	Collective Negotiations Agreement
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership, Malaysia
CSA 1959	CSA 1959 Civil Service Act of 1959, Philippines
CSA 1993	CSA 1993 Civil Service Act 1993, Nepal
CSC	CSC Civil Service Commission, Philippines
CUEPACS	CUEPACS Congress of Union of Employees in the Public and Civil Services, Malaysia
DCC	District Coordination Committees, Nepal
DILG	Department of the Interior and Local Government, Philippines
DoBM	Department of Budget and Management, Philippines
DoLE	Department of Labour and Employment, Philippines
DTP	Devolution Transition Plans, Philippines
EA	Employment Act, Malaysia

EO 138	Executive Order No. 138
EDSA	Epifanio de los Santos Avenue
GNI	Gross National Income
HDI	Human Development Indicator
IMF	International Monetary Fund
INTAN	National Institute of Public Administration, Malaysia
IR	Industrial Relations, Malaysia
IRA	Internal Revenue Allotment, Philippines
JICA	Japan International Cooperation Agency
JPKK	JARINGAN PEKERJA KONTRAK KERAJAAN, Malaysia
KASN	State Civil Apparatus Commission, Indonesia
KORPRI	<i>Pegawai Republik Indonesia</i>
LLEU	Local Level Employees Union, Nepal
LCE	Local Chief Executives, Philippines
LDTA	Local Development Training Academy, Bangladesh
LGA	Local Government Academy, Philippines
LGD	Local Government Division, Bangladesh
LGOA	Local Government Operation Act, 2017, Nepal
LRG	Local and Regional Governments
MAB	Municipal Association of Bangladesh
MEF	Malaysia Employers Federation
MenPAN	Ministry of Administrative and Bureaucratic Reform, Indonesia
MoLGD	Ministry of Local Government Development, Malaysia
MoU	Memorandum of Understanding
MSS	Minimum Service Standards
NASC	Nepal Administrative Staff College

NTA	National Tax Allotment, Philippines
NUWHSAS	National Union of Workers in Hospitals Support and Allied Services, Malaysia
NCLG	National Council for Local Government
NEM	New Economic Model
NILG	National Institute of Local Government, Bangladesh
NNRFC	National Natural Resource and Fiscal Commission, Nepal
NPC	National Planning Commission, Nepal
OECD	Organisation for Economic Co-operation and Development
OGP	Open Government Partnership
PAM Jaya	Public Water Utility Company, Indonesia
PBBSKU	West Zone Electricity Union, Bangladesh
PBT	Local Government/Authorities, Malaysia
PDP	Philippine Development Plan
PIPSEA	Philippine Independent Public Sector Employees Association
POR	Public Officers Appointment, Promotion and Termination of Service Regulations 2012, Malaysia
PPP	Public Private Partnerships
PPPK	Non-permanent state employees/ <i>pegawai pemerintah dengan perjanjian kerja</i> , Indonesia
PSI	Public Services International
PSB	Personnel Selection Board, Philippines
PSM	Socialist Party of Malaysia
PSN	Permanent Civil Servants/ <i>pegawai negeri sipil</i> , Indonesia
PSLINK	Public Services Labour Independent Confederation, Philippines
SDG	Sustainable Development Goals
SMWE	State Ministry for Women's Empowerment, Indonesia
SOE	State-Owned Enterprises

SNG	Subnational Government
SOCISO	Social Security Organisation
SRA	Sugar Regulatory Administration
SUGAREAP	Sugar Regulatory Administration Employees Association of the Philippines, Inc.
TESDA	Technical Education and Skills Development Authority, Philippines
UCLG	United Cities and Local Governments
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
VLR	Voluntary Local Review
VNR	Voluntary National Review
VSR	Voluntary Subnational Review
WASA	Water Supply & Sewerage Authority, Bangladesh



## Executive Summary

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This study analyses the organization of subnational government (SNG) and the profiles and working conditions of SNG workers in selected South and South-east Asian countries, viz. Bangladesh, Nepal, Malaysia, Indonesia, and the Philippines. It underlines the role of local and regional governments in public administration, service delivery and achieving Sustainable Development Goals (SDGs) at the local level. Its aim is to examine the impact of decentralization on the quantity and quality of SNG employment by focussing on changing architecture of governance, work contracts and social security, training and career development, and the inclusivity of public employment opportunities.

Decentralized governance has been a pivotal policy reform for enhancing the efficiency and accountability of provincial and municipal services. It has reshaped public sector employment and significantly altered workers' benefits and opportunities. The nature of administrative, fiscal, political decentralization and privatization adopted in a country are manifested in the varying levels of authority, autonomy, accountability, and capacity of SNGs.

The research explores the experience of decentralization and its connections to public service delivery and SDG localization in the above-mentioned countries. In South Asia, Nepal and Bangladesh were selected due to their diverse governance arrangements. Both countries are parliamentary republics, but Bangladesh is a unitary state with a legacy of colonial governance institutions whereas Nepal has recently become a federal country which was never colonized. Both are classified as lower-middle-income by the World Bank and have medium Human Development Index (HDI). In South-east Asia, Indonesia and the Philippines were chosen for their pioneering decentralization reforms. They are unitary states with lower-middle-income status. By contrast, Malaysia is a federal state, the only one in South-east Asia, with an upper-middle-income classification and a very high HDI.

Methodologically, the study is based on an extensive desk review of secondary sources, focusing on institutional frameworks, labour statistics, and workers' rights. Data from government reports, national labour surveys, and international organizations have been consulted. To address the lacunae in secondary data, primary data was collected from 18 key informant interviews with representatives from trade unions, local authorities, SNG associations and international organizations. Ethical protocols were maintained, and respondents were de-identified to ensure confidentiality.

### Nature and effect of decentralization

The report is organized into country specific chapters that investigates the governance system, relevant laws and policies, responsibilities of and key services by SNG institutions, human resource practices, social security, and worker representation.

It is a critical review that aims to inform policy design and improve the operationalization, efficacy, and outreach of public services at the local level. Despite the heterogeneity among the countries in their decentralization approaches and outcomes, a synthesis of the study findings produces key insights and a comparative picture of the countries.

### Fiscal Autonomy of SNGs

Some SNGs have adequate financial capacity and revenue-generation abilities, while others rely heavily on central government transfers. In Indonesia, higher-tier SNGs like provinces have more financial resources, whereas lower-tier SNGs depend on intergovernmental transfers. In the Philippines, local governments at lower tiers derive most of their fiscal reserves from central government transfers. In Malaysia, SNGs have limited tax autonomy, with most tax rates set by the central government.

### Legal protection for SNG workforce

While some nations have strong labour laws, others have seen a dilution of labour rights over time. Malaysia's recent amendments to the Employment Act of 1955 expanded worker protections. In contrast, Indonesia's Omnibus Law of 2020 aimed at boosting investment but restricted workers' benefits. The extent of public service employment regulation varies across these countries studied, revealing mixed efforts to safeguard labour rights in SNGs.

### Informalisation and privatization in SNGs

Public service delivery in recent years have seen increasing privatization and informalisation. The Philippines has seen nominal privatization, but the other nations have witnessed significant involvement of private contractors leading to erosion of labour rights and deteriorating quality of public service.

In Malaysia, workers are hired through multiple layers of subcontracting with minimal rights, and in Bangladesh large contractors dominate government infrastructure development and public service. This has been countered by a trend of re-municipalization where countries have reinstituted public control over essential services. For instance, Jakarta's privatized water utility system was reclaimed as a public good through a court ruling in favour of campaigning residents, trade unions, and activists.

### Labour rights and trade unionism

All five countries recognize the rights of workers to self-organize, with established legal provisions for trade unions. However, collective bargaining is regulated, especially among contract workers. The Philippines has seen state suppression of union activities. Malaysia allows public sector employees to join unions but denies them collective bargaining rights. In Bangladesh, unionization is limited by salary scales, and senior officers are barred from joining unions.

### Social security and gender equity

Indonesia, Bangladesh, and Nepal have limited social protection for SNG employees, focusing primarily on formal government employees and largely excluding temporary or contractual workers. Recent reforms in Indonesia aim to cover all informal workers.

Efforts to address gender equity in SNGs have not been fully realized. Legislative measures and dedicated bodies for gender mainstreaming exist in all five countries. However, implementation challenges persist, and women remain underrepresented in senior positions. Gendered job roles emphasize the need for greater equity in public-sector employment through stronger policies and enforcement.

## ► 1 Background

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### 1.1. Introduction

This study provides a comprehensive review of subnational government (SNG) structures and SNG worker profiles and working conditions in selected South and South-east Asian countries. Local and regional governments are involved in multiple public administrative functions including service delivery to the public. In this sense, the SNG workforce contributes crucially to the implementation of the Sustainable Development Goals (SDGs) at the local level. To increase the overall efficiency and accountability of provincial and municipal services, many countries have practised decentralization as a key policy reform. This has changed the architecture of public sector employment and the reallocation of human and financial resources and produced a shift in governance decision-making. Workers' contracts, benefits and opportunities have also undergone considerable change as a result of decentralization. This process has sometimes unfolded concurrently with the privatization of public services, signalling a reduction in the State's provision of such services. The experience of decentralization and privatization for SNG workers has varied across regions, countries and governance arrangements.

Institutions of governance, government effectiveness and service quality, as well as their accountability, have frequently been studied in the policy literature. However, relatively less attention has been paid to the workers who are crucial to public service operationalization, efficacy and outreach. This study assesses the decent work prospects of these workers by examining the quality and quantity of their employment, the relevant labour regimes, their working conditions, and their rights and access to social security within the broader paradigm of decentralized governance.

### 1.2. Research focus

This research focuses on five specific dimensions in the five selected countries, across a diverse range of income categories, spatial spreads and constitutional structures. The primary research question is how decentralization impacts decent work conditions for the SNG workforce. The five dimensions are:

- I)** Architecture of subnational government, size of public sector employment at SNG levels and services delivered;
- II)** Work contracts, wages and social security provisions, collective rights and workers' representation;
- III)** Training and skills acquisition, career pathways and opportunities presented to workers through salary hikes, upskilling and eventual career development;
- IV)** Extent of decentralization and its impact on the nature and scope of employment generation in the public sector. Privatization initiatives through the outsourcing of work, contracting systems and asset transfer, and their implications for working conditions at the SNG level;
- V)** Opportunities for women and other marginalized groups, in order to understand whether public sector employment has become more inclusive over time; gender equity and non-discrimination at work.

The selected countries represent diverse political systems, governance structures, stages of development and historical legacies. In South Asia, Nepal and Bangladesh were chosen because of the ongoing political and economic turmoil in Afghanistan, Sri Lanka and Pakistan, as well as the scale and diversity of India, all of which would have hindered the collection of relevant data. The chosen countries all have distinctive governance arrangements, national income levels and colonial institutions (or lack thereof). Nepal is the only country in South Asia, apart from Bhutan, which escaped colonial rule, and it has a recently constituted federal government. By contrast, Bangladesh has a long tradition of colonial governance institutions and is currently functioning as a unitary state. Both countries are parliamentary republics and were rated as medium on the UNDP human development index (HDI) for 2021. While both are lower-middle income countries by World Bank classification, Nepal upgraded itself from a lower-income country as recently as 2019.

In the South-east Asia region, Indonesia and the Philippines were selected because they have pioneered decentralized reforms and followed a “big bang” approach. The Philippines began its local governance reforms before the 1990s and Indonesia undertook large-scale public sector reforms in the 2000s. Both are unitary states in the lower-middle income category, with Indonesia achieving a high HDI rating and the Philippines a medium rating. For its part, Malaysia has the distinction of being the only federal country in South-east Asia that can boast a very high HDI rating; it is an upper-middle income country. Unlike the other selected countries, it is a constitutional monarchy with a parliamentary system. The latter three countries were also more accessible in terms of language and the availability of information.

► **Table 1.1: Basic characteristics of selected South and South-east Asian countries**

Region	Country	Income Category	GNI per capita (US\$)	Government Structure	HDI	Population (in 000s)
South Asia	Bangladesh	Lower-middle income	2 820	Parliamentary republic, unitary state	0.661 (Medium)	171 186.37
	Nepal	Lower-middle income	1 340	Parliamentary republic, federal state	0.602 (Medium)	30 547.58
South-east Asia	Indonesia	Lower-middle income	4 580	Presidential republic, unitary state	0.705 (High)	275 501.34
	Malaysia	Upper-middle income	11 780	Constitutional monarchy, parliamentary, federal state	0.803 (Very High)	33 938.22
	Philippines	Lower-middle income	3 950	Parliamentary republic, presidential system, unitary state	0.699 (Medium)	115 559.01

**Note:** (a) GNI per capita from WDI 2022, calculated following the Atlas Method, in current US\$; (b) HDI taken from UNDP 2021; Population (in thousands) taken from WDI 2022.

Source: World Development Indicator (WDI) 2022, UNDP 2021 and others

### 1.3. Methodology

The study is based on an extensive desk review of diverse secondary sources, with the focus on institutional frameworks and labour statistics, workers’ rights, industrial relations systems and policy issues. The authors have consulted government data, reports and policy documents and

scrutinised their legal frameworks governing the SNG labour force. National labour force surveys, including data generated by international organizations such as the World Bank and the ILO, have been examined. The status of ratification of ILO Conventions (appendix 2) and the SDGs applicable to local and regional governance have been identified. Finally, the history and impact of decentralization and privatization have been explored in order to assess their impact on the quality and quantity of public sector employment at the SNG level.

Credible data and information on SNG employees are often sparse in emerging and developing countries, and the resulting lack of transparency and accountability poses a critical challenge to policy design. Accordingly, the study uses secondary and primary qualitative data from available sources to present a comparative picture of the working conditions of SNG workers in the selected countries.

To address these shortcomings in data quality and availability, in-depth interviews were conducted with relevant stakeholders. The trade unions were accessed through Public Services International (PSI) and the United Cities and Local Governments Organization (UCLG) provided the initial contacts to SNG associations (collectives of municipal, provincial, district and other bodies which lobby central government for resources and autonomy). Thereafter, a snowballing method was followed to reach more respondents. While a qualitative semi-structured questionnaire was employed as the guiding framework, the interviews were also designed to be open-ended and flexible. Altogether, 18 online interviews were conducted from 26 July to 1 September 2023, each lasting approximately one hour. The diverse respondents comprised trade union representatives, employers, local government officials from all five countries as well as professionals from international organizations dedicated to public service initiatives. Information was collected on SNG labour regimes and working conditions, the impact of decentralization on employees, the features and challenges specific to decentralized governance, fiscal decentralization and autonomy, and SDG localization practices and progress. Ethical protocols were duly followed, and all respondents have been de-identified to maintain confidentiality, by mentioning only their organizational affiliation. The list of informants along with their affiliation and date of interview is provided in appendix 1.

The researchers interviewed three informants from Bangladesh, three from Nepal, three from Malaysia, two from Indonesia, three from the Philippines and three officials from international organizations. These interviews served as a crucial component of the study by bridging the data gap to the secondary literature.

## 1.4. Structure

The report is organized into chapters that provide a comprehensive examination of decentralization and SNG employment in the selected South and South-east Asian countries. Chapter 2 explores the fundamental principles of decentralization and its connections to public service delivery and SDG localization. It then specifically investigates the experience of decentralization in the South and South-east Asian context. Chapters 3 to 7 are dedicated to in-depth country-specific examinations of Malaysia, the Philippines, Indonesia, Bangladesh and Nepal. Each chapter follows a consistent sequence to provide insight into the relevant country's governance structure, including the configuration of SNG. These chapters also explain the roles and responsibilities within SNG bodies, highlighting the relevant laws, policies and key services. They shed light on the implications of decentralization for the working conditions of SNG employees, and describe the existing human resources (HR) practices, social security provisions, collective rights and types of worker representation. The discussion extends to employee opportunities and career

development, including training and capacity building, gender equity and inclusive employment, and localization in SDGs. The last chapter presents overarching observations and comparisons across the studied countries, bringing together the key findings and insights from the individual chapters. It provides a comprehensive summary illustrating the implications of decentralization for SNG employment conditions and circumstances in South and South-east Asia.

## ► 2 Unpacking decentralization and SDG localization

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This chapter provides the conceptual underpinning of the research by unpacking the phenomenon of decentralization. It discusses the specific features and experiences of decentralization in Asia in general and South Asia and South-east Asia in particular, and links these to the localization of the Sustainable Development Goals (SDG).

### 2.1. Principles and dimensions of decentralization

Over the last 50 years, public reform in the shape of decentralization has been witnessed increasingly across industrialized and developing countries, as well as economies in transition. Most developing countries which inherited a colonial legacy of centralized governance started transitioning towards decentralization in the 1970s as a favoured pathway towards achieving both developmental and democratic goals. Apart from good governance and economic growth, decentralization in theory promotes efficiency, accountability and responsiveness in the public sector (Ebel and Yilmaz 2002). However, experience has shown that devolving power, allocating resources and entrusting functions to lower levels of government can have unintended consequences, including political and economic instability, elite capture, fiscal indiscipline and inferior public services (ADB 2023). Positive outcomes are contingent on whether the design and implementation of the decentralization measures consider the historical, institutional, socio-cultural and economic contexts.

The complex phenomenon of decentralization has been interpreted in different ways. In this study, decentralization is understood as a “transfer of powers, responsibilities and resources from central government to elected authorities at the subnational level (regional governments, municipalities, etc.), having some degree of autonomy” (OECD 2019, 3). A subnational government (SNG) is a “decentralized entity whose governance bodies are elected through universal suffrage, and which has general responsibilities and some autonomy with respect to budget, staff and assets” (OECD and UGLG 2016, 13). Thus, the layers of government below the national or central level are collectively referred to here as SNGs or local and regional governments (LRGs).

The scope of decentralization can “range from simply adjusting workloads within central government organizations, to the divesting of all government responsibilities for performing a set of what were previously considered to be public sector functions” (Rondinelli et al. 1983, 14). It has multiple dimensions, and Rondinelli (1981) has developed a typology of four observable and often overlapping aspects: political, fiscal, market and administrative decentralization. These are often complementary and interdependent and seldom occur in isolation – typically they occur successively or concurrently. The core dimensions of decentralization combine and develop symbiotically. The administrative, fiscal and political capacities of SNGs need to combine in order to achieve effective design and delivery of regional and local governance functions. Fiscal and political governance reforms require administrative decentralization in order to be applied and operationalized. Decentralization can be pursued through different modes or mechanisms which outline the pathways for promoting regional and local development. The basic tenets of and approaches to decentralization are presented below.

**Political decentralization** refers to the full transfer of political power and discretion in decision-making, along with revenue and resources, to (mostly) elected SNG levels (ILO 2001). It is



commonly approached through measures of **devolution** to local public authorities which are autonomous and independent legal entities.

**Fiscal decentralization** denotes the assignment of responsibilities of revenue, borrowing and expenditure from the central government to local and regional governments. Subnational authorities require resources for their functioning and the distribution of these is negotiated between the different levels of government (ILO 2001).

**Administrative decentralization** is the most rudimentary form and can be seen as the “first step in newly decentralizing governments to improve service delivery” (ILO 2001, 4); it is operationalized by the process of **deconcentration** (ILO 2012). According to the report of the ILO Joint Meeting on the Impact of Decentralization and Privatization on Municipal Services, held in Geneva in 2001, deconcentration “transfers authority and responsibility from one level of the central government to another while maintaining the same hierarchical level of accountability from the local units to the central government ministry or agency which has been decentralized” (ILO 2001). This is to be distinguished from **delegation**, which “redistributes authority and responsibility to local units of government or agencies that are not always necessarily branches or local offices of the delegating authority”. In effect, “administrative decentralization transfers operational responsibility from a higher level to a lower level of organization [and] provides budget but does not redistribute full decision-making power” (OECD n.d.). In developing countries, deconcentration has been one of the most commonly adopted forms of decentralization adopted since the 1970s (Rondinelli et al. 1983).

Decentralization embodies the essential characteristics of authority, autonomy, accountability and capacity (USAID 2009). **Authority** is a prerequisite for SNG institutions to deliver on their decentralized functions and can be granted by the national government or acquired through democratic elections. For efficient regional and local governance, **autonomy** is required in order to suitably respond to local needs and conditions. These are aligned with the **accountability** of SNG authorities to the public in a democratic system, as well as to the national governments, for quality service delivery and governance. Crucially, SNG institutions need sufficient **capacity** to enable and equip them to deliver their work. In this context, “capacity” refers to the human capital needed to exercise the authority and autonomy granted to them and to deliver on the expectations of local residents. Table 2.1 elaborates these characteristics across different types of decentralization.

► **Table 2.1: Dimensions and characteristics of decentralization**

	POLITICAL	FISCAL	ADMINISTRATIVE
Authority	Subnational officials are authorized to govern through elections instead of via appointment by national government.	Subnational officials have the authority to levy taxes and take spending decisions.	Subnational officials have the authority to plan and manage the provision of an expanded range of services.
Autonomy	Subnational officials gain autonomy from national governments because they hold distinct electoral mandates, and certain autonomies have been defined by law or institutionalized in long accepted practice.	Subnational officials can act independently (subject to national legislation and regulation) of national government to the degree that they can take decisions relating to revenues and expenditure.	Subnational officials are able to hire and fire subnational government employees (subject to civil-service rules), giving officials some degree of autonomy from national government.



	POLITICAL	FISCAL	ADMINISTRATIVE
Accountability	Subnational officials are accountable to local constituents via elections and civil society forums. However, they remain accountable to national government through national legislation and standards.	Subnational officials are held accountable by subnational voters and civil society groups for the greater fiscal resources under their control.	Subnational officials hold subnational bureaucrats accountable for the quality of service provision.
Capacity	Subnational officials face electoral incentives to build subnational governments' capacity to provide valued services.	Subnational officials understand the likely economic consequences of tax and expenditure decisions.	Subnational officials are able to perform their assigned roles because they occupy top structures with adequate institutional capacity.

Source: USAID, 2009.

The fundamental linkages between the three core dimensions – political, fiscal and administrative – underscore their significance in decentralized institution building. This has been summarized as follows:

►► *[T]hey need one another, as the division of power across different levels of government and society needs to correspond with fiscal responsibilities; administrative systems and procedures need to be in line with the execution of political power and fiscal tasks; and fiscal arrangements need to prevent a clashing of political and administrative powers (EuropeAid 2007, xi).*

While deconcentration is the very first step towards decentralization, at the other extreme is market decentralization, or divestment, which entails a “complete and final transfer of a package of government services to private organizations” (ILO 2012, 4). The latter is similar to **privatization**, which is a transfer or handover of public functions earlier performed by State agencies to private, voluntary or non-governmental institutions. It can be operationalized by “contracting out partial service provision or administration functions” (ILO 2001, 4) with a diminished role for the State under liberalization and deregulation.

In the global political landscape, the governance of nation states can be broadly classified as unitary or federal. Unitary States have a centralized government which can decentralize power among its subordinate SNGs, all of which come under a single Constitution. In the federal arrangement, constitutional power and political authority are divided between the overarching national government and federated states (provinces, regions, etc.). The latter form a union but maintain autonomy and exercise authority within their territorial jurisdiction.

## 2.2. Linkage to SDG localization

Decentralization brings a government spatially and institutionally closer to people and communities, creating an enabling environment for delivering the SDGs under Agenda 2030. SDG localization also rests on the notion that SNG participation and involvement are pertinent in achieving many national SDG targets (ADB 2023, 3). Development is ultimately local, making the SNGs crucial actors in following a bottom-up approach to SDG achievement. The Asia-Pacific region is particularly under-performing in the pursuit of SDGs, according to the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP 2021).

There is growing realization of the central role that SNGs can play in the pursuit of SDGs as “policymakers and catalysts of change, ...[which] are best placed to link global goals with the needs and potentials of local communities” (ADB 2023, 12). Though SNGs play a role in all the SDGs, the implementation of SDGs is the concurrent responsibility of multiple layers of government. Adapted from UCLG (2015), the following list shows the SDGs that are particularly suited to major contributions from SNGs.

- SDG 1: **No Poverty** - End Poverty in all its forms everywhere;
- SDG 2: **Zero Hunger** - End hunger, achieve food security and improved nutrition, and promote sustainable agriculture;
- SDG 3: **Good Health and Wellbeing** - Ensure healthy lives and promote wellbeing for all, at all ages;
- SDG 4: **Quality Education** - Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all;
- SDG 5: **Gender Equality** - Achieve gender equality and empower all women and girls;
- SDG 6: **Clean Water and Sanitation** - Ensure availability and sustainable management of water and sanitation for all;
- SDG 8: **Decent Work and Economic Growth** - Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all;
- SDG 11: **Sustainable Cities and Communities** - Make cities and human settlements inclusive, safe, resilient and sustainable;
- SDG 13: **Climate Action** - Take urgent action to combat climate change and its impact;
- SDG 15: **Life on Land** - Protect, restore, and promote sustainable use of terrestrial ecosystems, manage forests, combat desertification and biodiversity loss, and halt and reverse land degradation;
- SDG 16: **Peace, Justice and Strong Institutions** - Promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable, and inclusive institutions.

### 2.3. Decentralization experience in South and South-east Asia

The global landscape of decentralization varies across regions and, in Asian countries, reflects the strong influence of a colonial legacy. The heterogeneous decentralized policies in the Global South have also been shaped by the international development and aid agencies and international financial institutions, such as the World Bank, the International Monetary Fund (IMF), the Organisation for Economic Co-operation and Development (OECD) and the Asian Development Bank (ADB), which have recommended and supported specific forms of governance institutions (Ramesh 2013). A disaggregated view reveals that Asian countries are among the most decentralized, though their primary thrust has been towards administrative decentralization, with political and fiscal decentralization in planning and management relatively neglected (OECD 2022).

Decentralization has been accorded special priority in many of the emerging democracies of Asia (Heo 2018). It is not a linear and continuous process and has been pursued, discarded and even reversed, according to countries' political regimes and democratic values. Since the 1980s, Asian countries have experimented with decentralization with varying degrees of success.

This study focuses on three countries of South-east Asia, namely Indonesia, Malaysia and the Philippines, and two countries in South Asia: Bangladesh and Nepal. The gaps in evidence and knowledge relating to the functioning and employment status of SNG institutions are especially prominent in Asia, Africa and Latin America, with little reliable and current data available in the public domain. In South-east Asia, authoritarian regimes persisted till the mid-1980s, and democratization gathered momentum only in the 1990s, followed by the transfer of power to regional governments (Schakel et al. 2014; Shair-Rosenfield et al. 2014). Many unitary states introduced governance reforms, with Indonesia and the Philippines adopting a “big bang” approach. Regarded as fast starters in the region, they swiftly “introduced major structural, institutional, and fiscal reforms [which] involved the devolution of political, fiscal, and administrative responsibilities to more autonomous sub-provincial entities” (Bhatti and MacDonald 2020, 5). Decentralizing policies have sometimes taken on centralizing tendencies, as in Bangladesh, Malaysia and Sri Lanka (OECD 2022). Decentralization policies have not always delivered improved public services, especially in some South Asian countries where the process was only partially adopted. The World Bank (2019, 37) has observed that “decentralization has not gone far enough [in that] key decisions are still taken by higher levels of government”. This is pertinent, given the rapid urbanization in Asia (compared with other parts of the world) that has created huge demand for urban public service delivery.

## 2.4. Employment in subnational government bodies

Among the outcomes of decentralization is the emergence of SNGs and institutions as major public sector employers, often directly and sometimes on behalf of the central/national government (OECD and UCLG 2016). SNGs are organized into one-, two- or three-tier structures, with usually a hierarchical relationship between them (Allain-Dupre 2020). The one-tier system of subnational governance generally comprises local authorities/councils (commonly referred to as municipalities) and may also feature autonomous regions (OECD and UCLG 2016). The two-tier subnational system includes a regional level (i.e. states, regions, and provinces) and a municipal level, whereas the three-tier system includes another intermediate level such as districts or sub-districts or a lower level such as villages or wards.

The employment contracts of public service workers offer disparate benefits and opportunities across these various economies and geographies. In some instances, increasing privatization has hindered access by low-income households to vital public services and substantially altered employment relationships, often eroding the working conditions, social security, bargaining power and labour rights of regional and local government workers (ILO 2001). Re-municipalization<sup>1</sup> has emerged as a viable and legitimate policy option, especially where the privatization of public goods has undermined service delivery. For example, in 2019, the State of Selangor (Malaysia) re-municipalized its water supply service “to promote social justice and transparency in service delivery” (Cibrario 2022).

Furthermore, the level of inclusivity practised by decentralized and local governments as employers has come under scrutiny. The UNDP (2010, 1) has highlighted the need for “women’s participation in decentralized governance as decision-makers, implementers and managers”. Even when employed, women and minority groups are relegated to working on “soft” issues such as population programmes, health care and nutrition. By contrast, men occupy important positions and decide on “hard” issues such as financial planning, budget allocation, local administration and

<sup>1</sup> That is, the return of public service provision to municipal control.

infrastructure development (ADB 2014). Decentralization processes are thus not always gender neutral (ADB 2012). Bangladesh, India and Pakistan, despite having had women as leaders of State, have offered women only limited roles and voice in the public sector as well as the public sphere overall (Nazneen 2018). Women can contribute to local governance, both by representation through affirmative action and by the elimination of gender gaps in regulatory policies and administrative practices (ADB 2012, Nazneen 2018).

## ► 3 Malaysia

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### 3.1. Introduction

Formerly known as Malaya, Malaysia underwent swift and profound political transformations after breaking free from British colonial rule in 1957. In 1963, Malaysia emerged as a new entity forged from the merger of Sabah, Sarawak and also Singapore, which then separated from Malaysia in 1965.<sup>2</sup> In the 2018 national elections, the victory of the Pakatan Harapan coalition marked the end of six decades of authoritarian rule, bringing about a significant change in the political landscape. Malaysia is the only nation in South-east Asia with a federal government and is an upper-middle-income country with a Gross National Income (GNI) of US\$ 11,780<sup>3</sup>. It boasts a Human Development Index (HDI) of 0.803, a level of development categorized as “very high” (UNDP 2022). Islam is the official religion in this country of 34 million people (World Development Indicator 2022), where the indigenous people or *Bumiputera* form the majority.

### 3.2. Governance structure

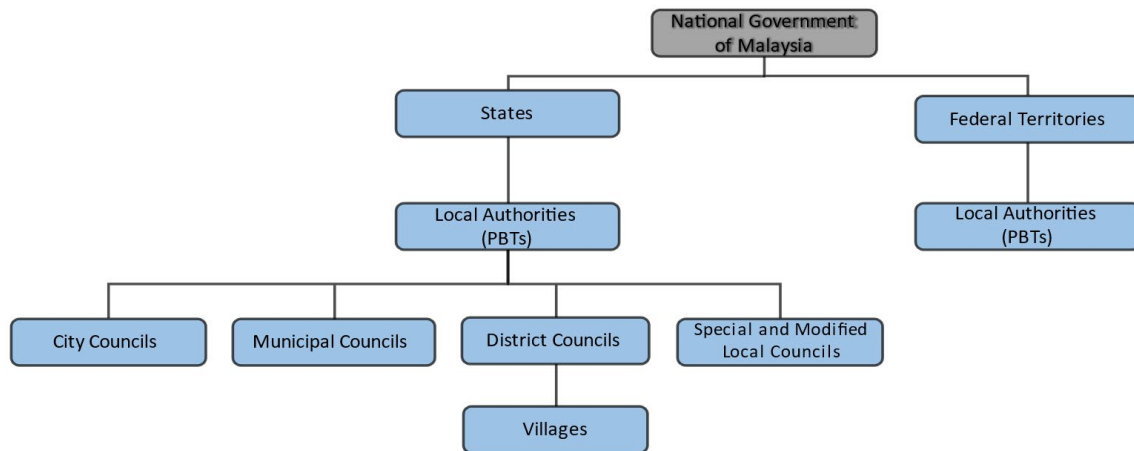
Governance in Malaysia operates on three levels: federal, state and local. The country is both a parliamentary democracy and a constitutional monarchy. The King, or *Yang di-Pertuan Agong*, is the Supreme Head of State, with a symbolic role and ceremonial duties but also has an important role in the nation's operational activities, acting on the advice of the federal government.

Malaysia consists of 13 states and 3 federal territories, namely Kuala Lumpur, Putrajaya and Labuan (Malaysia, MoFA 2009). Geographically the country is divided into two broad regions: Peninsular or West Malaysia and East Malaysia. The Peninsular Region consists of 11 states and the two federal territories of Kuala Lumpur and Putrajaya. The East Malaysia Region consists of two states (Sabah and Sarawak) and one federal territory (Labuan). The federal territories fall under the direct administration of the federal government and do not have separate legislatures or heads of state. By contrast, the states have their own constitutions and a unicameral state legislative chamber headed by a chief minister.

Nine of the 13 states are constitutional monarchies, with the hereditary ruler as the titular head. State executive authority rests with the *Menteri Besar* (colloquially called MB), who is appointed from among members of the political party with the majority in the state legislative council (Bahardin et al. 2019). The other four states are headed by chief ministers (*Ketua Menteri*, colloquially called KM) or a premier (for the State of Sarawak) and have governors appointed as ceremonial heads by the King. The hereditary rulers of the nine states, generally titled *Sultans*, and the governors of the remaining four states serve as constitutional and ceremonial heads, while the MB, chief ministers and premier hold executive authority as the politically responsible heads of government. The King is selected for a rotational five-year term from among the nine *Sultans* of the peninsular Malaysian states and is the leader of the Islamic faith in Malaysia.

<sup>2</sup> Malaysia, Department of Information, “[Summary of Malaysia's History](#)”

<sup>3</sup> World Bank, “[World Bank Country and Lending Groups](#)”, accessed October 2023

► **Figure 3.1: Governance Structure of Malaysia**

The local governments or authorities (PBT) are the lowest level of SNGs and consist of city councils, municipal councils, district councils and special or modified local councils. District councils are rural local authorities with a total population of less than 150,000 and an annual revenue of less than RM20 million. A municipal council is an urban local authority with a population between 150,000 and 500,000 and an annual revenue of more than RM20 million. A city council (or city hall) governs large urban centres (usually state administrative centres or capitals), which are upgraded from municipal council status on reaching an annual revenue of RM100 million and a population of 500,000. Overall, there are 149 local authorities, including Kuala Lumpur City Hall, consisting of 12 city councils, 38 municipal councils and 99 district councils (Malaysia, MoLGD n.d., 2). The village council constitutes the smallest unit of government and is headed by a village leader. Normally, the state government appoints everyone including the head of the village council, who is a civil servant, whereas village councillors are members of political parties.<sup>4</sup> The village councils appoint their village heads, who receive a small allowance.

While local authorities are under the purview of the respective state governments, the Federal [Ministry of Housing and Local Government](#) is responsible for formulating, executing and monitoring all laws pertaining to local government, and coordinates the work to standardize policy and channel funds from federal government. The local authorities in the Federal Territories are subject to the purview of the Ministry of Federal Territories and Urban Wellbeing.

The Constitution<sup>5</sup> provides for five-yearly parliamentary and state legislature elections, but no local government elections have been held since 1965 (CLGF 2018). The Government prefers to appoint PBT local councillors to reduce election expenditure (Lim 2021). However, this has been perceived as a convenient way “to appoint the required number of councillors and preclude the possibility of [appointing] elected representatives from the opposition parties”<sup>6</sup>. In 2022, the Minister for Local Government Development stated that there were no plans to resume local government elections (Soong 2022).

<sup>4</sup> Online interview with an ex-councillor, 28 August 2023

<sup>5</sup> Malaysia, Commissioner of Law Revision, “[Federal Constitution](#)”, November 2010

<sup>6</sup> Online interview with an ex-councillor, 28 August 2023

### 3.3. Roles and responsibilities of SNGs

#### 3.3.1. The regulatory framework

The 1957 Federal Constitution of Malaysia has been amended many times, most recently in 2022 to give Sabah and Sarawak equal status to other states. The [Local Government Act of 1976](#), commonly known as Act 171,<sup>7</sup> is the primary legislation which determines the jurisdiction of local governments. However, local governance regulations differ between the Malaysian peninsula and the states of Sabah and Sarawak. In the Malaysian peninsula, local government responsibilities and financial provision are established by the 1976 Act. Conversely, it is the [Local Authorities Ordinance 1996](#) and the [Local Government Ordinance 1961](#), respectively, that set out the roles of local governments in the states of Sarawak and Sabah. The Constitution also sets out the conditions for the formation of the National Council for Local Government, intended to coordinate policies and laws between the three tiers of government (CLFG 2018).

The Ministry of Local Government Development (MoLGD) provides local authorities with the required support to improve management and develop a culture of good governance (Malaysia, MoLGD n.d., 2). Additionally, these authorities are responsible for shaping local government policies and overseeing the implementation of various functions, as indicated in table 3.1. (CLFG 2018). Other central ministries and agencies associated with state and local government are the Ministry of Public Works, the Ministry of Finance and the Implementation and Coordination Unit.

#### 3.3.2. Interrelationship between government spheres and key services

The Federal Constitution distributes responsibilities and legislative authority among federal and state governments in either a “State List” or a “Concurrent List”.<sup>8</sup> Specific provisions in the State List, however, do not apply to Kuala Lumpur and Labuan, while a few supplementary matters are assigned to the states of Sabah and Sarawak. The Concurrent List in the Constitution enumerates the subjects to be held jointly by the federal government and the states. The division of services between the national and state governments under the State List is outlined in table 3.1.

► **Table 3.1: Main responsibilities of SNG tiers in Malaysia**

Sectors & Sub-Sectors	State Level	Municipal Level
1. General Public Services (Administration)		Business licensing; Cemeteries
2. Public order & safety		Local police
3. Economic Affairs/transport	Transport (shared); Roads(shared); Management of slaughterhouses; Agriculture & fisheries activities; Local economic development; Tourism; Trade & industry; Electricity provision; Ports & harbours (only Sabah & Sarawak)	Transport (shared); Roads (shared); Enhancement of local economic activity; Infrastructure development; Markets & fairs; Gas services.

<sup>7</sup> Malaysia, “[Local Government Act of 1976](#)” March 1976

<sup>8</sup> See Article 74 of the “[Federal Constitution](#)”, November 2010

Sectors & Sub-Sectors	State Level	Municipal Level
4. Environmental protection	Forestry; Fire safety (shared); Rehabilitation of mining and eroded land; Protection of wildlife	Fire safety (shared); waste collection & disposal
5. Housing & Community amenities	Housing (shared); Town & regional planning (except in the federal capital Kuala Lumpur); Land use laws; Water supply (only in Sabah & Sarawak)	Housing (shared); Town & regional planning
6. Health	Public health & sanitation (except in the state's capital); Disease prevention	Preventive public health measures (shared)
7. Culture & recreation	Sports & leisure(shared); Museums & libraries; Heritage preservation; Religious facilities (shared); Parks & open spaces(shared)	Sports & leisure(shared); Theatres; Religious facilities (shared); Parks & open spaces (shared)
8. Social welfare	Protection of women, children and youth	

Source: OECD and UCLG 2022

The Federal Government constitutionally holds considerable authority over the state governments in terms of legislative jurisdiction and revenue assignment (Loh 2010; Nooi 2008; UCLG and OECD 2016). There is also a power imbalance between the two levels of administration, and the Federal Government can override and amend state-level policies “in the national interest” or make laws uniform among states (Hutchinson 2014). In the event of legal inconsistencies, federal law prevails over state law (Schakel 2021a). By law, the states of Sabah and Sarawak are stronger than the other states, and their special status entitles them to regulate issues of land, agriculture, local governance, immigration, water and electricity. They are considered to be separate entities for the purposes of supervision of international labour standards. The law has also assigned certain powers and responsibilities to the respective states. According to the 1976 Act, local governments have the following powers:

► **Table 3.2: Powers and responsibilities of local government in Malaysia**

Sector	Provisions
Financial provisions	Raise loans, issue mortgages, establish sinking, renewal and insurance funds.
Public places	Control and care for all places within the local authority area; create new public places and enlarge existing ones; temporarily or permanently close public places; construct new buildings; permanently close or divert any public street; determine names.
Water bodies	Indict persons for depositing any filth or trade refuse such as sewage in or on the banks of any stream, channel, public drain or other watercourse within the local authority area.
Food, markets, sanitation	Provide sanitary services, safeguard and promote public health, prevent disease outbreaks, grant business licences, regulate markets, cold storage and meat inspection, establish bye-laws, etc.
Burial places, crematoria and exhumation	Provide suitable places and licences, penalize unlawful activities, close burial grounds and crematoria, establish bye-laws.



Sector	Provisions
Further powers	Construct, maintain and supervise recreational areas, plant/remove/trim trees, maintain ambulance services and pharmacies, pay any salaries, allowances and gratuities, etc.

Source: The Local Government Act, 1976

Beyond the provisions of the 1976 Act, local authorities also have the power to set up resident representative councils under Local Agenda 21 – a partnership programme between local authorities, NGOs and communities – in order to boost community participation in local decision-making (CLGF 2018). Collaboratively, they identify local issues of concern and devise and implement plans to address them.

### 3.3.3. Fiscal autonomy and resource allocation

In 2020, 2.4 per cent of GDP and 12.4 per cent of total government expenditure was accounted for by the SNGs in Malaysia, out of which the share of the states was 70 per cent, with the remainder going to local government (OECD and UCLG 2022). This is a particularly low SNG share for a federal country. In most instances, it is the unitary countries that tend to have such limited budgets at the SNG level.<sup>9</sup>

The SNGs in Malaysia primarily generate their own revenues and have minimal dependency on grants from the national government (OECD and UCLG 2022). These revenues originate from three main sources: locally generated income, transfers or loans. Notably, the central authorities set the tax bases, leaving the SNGs with limited control over tax rates. Most taxes are collected under federal law and the federal government receives most tax revenues. SNGs largely rely on various forms of land and property taxes and the bulk of their revenue is raised from income tax, licence fees and fines.

In terms of financial assistance, local governments in Malaysia receive allocations from the federal and state governments. There are five types of grants accessible to local governments: annual equalization grants, launching grants, development project grants, road maintenance grants and balancing grants. Among these, the annual equalization and development project grants are channelled from the federal government to local governments through the state government (OECD and UCLG 2022).

## 3.4. Employment in SNGs and labour practices

### 3.4.1. Labour regulations

The colonial-era [Employment Act \(EA\) of 1955](#) is the federal law that regulates employment and working conditions in West Malaysia. The recent 2022 amendment called [Act A1651](#), mostly based on the ILO Conventions, took effect in January 2023 (Baysir 2022; Malay Mail 2022). Previously, the scope of EA 1955 had been narrow, covering only employees who (a) earned less than RM 2000 (approx. US\$ 500) per month; (b) regardless of income, were employed as manual labourers or supervisors of manual labourers; or (c) fell within certain categories such as those working on maritime vessels, domestic servants, and others (Barry 2022). Now, the EA applies to all

<sup>9</sup> Online interview with UCLG, 14 August 2023

employees who have signed a contract of service, irrespective of their occupation, trade or industry (Nicholas 2022) and covers various labour rights such as wage protection, general working time standard, statutory right to rest day, public holidays, annual leave and sick leave, and paid maternity and paternity leave. For Sabah and Sarawak, the Labour Ordinance (Sabah) Chapter 67 and Labour Ordinance (Sarawak) Chapter 76 are applicable (Sunil 2023).

The amendments to EA 1955 were widely praised, as changes of such magnitude had not occurred in the past 40 years and came as a surprise to many<sup>10</sup>. Part of the reasoning behind them was that the Malaysian Government wanted to enter the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) trade agreement and needed to showcase higher labour standards in line with the other 11 member countries.<sup>11</sup>

In addition to Act A1651, the Public Officers (Appointment, Promotion and Termination of Service) Regulations 2012 (POR 2012) under the Public Service Department specifies the rules for the recruitment, promotion and dismissal of public service officials. Additionally, Article 132 of the Constitution<sup>12</sup> includes among public services the railways, joint public services (services common to the Federation and one or more of the states, or to two or more states) and public services of each state. The Local Government Act, 1976, grants local authorities the power to hire their own workforce, enforce disciplinary measures and handle various personnel tasks including recruitment, training, promotion, and termination of employment.

The central agency responsible for determining HR management policies and practices is the Public Service Department (Saman and Sanget 2022). Additionally, the Ministry of Human Resources oversees skills development, employment, occupational safety and health, labour unions, corporate communication, labour-market information and analysis and social security for the whole country.

### 3.4.2. Extent and types of public sector employment

There is a dearth of government data on subnational public sector employment. According to the Department of Statistics, 5.8 per cent of the employed population worked in administrative and support service activities and 5.2 per cent in public administration and defence in 2020. In the 1970s, Malaysia pursued a policy of public sector expansion with the focus on state-owned enterprises (SOE), but rapidly shifted towards liberalization under Prime Minister Mahathir, who embraced the privatization and corporatization of SOEs (Jomo 2018). With the Asian financial crises of 1997-1998 and a regime change, some re-nationalization efforts were made to reorganize SOEs into government-linked companies. However, under the New Economic Model of 2011-2020, renewed emphasis was placed on privatization.

The impact of such privatization policies on the labour and employment situation in SNGs has not been favourable (Lai et al. 2018).<sup>13</sup> Multiple kinds of contracting arrangements have emerged in both public and private sectors, involving a steady erosion of labour rights, including job security.<sup>14</sup> As employers, all three tiers of government hire workers on fixed term contracts of one year, renewing them as required. Some sectors, such as health, education and security, have been handed over completely to private actors and most staff in government hospitals and schools

<sup>10</sup> Online interview with a trade union member, 28 August 2023

<sup>11</sup> Online interview with a trade union member, 28 August 2023

<sup>12</sup> Malaysia, [Constitution of Malaysia 1957](#), August 1957

<sup>13</sup> Online interviews with trade union members, 28 August and 30 August 2023

<sup>14</sup> Online interviews with an ex-councillor and trade union leader, 28 August 2023

are recruited by contractors. In such cases, the contractors are employers who are awarded government tenders, renewed every three years.<sup>15</sup> When the contractor changes, workers are left in a precarious situation and might only be reemployed on the basis of feedback from the last contractor. If the new contractor hears that a particular employee has raised demands and grievances, the chances of being rehired are minimal. These workers earn only the minimum wage, without any yearly increment, housing or transportation allowance, holidays and paid leave, or insurance and pension scheme, all of which they received when directly employed by the government.

In the health sector, even medical doctors are hired on contract. The Ministry of Health awards a 20-year concession to a large private company to run government hospitals. The company holding the concession, in turn, outsources to multiple subcontractors for cleaning, laundry and maintenance services.<sup>16</sup> The National Union of Workers in Hospitals Support and Allied Services (NUWHSAS) says that “the contract system is haunting Malaysia”.<sup>17</sup> These subcontractors are changed every three years, but the original concessionaire continues for the entire 20 years. Therefore, a cleaner could work in a hospital for 20 years and suddenly become a new worker (if rehired) when the subcontractor changes and lose the government benefits and schemes that they have accrued.<sup>18</sup> The Royal Contract Workers Network (JPKK), a platform for contract cleaners and security guards working in public hospitals and schools, has been raising these challenges on behalf of workers.

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<sup>15</sup> Online interviews with a trade union member, 28 August 2023

<sup>16</sup> Online interviews with a trade union member, 28 August 2023

<sup>17</sup> Online interview with a trade union member, 30 August 2023

<sup>18</sup> Online interview with an ex-councillor, 28 August 2023

► **Table 3.3: Sample consequences of the contracting system in selected sectors of public service**

<p><b>Health:</b> The Seventh Malaysia Plan from 1996 to 2000 introduced privatization of health care services through outsourcing. Around 2,600 government workers, primarily gardeners and painters, were transferred to concession holders without any option to remain as government employees. In 2020, the outsourcing company paid the hospital cleaners only the minimum wage of RM1,100 in rural areas and RM1,200 in urban areas. As government employees, their pay would range between RM1,216 and RM2,983 monthly as operations assistants. The outsourced cleaners received much worse benefits than government health care workers despite working alongside them in the same public hospital. Over time, their benefits were eroded further.</p>	<p><b>School:</b> In 1997, outsourcing of school cleaning services was implemented nationwide. Unlike in the health sector, the Government did not transfer public sector workers to the private sector. Instead, they used a 'phase-out' approach to gradually reduce the number of government-employed cleaners and gardeners. With outsourcing, the Government stopped recruiting new school cleaners and gardeners. It continued employing in-service school cleaners and gardeners until their retirement, while simultaneously outsourcing cleaning services. Currently, workers are periodically re-employed under different cleaning contractors but continue to serve the same school. To avoid annual salary increments, the same workers are rehired under different contractors and, since 2013, their salary has been tied solely to the Minimum Wages Act, 2013.</p>	<p><b>Security:</b> The existing contracted security guards are rehired by the new contractors for the upcoming government contract period. In Hulu Langat, there is a guard who has worked at the same school for almost 18 years under different contractors. The school security guards work typically 12 hours per day, which includes 4 hours of compulsory overtime. They do not have specified meal breaks and have received only minimum wages since 2013. In 2020, security guards earned the minimum wage of RM1,100 in rural areas and RM1,200 in urban areas; this does not allow for overtime pay.</p>
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Source: JPKK (2020)

### 3.4.3. Human Resources (HR) practices

#### 3.4.3.1. Recruitment, promotion, dismissal and wages

Under the 1957 Constitution, the qualifications for appointment and the conditions of service relating to the public service of any state are regulated by state law, or by the ruler of that state as permitted by state legislation. The public service salary scheme guides recruitment to the public services (POR 2012). The head of the service must inform the Public Services Commission of the need for recruitment and the vacancy must be advertised in at least one daily Malay language newspaper. After selection of the candidate, the Commission makes an offer of appointment either directly or through the head of the service or department. The Commission may also appoint an officer on contract, but the procedure for such appointments is determined by the Director General of Public Service. Recruitment to public service requires Malaysian nationality (POR 2012).

An official in the public services can be dismissed by the King on grounds of concealing health-related information, making false declarations, falsifying documents related to his/her appointment or failure to comply with regulations. The authority to terminate an official's service lies with the appointing authority only and the official is either served a month's notice or paid one month's salary.

The 1976 Act states that the local authority must submit a list of vacancies with the salaries and allowances to the state government for its approval. The Commissioner of a federal territory and the mayor/president of a local authority (or their representative, such as a councillor or a secretary) is authorized to make appointments according to the approved list. An employee can be demoted or dismissed for misconduct or for breach of duty following sanction by the state

authority. Subject to the approval of the state authority, a local authority is permitted to revise the rules on qualifications, tenure of office, duties, and terms and conditions of service from time to time. This clause is applicable and enforceable regardless of EA 1955. The appointing authority determines the starting salary for first-time officials on the basis of the public service salary scheme and the appointee's experience. Any salary increment is based on the annual work performance of the employee, or any other conditions determined by the King or the ruler.

In 2012, Malaysia adopted a statutory minimum wage of RM 900 per month, applicable to all workers except domestic workers (Gooch 2012). One rate is applicable to Peninsular Malaysia and another to Sabah, Sarawak and the Federal Territory of Labuan, and the minimum wage is revised every two years. Workers are divided into three skills categories. The current monthly minimum wage is RM 1,500 (approx. US\$ 348) for low-skilled workers such as cleaners, helpers, and labourers; this is effectively the wage floor (Zhang and Yean 2022).

The Socialist Party of Malaysia (PSM) has been at the forefront of this minimum wage enforcement. One of the co-founders (also an ex-councillor) pointed out the inadequacy of the minimum wage by citing the Central Bank of Malaysia (BNM) concept of a living wage<sup>19</sup>. In 2016, the BNM provisionally estimated the living wage in Kuala Lumpur for a single adult to be RM2,700 per month (Chong and Khong 2018). Ultimately, the decision rests with the Cabinet, and when the Minimum Wage Council proposed this amount to the Prime Minister it was rejected under the influence of the powerful Malaysian Employers Federation (MEF)<sup>20</sup>. The cleaners and security guards on contract in schools and hospitals receive the minimum wage, which only rises in line with the country as a whole – there is no annual wage increment in contractual work.<sup>21</sup> Wage increments are also at the discretion of the employer, and minimum wage violations are not uncommon in Malaysia (Free Malaysia Today 2023).

Promotions, granted by a promotional board, are based on merit: an officer's performance, qualifications, experience and personal characteristics, and contributions to society (Public Services Department 2012). A vacancy for a promotional post can be announced either through a circular issued by the head of the relevant department or by requesting the appropriate promotion board to fill the vacancy from a list of eligible candidates.

### 3.4.3.2. Social security provisions

Malaysia has not ratified the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102). Pensionable employees in the public sector are entitled to receive retirement benefits, survivors' benefits and disability pension (Chee 1997). One of the first schemes rolled out in 1951 for employees was the colonial-era Employees Provident Fund, to which both workers and employers contribute, accruing dividends over time. The collected funds are disbursed in specific circumstances (retirement or death), as long as retirement takes place after the statutory age (Zin 2012).

A non-contributory pension scheme called the Civil Service Pension was also introduced in the colonial period through the Government Pension Ordinance of 1951, subsequently modified by the Pensions Act of 1980. This extends old-age protection to all individuals working in the public sector, including government officials, employees of statutory bodies and police personnel (Zin 2012). It covers employment-related injuries, disability, superannuation and gratuity payments, and offers a "Golden Handshake" of compensation for accumulated annual leave (capped at a

<sup>19</sup> Online interview with an ex-councillor, 28 August 2023

<sup>20</sup> Online interview with an ex-councillor, 28 August 2023

<sup>21</sup> Online interview with ex-councillor, 28 August 2023; Online interview with a trade union Member, 30 August 2023

maximum of four months) upon retirement (Zin 2012). In the event of a worker's demise during service or after retirement, dependants are also eligible to receive pension benefits (Zin 2012).

The Government established a statutory body called the Social Security Organization (SOCSO) in 1971 under the Ministry of Human Resources, to manage the [Employees' Social Security Act 1969](#) (My Government n.d., 2). The latter regulates an employment injury insurance scheme and invalidity pension scheme which provide income security to employees and their dependants when injury or death occurs during employment. They cover federal and state government permanent employees, among other groups of workers (ASEAN n.d.).

The Employment Act of 1955 laid down provisions for sickness and maternity protection. The EA Amendment of 2022 grants employees 60 days of sick leave if they are hospitalized, in addition to their normal sick leave allocation. Previously, overall sick leave and hospital stays had been capped at 60 days. Maternity leave entitlements also increased from 60 days to 98 days, in line with the ILO Maternity Protection Convention, 2000 (No. 183). Additionally, paid paternity leave of seven consecutive days was introduced under the Amendment.

While the above-mentioned schemes are established at the federal level, the 1976 Act authorizes local authorities to regulate maternity benefits, rest days, hours of work, overtime, holidays, leave, and retrenchment and retirement benefits for their officials and employees, subject to the approval of the state authority. This clause is applicable and enforceable regardless of the provisions of EA 1955. Local governments also have the power to establish and contribute to a superannuation or provident fund and to pay to their employees allowances for death, superannuation, resignation, retirement or discharge. All these social security schemes only cover permanent government employees and not contractual ones, even those directly hired by the Government. These enjoy decent earnings but have no entitlement to long-term protection such as a pension scheme.<sup>22</sup> In the event of a budget cut or reallocation, these workers are the first targets for lay-off.

### 3.4.3.3. Collective rights and workers' representation

Malaysia has ratified the ILO's Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The EA 1955 specifically guarantees that employment contracts must not restrict the right of any employee to join a registered trade union, participate in union activities and associate with others to establish a trade union. The EA Amendment 2022 does not introduce any changes to the clauses on trade union formation. The overarching legislation that protects and promotes the rights of workers to unionize are the [Trade Unions Act 1959](#) and the [Industrial Relations Act 1967](#). The national trade union of civil servants in Malaysia, the Congress of Union of Employees in the Public and Civil Services (CUEPACS), claims to have 800,000 members.

In 2022, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) noted the following in relation to Malaysia:

►► *"...the reference in section 26(2) [of the Industrial Relations Act] to "any Government service" and "the service of any statutory authority", as well as the reference to a number of Government services in point 8 of the First Schedule, may go beyond what can be considered as public servants engaged in the administration of the State. Furthermore, point 10 of the First Schedule, qualifies as essential services businesses and industries*

<sup>22</sup> Online interview with a trade union member, 28 August 2023



*connected with the defence and security of the country, while they should be afforded the full guarantees of the Convention.*<sup>23</sup>

The CEACR stated at the time that the government's assertion that the law had been amended was not reflected in the text of the law.

During a discussion in the Committee on the Application of Standards (CAS) at the International Labour Conference in 2021, the Government asserted:

►► *"While the approval of any improvements is at the Government's discretion, Act 177 provides a dispute settlement mechanism, including the referral of a trade dispute of any governmental or statutory authority service to the Industrial Court, and that public employees may launch industrial actions such as strike and picketing (though these rights have never been exercised by public service unions, as they have never declared any deadlock in any discussion). The Government concludes that, in general, the current practice of negotiating terms and conditions of service of public employees has the rules and spirit of collective bargaining, although to a certain extent it is not in full conformity with international labour standards (ILO 2022)".*<sup>24</sup>

The CAS then requested the Government to enable collective bargaining machinery in the public sector to ensure that public sector workers may enjoy their right to collective bargaining. In December 2022, the Government granted an additional annual salary increment (KGT) of RM100 to civil servants from Grade 11 to 56, and special financial assistance (BKK) of RM700 to all those below grade 56 (Malaysia, MoF 2022).

The CEACR in 2022 also recalled "the need to adopt formal provisions clearly recognizing the protection of all public servants and public sector employees not engaged in the administration of the State (including those who are not trade union officers) against acts of anti-union discrimination and to provide for effective and sufficiently dissuasive sanctions against those responsible for such acts", which it found to be lacking in the Industrial Relations Act.<sup>25</sup>

Public employees are not covered by the Employment Act, unless by specific order of the Minister, and instead have their own departmental laws and guidelines. This is a powerful group of workers with its own internal mechanism for complaint redressal which can also approach the High Court with grievances.<sup>26</sup> According to all three study respondents, unionization is very weak in Malaysia, which is borne out by the fact that less than 6 per cent of all workers in the country are union members.<sup>27</sup> Employees hired directly on contract by the Government prefer not to fight the system for fear of losing their jobs.<sup>28</sup> Security guards are not allowed to unionize for reasons of national security.<sup>29</sup> One of the most important challenges is that the employer has to recognize the union before any collective bargaining is undertaken, but contract workers have different employers every three years. Finally, victimization and "union busting" are not unknown, as in the case of the hospital union (NUWHSAS 2020).

<sup>23</sup> Observation (CEACR) - adopted 2022, published ILC 111 (2023) regarding Convention No. 98.

<sup>24</sup> Individual Case (CAS) - Discussion: 2022, published ILC 110 (2022)- Right to Organise and Collective Bargaining Convention, 1949 (No. 98) - Malaysia

<sup>25</sup> Direct Request (CEACR) - adopted 2022, published ILC 111 (2023) regarding Convention No. 98.

<sup>26</sup> Online interview with ex-councillor, 28 August 2023.

<sup>27</sup> Online interviews with ex-councillor and trade union member, 28 August 2023; Online interview with a trade union member, 30 August 2023

<sup>28</sup> Online interview with trade union member, 28 August 2023

<sup>29</sup> Online interview with ex-councillor, 28 August 2023

The executive secretary of NUWHSAS related the following experience of forming and revitalizing the union.<sup>30</sup> In 2015, a new subcontractor at a hospital in the northern region (with four states) of Malaysia reduced workers' wages from RM950 to RM50. After organized protests, the subcontractor conceded, and workers registered the union with the trade union registry. However, the company (employer) refused to recognize the union, which then filed a case with the Industrial Relations (IR) Department and the matter went to a secret ballot. In 2018, the IR Department held a vote in 33 hospitals in the northern region; the union won with 58 per cent of the votes. NUWHSAS then entered into negotiations with the subcontractor of the GLC company operating public hospitals in the northern region of Malaysia, which signed a Collective Negotiation Agreement (CNA) in October 2019. In January 2020, the subcontractor changed, and the new one declined to recognize the union and the CNA (see annex) because it was signed by the earlier subcontractor.<sup>31</sup> The union filed a case in the IR Department citing non-recognition of the union and the CNA, but the case was frozen for over two and a half years due to the pandemic. In 2022, the union decided to undertake a unique motorbike campaign in which 10 women drove 530 km from Penang to Putrajaya in four days, demanding the abolition of the contract system, regularization as government staff and a COVID allowance for frontline workers. On the fourth day they met the then Health Minister, who was sympathetic to their cause, and subsequently dialogue started with the new subcontractor, although the union recognition case was still pending in court. Finally, in March 2023, the court ruled in favour of the union and the subcontractor accepted the recognition claim. Negotiations are ongoing.

The NUWHSAS member also described the contractual doctors' strike in from 3 to 5 April 2023 against low wages, poor working conditions, shortage of staff and broken facilities, the primary demand being regularization as government staff with similar benefits.<sup>32</sup> Some 41 per cent of medical officers and workers are under contract to Malaysia's public health care system ([Al Jazeera](#) 2023). There was a nationwide *hartal* (protest) by Mogok Doktor Malaysia (Malaysian Doctors on Strike) and the Government announced permanent jobs for 4,300 contract doctors in the same year. A promise has been made to absorb more than half of the 20,330 contract doctors into public service over the next three years ([Natgotra](#) 2023). Since the early 2000s, there has been a tradition of workers rallying in Kuala Lumpur on Labour Day. In 2023, 400 workers marched to demand the abolition of the contract system, private outsourcing of government sanitation and security workers and the enforcement of the minimum wage ([China Labour Bulletin](#) 2023).

### 3.5. Employee opportunities and inclusive employment

#### 3.5.1. Training and capacity building

The National Institute of Public Administration (INTAN) functions as a government-affiliated training centre operating under the Public Service Department in Malaysia. It is responsible for providing training programmes to enhance the knowledge and skills of civil servants and develop human resources in the public sector (Public Service Department n.d.). Additionally, INTAN engages in research, consultancy and publishing, all geared towards equipping public officers with competence and critical thinking abilities (Public Service Department n.d.). All public officers are eligible to apply to INTAN subject to approval from their head of department or supervisor. They are also eligible for pre-service and in-service training (Public Service department n.d., 2).

<sup>30</sup> Online interview with a trade union member, 30 August 2023

<sup>31</sup> Online interview with a trade union member, 30 August 2023

<sup>32</sup> Online interview with a trade union member, 30 August 2023.



The Malaysian Government also enables civil servants to undertake online courses at any training institute under the Public Sector e-LEARNING, or EPSA, initiative (My Government n.d., 3). The EPSA aligns with the training policy established by Public Sector Human Resources, which mandates that civil servants partake in a minimum of seven days of training every year (My Government n.d., 3).

### 3.5.2. Gender equity

The EA Amendment 2022 increased the maternity leave entitlement. It also prohibits any employer from terminating a worker's contract due to pregnancy, except when a woman breaks her contract, engages in misconduct or in the event of business closure. Firing pregnant women was a common practice and this law now offers some protection to female workers<sup>33</sup>.

However, a union member who is also a gender activist states that "Malaysia is not a very gender-sensitive country" and contends that, though 90 per cent of the cleaners in her organization are women, no special provision has been made for them.<sup>34</sup> She is also sceptical about the anti-discrimination clause in the Amendment, as it is vague and provides no clarity as to types of discrimination. Given that the LGBTQ community faces considerable hostility in society as well as workplace discrimination, she observes that the Amendment has yet to be tested in a case where the union receives a discrimination complaint from a worker. The EA Amendment gives the power to the Director General of Public Service to settle disputes between employers and employees on any discriminatory practices in the workplace. If the employers do not abide by the order from the Director General, they are liable to be fined up to RM50,000 if found guilty. Finally, the amended Act has increased the penalty on employers (from RM10,000 to RM50,000) for not taking action on sexual harassment claims. Employers are also obliged to raise awareness of sexual harassment in the workplace and post relevant notices.

Women's participation in local government politics is also low. In 2000, women in local government represented only 9.8 per cent of all council seats and merely 0.7 per cent of mayors and were entirely absent from senior management positions in local governments (UNESCAP n.d.). UN Women, in its global database on Women in Local Government, reports that there was no recent data available for 2022 on Malaysia.

### 3.5.3. Localization of SDGs

Malaysia has pledged to work towards Agenda 2030 by including SDGs in its national development plans, collecting relevant data and establishing a multi-stakeholder institutional framework (SDG Knowledge Platform n.d.). Acknowledging the importance of including local governments in SDGs, the MoLGD has set up Urbanice Malaysia, a company limited by guarantee. This encourages the localization of SDGs and aims to mainstream a sustainable urban agenda, catalyse urban solutions, foster community resilience and promote climate actions for the sustainability of communities and cities (Urbanice Malaysia n.d.).

This company has also launched an initiative called Malaysia SDG Cities, which stresses the need for cities and communities to identify their own sets of priorities and paths towards SDG implementation, thereby encouraging a bottom-up approach to local action plans (Urbanice Malaysia

<sup>33</sup> Online interviews with a trade union member, 28 August 2023

<sup>34</sup> Online interview with a trade union member, 28 August 2023

n.d.). Urbanice has also urged local governments to prepare a Voluntary Local Review (VLR) – the local counterpart of the Voluntary National Review (VNR) – to assess progress towards the SDGs (Rahman and Yusof 2020). Currently, the State of Penang is leading the localization of the SDGs with the publication of its blueprint titled Penang 2030, designed to align its development plans with SDGs. One of its local governments, the Seberang Prai City Council, released the first VLR in 2019 (Rahman and Yusof 2020). City councils across Malaysia are also partnering with UNDP under the “All about SDGs” campaign to promote awareness and implementation among local communities in urban centres (Nivin and Hoang n.d.). Of particular importance is the Green Technology Application for the Development of Low Carbon Cities project, which works with nine local authorities to urgently address the climate crisis.

### 3.6. Observations

The only federal country in South-east Asia, Malaysia has the highest GNI per capita and HDI among the countries selected for this study. It has a legacy of being a strongly centralized State, and the nature of its decentralization has led to conflict between national and subnational governments. There have been instances where decentralization policies were adjusted to diminish the authority of SNGs and strengthen the control of central government. The centralized nature of the federation can be seen in the division of responsibilities between the national and state governments. Though fiscal spending has seen a gradual upward trend, the SNGs command a significantly low proportion of GDP and public expenditure compared with other federal countries (OECD and UCLG 2022).

In terms of political representation, local governments in Malaysia are appointed and not elected, since local government elections were suspended in 1965. “This undercuts their autonomy as they are more accountable to their appointing authority or superiors at the upper levels of the government and less to the citizens. Local governments need to regularly consult and report to national government or provincial state for any decision and are not completely independent of the influence of the different monarchies in the provinces”<sup>35</sup>. Malaysia is “often referred to as a ‘quasi-federation’ rather than a real federation” (Harding 2022, 24) owing to this culture of centralization. It functions more as a unitary State, with central government retaining most powers and granting little flexibility to SNGs (Ostwald 2017). Thus, local governments have limited influence, despite being “significant vehicles for policy provision” (Schakel 2021a). Comparing the powers of both the State and local governments, policy competences remain somewhat top-heavy. From the perspective of labour, there has been massive contractualization of SNG employees since the country embraced large-scale privatization. This has permeated every sector of public services, and labour rights have been violated in the government sector, as demonstrated by the cases of the hospital workers and security and cleaning staff.

<sup>35</sup> Online interview with UCLG, 14 August 2023

## ► 4 The Philippines

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### 4.1. Introduction

The Philippines has been shaped by centuries of Spanish and American colonization and influence. The years after its independence in 1946 were marked by significant political, social and economic challenges. From 1965 to 1986, it witnessed authoritarian rule, human rights abuses and widespread corruption. In 1986, sustained popular demonstrations ended the dictatorship and restored democratic governance. In the ensuing years, the country underwent political and economic reforms which addressed issues of poverty, insurgency, energy crises and corruption. At present, the Philippines is a lower-middle-income economy with a Gross National Income (GNI) per capita of US\$ 3,950 (World Development Indicator 2022) and a Human Development Index (HDI) value of 0.699, indicating a medium level of development (UNDP 2022). It is an archipelago consisting of more than 7,500 islands in the Pacific Ocean and is subject to tropical cyclones and typhoons.

### 4.2. Governance structure

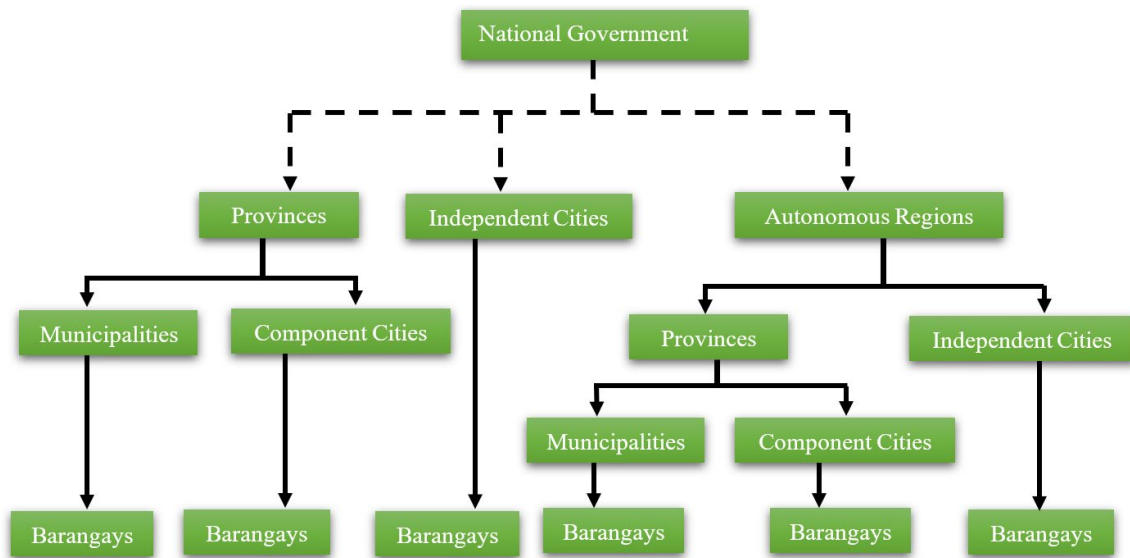
The Philippines functions as a unitary state with a parliamentary republican system. The country's subnational government (SNG) consists of three main levels: provinces, cities and municipalities, and *barangays*. Provinces are the highest level of local government, and currently there are 81 with their own executive and legislative branches. The executive branch is headed by a governor elected by the constituents of the province. The legislative branch is composed of the Provincial Board and is responsible for enacting local ordinances and resolutions.

Provinces are further divided into component cities and municipalities. Municipalities are always placed under provinces and have their own elected officials, headed by a mayor and a municipal council. Highly urbanized cities can also exist as independent entities separate from any province and have greater political, economic and administrative authority. They also have their own mayor and city council, like provinces. There is also a distinct autonomous region known as the Bangsamoro Autonomous Region, in Muslim Mindanao. At the grassroots level, the *barangay* is the smallest unit of the political system. It has less than 1,000 inhabitants and is headed by a captain with a council elected by the constituents. There are at least seven councillors, as well as a secretary and treasurer appointed by the *barangay* captain.<sup>36</sup> Figure 4.1. illustrates the different levels of SNG in the decentralized governance system of the Philippines.

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<sup>36</sup> Online interview with CIU, 29 July 2023

► Figure 4.1: Governance Structure of the Philippines



### 4.3. Roles and responsibilities of SNGs

#### 4.3.1. The regulatory framework

The 1935 Constitution, enacted under the colonial rule of the United States of America, acknowledged the President's general supervisory powers over local governments. (Schakel 2021b). In subsequent decades, the building blocks of SNGs were established through the Local Autonomy Act of 1959, which granted intermediate units limited control over local zoning and planning, and the revised [Local Government Code of 1991](#) (1991 Code)<sup>37</sup> (Schakel 2021b). The Decentralization Act of 1967 further expanded the authority of provincial and local governments by allowing them to complement national programmes in health and agricultural development (Schakel 2021b).

Section 25, Article 2 of the 1987 Constitution recognized SNGs as self-governing entities. In the current legislative framework, local governance in the Philippines is primarily regulated by the Local Government Code of 1991, which applies to all provinces, cities, municipalities, *barangays* and other political subdivisions. It establishes the structure and functions of local government units (LGUs) and defines the powers and responsibilities relating to the allocation of resources. It also provides explicit guidelines on the qualifications necessary for appointment to LGUs, as well as describing the processes for the election and removal of local officials and outlining the terms of duty, salaries, duties and functions of employees. To ensure that the quality services to the public is maintained, the Department of the Interior and Local Government (DILG) oversees the functioning of SNGs and bolsters their capabilities. The 1991 Code categorizes local governments into six classes based on population, income or economic activity, and size of the local government – the first class is the richest and the sixth class is the poorest. Separate laws provide financial and operational autonomy for provincial, municipal, city and *barangay* authorities. This helps shift the concentration of power from the central government and incentivizes decentralization and local governance.<sup>38</sup>

<sup>37</sup> Philippines, "The Local Government Code of the Philippines", 1991

<sup>38</sup> Online interview with PSLINK, 7 August 2023

### 4.3.2. Interrelationship between government spheres and key services provided

The Philippines has implemented a rapid decentralization process, characterized by a "big bang" approach, wherein financial and service-related responsibilities were transferred rapidly to regional and local levels of government (Bhatti and McDonald 2020). However, this devolution occurred without fully refining the relevant inter-governmental fiscal and administrative systems, so that later efforts had to be made to introduce supporting laws and institutional measures designed to enhance local government accountability (Yilmaz and Venugopal 2013).

Accordingly, Executive Order No. 138 (EO 138)<sup>39</sup> on "Full Devolution of Certain Functions of the Executive Branch to the Local Governments" was passed in 2021 to mandate all LGUs to submit their Devolution Transition Plans (DTP) to the Department of Budget and Management (DoBM). The DTP must outline how LGUs would perform the responsibilities devolved from the centre and utilize the budget. The services and facilities to be fully devolved by the end of 2024 are those enumerated under Section 17 of the [Local Government Code, 1991](#). EO 138 also guides the design and review of DTPs to ensure optimal devolution in terms of smooth and efficient transfer of powers. Critics have insisted that the three-year period planned for the transition is insufficient for LGUs to develop the competence to deliver the devolved functions of national government agencies (Robles 2022). The LGUs do not have the necessary technical and financial capability or support to realize DTPs.<sup>40</sup> In July 2023, the DILG advised that the devolution process should be extended to 2027 so that LGUs could boost their capability, technical expertise and funds (Cruz 2023).

► **Table 4.1. Main responsibilities of SNG tiers in the Philippines**

Sectors & Sub-Sectors	Provincial Level	Intermediate Level	Municipal Level
<b>1.General Public Services (Administration)</b>	Public buildings & facilities	Civil registry; public buildings & facilities	Maintenance of local justice facilities
<b>2.Public order &amp; safety</b>	Provincial firefighting services; Traffic signs & regulations	Traffic control; Community police	Public order maintenance (assist city & municipal authorities)
<b>3.Economic affairs/Transport</b>	Provincial roads; urban transit systems; employment services; support to local enterprises & entrepreneurship; agriculture & rural development; regional tourism	Local roads; park spaces; urban transit; school transport; local tourism; local markets	Agricultural support services; maintenance of <i>barangay</i> roads & bridges; support satellite of public market
<b>4.Environmental protection</b>	Natural preservation; Soil & groundwater protection; Climate protection; Sewerage	Parks & green areas; Waste management & sanitation; Street cleaning; Natural conservation	Support for beautification; Solid waste collection & disposal.

<sup>39</sup> Philippines, "Executive Order No.138: Full Devolution of certain functions of the Executive Branch to Local Governments, creation of a Committee on Devolution, and for other purposes", 2021

<sup>40</sup> Online interview with PSLINK, 7 August 2023

Sectors & Sub-Sectors	Provincial Level	Intermediate Level	Municipal Level
<b>5. Housing &amp; Community amenities</b>	Construction/ renovation of housing; Housing management	Construction/ renovation of housing; Water supply; Public lighting; Urban & land use planning; Urbanism	Maintenance of water supply systems
<b>6. Health</b>	Regional hospitals with emergency medical systems	Primary health care (medical centres); preventive health care	<i>Barangay</i> health services and day-care centres; Hygiene & sanitation
<b>7. Culture &amp; recreation</b>	Regional museums; Cultural heritage	Sports; libraries; local museums	Maintenance of reading; Sports facilities
<b>8. Education</b>	Secondary education	Pre-primary and primary education in school district	
<b>9. Social welfare</b>	The elderly; Disabled individuals (benefits and services)	Social care for children and youth; Support services for families	

Source: OECD and UCLG 2022

### 4.3.3. Fiscal autonomy and resource allocation

The fiscal endowment and capacities of SNGs in the Philippines are relatively low, given the country's initial efforts to decentralize<sup>41</sup>. In 2020, the spending on SNGs amounted to 4.8 per cent of GDP and 15.7 per cent of total government expenditure. It was shared between cities (44%), municipalities (37 %) and provinces (20 %) (OECD and UCLG 2022). Section 18 of the 1991 Code grants SNGs the authority to levy local taxes, including on real estate and local businesses, and to collect user fees to help fund their expenditures. Business and property taxes are the two largest sources of tax revenue. However, many SNGs, especially in the lower tiers, rely on fiscal transfers from central government as their primary source of revenue. These transfers, known as the National Tax Allotment or NTA (earlier called Internal Revenue Allotment or IRA), can account for as much as 98 per cent of income for certain local governments.

The NTA was an outcome of the Mandanas-Garcia court ruling in 2018, in which the Supreme Court allowed two separate petitioners to adjust the computational basis of the IRA of LGUs to include national taxes (DoBM n.d.). It empowers the LGUs and “increases the tax base for inter-governmental fiscal transfers in support of local governments’ autonomy and revenue-raising capacity” (Juco et al. 2023, i). SNGs are required by law to remit 40 per cent of the revenue they collect to the national Government, and the remainder is retained by local government institutions.<sup>42</sup> The national Government consolidates these funds and then the DoBM allocates the budget for SNGs based on a classification of local governments - the higher the rank, the greater the resources allocated from the centre. These rankings are determined by a combination of factors, including land area, population, economic activities and amount of tax collected. Some have argued that this is not equitable, since the poorer provinces or municipalities receive the least financial support and are expected to raise the remainder of their funds on their own.<sup>43</sup> The higher classes of SNGs generate substantial revenue by themselves (from taxes, business and commercial activities) but also receive a larger share from the Government compared with those

<sup>41</sup> Online interview with UCLG, 14 August 2023

<sup>42</sup> Online interview with CIU, 29 July 2023

<sup>43</sup> Online interview with PSLINK, 7 August 2023

in the third to sixth classes, which also lack the human and financial resources to implement full devolution. This disparity has consequences for quality of service delivery and employees' incentives, especially since SNGs spend 55 per cent of their budgets on human resources, with the remainder allocated to operations and development programmes. It is thus not surprising that SNG employees in rural or poor municipalities try to gravitate towards richer areas and sometimes engage in corruption.<sup>44</sup>

## 4.4. Employment in SNGs and labour practices

### 4.4.1. Labour regulations

The Civil Service Act of 1959 (CSA 1959)<sup>45</sup> was established to uphold the constitutional requirement for individuals to be appointed solely on the basis of merit and fitness. Section 2 of the Act aims to establish a progressive system of personnel administration within the public service that is honest, efficient, progressive and courteous.<sup>46</sup> The Act provides a framework for the employment, labour rights and obligations of government employees at all levels, including SNG workers. It also safeguards employees' rights to security of tenure, compensation and benefits. Moreover, it sets out guidelines on discipline and administrative proceedings designed to maintain the integrity and accountability of the Civil Service.

The CSA 1959 established the Civil Service Commission (CSC) as the central agency for the administration and enforcement of civil service laws, rules, and regulations. Under Section 20, the Civil Service Commissioner may delegate the authority to enforce the Act to heads of departments and agencies in provinces, chartered cities and municipalities. The treasurers of each local authority must show that appointments are made in accordance with Civil Service law and rules. The CSC provides a comprehensive resource called [A Guide for Local Chief Executives \(LCEs\) on Public Personnel Administration](#) for use by local government officials in managing the human resources within their organizations. The Guide covers recruitment, appointment, performance management, training and development, benefits and retirement.

### 4.4.2. Extent and types of public sector employment

Government data on subnational public sector employment is in short supply. According to the Philippine Statistics Authority, 8.3 per cent of the employed population worked in administrative and support service activities and 9.9 per cent in public administration and defence in 2023 (Philippine Statistics Authority 2023). The Philippine Independent Public Sector Employees Association (PIPSEA) estimates that there are 1.7 million workers in the public sector and 400,662 workers in local government.<sup>47</sup> The CSC also keeps a regional inventory of career<sup>48</sup> and non-ca-

<sup>44</sup> Online interview with PSLINK, 7 August 2023

<sup>45</sup> Philippines, 1959

<sup>46</sup> See Section 2 of CSA 1959

<sup>47</sup> Online interview with PIPSEA quoting CSC 2021, 31 July 2023

<sup>48</sup> The Careers Service is characterized by (1) entrance based on merit and fitness determined as far as practicable by competitive examination or based on highly technical qualifications; (2) opportunity for advancement to higher career positions and (3) security of tenure (Executive Order No. 292, 1987).



reer personnel<sup>49</sup>. These regions are not local government units but exist primarily for administrative purposes (PhilAtlas n.d.).

► **Table 4.2. Regional distribution of public sector employment in the Philippines**

Region	Career*	Non-career	Total	%
Region 01	84 400	14 861	99 261	5.03%
Region 02	66 315	5 413	71 728	3.63%
Region 03	156 755	16 196	172 951	8.76%
Region 04	226 239	25 409	251 648	12.75%
Region 05	97 954	10 209	108 163	5.48%
Region 06	122 803	14 016	136 819	6.93%
Region 07	98 720	18 137	116 857	5.92%
Region 08	83 964	7 428	91 392	4.63%
Region 09	72 925	5 127	78 052	3.96%
Region 10	86 061	10 536	96 597	4.90%
Region 11	70 890	5 167	76 057	3.85%
Region 12	74 236	8 129	82 365	4.17%
NCR	375 849	64 160	440 009	22.30%
CAR	40 963	5 666	46 629	2.36%
Caraga	67 887	7 855	75 742	3.84%
BARMM	26 014	3 016	29 030	1.47%
<b>Total</b>	<b>1 751 975</b>	<b>221 325</b>	<b>1 973 300</b>	
<b>%</b>	<b>88.78%</b>	<b>11.22%</b>		

\*Exclusive of 3rd Level (culled from the Plantilla of Personnel)

There are four different types of workers in the LGUs: permanent, coterminous, contractual and those on job orders. Permanent employees have regular employment and a career in the public sector and are chosen through the CSC appointment process. Coterminous employees are also authorized by the CSC, which acts as the employer or the immediate supervisor for a certain period. In such cases, the appointment may be coterminous with the term of the appointing authority (head of the organization), with the incumbent, with the project or with the lifetime of the agency (Junio 2018). Contractual employees fill a position for a specific duration and also enter the system through CSC approval. After the contractual period, they may either be rehired or terminated, and they receive similar benefits to permanent employees, for example bonuses and leave. Workers on job orders are essentially seasonal, hired for a specific project and not required to meet the CSC's eligibility standards. Their contracts are renewable every six months provided there is demand for the job. They do not receive any of the benefits that accrue to permanent, coterminous and contractual staff.

<sup>49</sup> The Non-Career Service is characterized by (1) entrance on bases other than those of the usual tests of merit and fitness utilized for career service and (2) tenure limited to a period specified by law or which is coterminous with that of the appointing authority or subject to his pleasure, or which is limited to the duration of a particular project for which purpose employment was made (Executive Order No. 292, 1987).



Job orders have become increasingly common in the local public sector. For example, out of the 178 employees in one municipality, more than half (100) were on job order and received a daily wage of PHP300.<sup>50</sup> These workers have no employer-employee relationship and are not considered to be government employees, even though they work in government.<sup>51</sup> Their wages do not come from personal services budgets but from maintenance and operating expenses. Currently, there are 680,000 job order and “contract of service” workers, half of whom are employed in local government. This type of precarious work arrangement is preferred by local authorities because they can employ many of these workers without exceeding the expenditure cap on personal services.

### 4.4.3. Human Resources (HR) practices

#### 4.4.3.1. Recruitment, promotion, dismissal and wages

The vice-governor, city vice-mayor or municipal vice-mayor of an LGU have the authority to appoint their own staff as well as officials and employees within the respective offices.<sup>52</sup> The local legislative bodies known as *Sanggunians* are responsible for determining the positions and salaries, allowances, other emoluments and benefits of officials and employees, primarily funded by provincial, city or municipal units. They are further tasked with allocating the expenditures required for the smooth implementation of programmes, projects, services, and activities within the province, city, or municipality.

Though the CSC governs and processes the appointment of government employees, the recommendation for appointment comes from the Local Chief Executive (LCE), as noted by the CIU.<sup>53</sup> The role of the CSC is to check that the applicant's qualifications and experience are suited to the position. To fill a vacant career position, the LCE is required to post vacancy notices in at least three prominent public locations for a minimum of 15 days. A personnel selection board assists the LCE in screening and shortlisting candidates, and in conducting the interview – a successful candidate and takes the oath of office on appointment.<sup>54</sup> However, the process is not always merit-based but rather about “who you know”, and after the interviews a candidate from the lowest rank might be chosen by the mayor, governor or LCE.<sup>55</sup>

There are two types of job categories – non-technical and technical or professional. The eligibility requirement for non-technical posts is a high school education, while technical and professional positions require graduate status.<sup>56</sup> The qualifications and standards for eligibility tests are set by the CSC for every position in the public sector. For specific posts, interested candidates can also qualify by gaining national certification through the Technical Education and Skills Development Authority (TESDA) under the Department of Labour and Employment (DoLE). However, not all occupations have corresponding board examinations or Civil Service examinations, and for such occupations, TESDA provides skills and competency training as well as evaluation.

The CSA 1959 underscores that no civil service official/employee can be removed or suspended from their position without a valid legal cause, and due process must be followed. Transferring

<sup>50</sup> Online interview with PIPSEA, 31 July 2023

<sup>51</sup> Online interview with PSLINK, 7 August 2023

<sup>52</sup> See Section 466 of the 1991 Code.

<sup>53</sup> Online interview with PSLINK, 29 July 2023

<sup>54</sup> Online interview with PSLINK, 7 August 2023

<sup>55</sup> Online interview with PIPSEA, 31 July 2023

<sup>56</sup> Online interview with CIU, 29 July 2023

an employee to a different position without a reduction in rank or salary is not considered disciplinary, if done in the interest of public service. Complaints against a civil service official or employee must be submitted in writing, signed and sworn to by the complainant in order to be considered. However, these guidelines can be ignored by highly politicized local governments in situations where “political patronage matters in your job in terms of whom you support and align with”.<sup>57</sup> If the employee is found to support or has received support from the political opponent, then his or her employment could be terminated on the pretext of poor performance or wrongdoing. A case in point was the “Cadiz massacre”, where the Mayor of Cadiz fired 600 regular employees upon assuming office. The decision was challenged before the CSC and eventually overturned, but it took a long time, during which the workers concerned were jobless and struggling to make ends meet.<sup>58</sup> Another issue is that the tenure of permanent employees is not secure if the LCE or hiring chairman does not favour them, since they have the power to hire and fire.<sup>59</sup>

The salary rules and regulations applicable to human resources, position classification and staffing actions are determined by the DoBM and apply to LGUs (DoBM 2019). Staff salaries come from the national government through the NTA. However, because of the Philippines’ low-wage policy, many employees are lured into corrupt practices.<sup>60</sup> Undifferentiated percentage salary increments – where the percentage increase on the basic salary is the same across rank and pay grade – have also been criticized. For example, in Grade 1, the lowest of the 33 grades for SNG employees, the raise is essentially meagre.<sup>61</sup>

Promotions in LGUs take place in accordance with CSA 1959. The PSB is primarily responsible for formulating the evaluation criteria for the promotion of candidates. As the appointing authority, the LCE has discretion to promote an employee who exceeds the requirements of a position by a significant margin. When the qualifications of employees are relatively similar, priority is given to the employee within the same organizational unit where the vacancy exists or within the agency where the position is located, particularly for second-level positions. As with the situation when hiring, promotion is also largely dependent on the LCE or the head, and sometimes based on “who you know and not what you know..... who is your political backer”.<sup>62</sup>

The CSC has established an “Employee Suggestions and Incentive Award System” to recognize individuals who make exceptional contributions through inventions or outstanding achievements or perform extraordinary acts/services in the public interest that are connected to their official employment (CSA 1959). The head of each department has the authority to grant cash awards and cover any necessary expenses to honour such employees.

#### 4.4.3.2. Social security provisions

After the 2022 general election, the new Administration introduced the Philippine Development Plan (PDP) 2023-2028 (NEDA 2022), which emphasizes the establishment of a universal, modern, and integrated social protection system.

<sup>57</sup> Online interview with PSLINK, 7 August 2023

<sup>58</sup> Online interview with PSLINK, 7 August 2023

<sup>59</sup> Online interview with PIPSEA, 31 July 2023

<sup>60</sup> Online interview with PIPSEA, 31 July 2023

<sup>61</sup> Online interview with CIU, 29 July 2023

<sup>62</sup> Online interview with PSLINK, 7 August 2023

In the Philippines, social protection for government employees is facilitated through seven major institutions<sup>63</sup> (Orbeta 2011). Among these, the [Government Service Insurance System](#) (GSIS) is particularly relevant to local government employees, offering life insurance, retirement benefits, separation benefits and disability benefits (GSIS 1997). It covers all government employees regardless of employment status, with a few exceptions including contractual employees. The Employees' Compensation Programme (ECP), a government initiative established in 1974, provides compensation for work-related illness, injury or death to both public and private employees and their dependants. It offers a package including cash benefits, medical coverage, disability benefits, caregiver's allowance and death and funeral expenses, as well as a rehabilitation programme to assist occupationally disabled workers with their recovery and reintegration into the workforce (Employees' Compensation Commission n.d.).

The Philippines also has a [105-Day Expanded Maternity Leave Law](#) which covers female workers across the private and public sectors and in the informal economy, as well as contributors to the Social Security System (Official Gazette 2019). This law ensures that female workers in national government agencies, LGUs, government-owned or controlled corporations, State or local universities and colleges are eligible for maternity leave benefits irrespective of employment status or length of service. Moreover, it grants them an option to share up to seven days of paid leave with the child's father as alternate caregiver. This poses a challenge for cash-strapped local governments, especially poor municipalities with limited financial resources, and thus there are disparities in implementation.<sup>64</sup> The lowest rung of workers in public services, those who are hired on job orders, have no social security coverage and must cope on their salary alone.<sup>65</sup>

#### 4.4.3.3. Collective rights and workers' representation

The 1987 Constitution explicitly guarantees the rights of workers, including the rights to self-organization, collective bargaining and negotiation.<sup>66</sup> This applies to the formation of trade unions, associations or societies across the public and private sectors. While employees in government-owned or controlled corporations are entitled to unionize for collective bargaining, their supervisors are not granted this right. Labour unions consist only of rank-and-file employees. However, supervisors may separately establish labour unions specific to their role. Managerial employees, on the other hand, are completely barred from participation in any labour association for collective bargaining purposes. Workers hired on job orders will not have their contracts renewed if they participate in union activities.<sup>67</sup>

The Philippines has ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). After protracted efforts by the unions and with extensive assistance from the ILO, the Philippines ratified the Labour Relations (Public Service) Convention, 1978 (No.151) in 2017, as the first country in Central, South or South-east Asia to do so. Interviews conducted with trade union representatives for this study revealed that the implementing legislation has yet to be adopted.<sup>68</sup> This was largely attributed to a reluctance to grant public sector employees the right to strike. Additionally, the understanding was expressed that collectively negotiated terms and

<sup>63</sup> The seven institutions are the Government Service Insurance System, Social Security System, Employee's Compensation Commission, Philippine Health Insurance Corporation, Home Development Mutual Fund, Armed Forces of the Philippines Retirement and Benefit System, and Overseas Workers Welfare Administration.

<sup>64</sup> Online interview with PSLINK, 7 August 2023

<sup>65</sup> Online interview with PSLINK, 7 August 2023

<sup>66</sup> Labour Law, "[Right to self-organization](#)", 29 May 2022

<sup>67</sup> Online interview with PSLINK, 7 August 2023

<sup>68</sup> Online interviews with CIU, 29 July 2023; Online interviews with PIPSEA, 31 July 2023; Online interviews with PSLINK, 7 August 2023

conditions are not included in a local government's budget and must be covered from savings that are often inadequate.<sup>69</sup>

Moreover, the management in LGUs was averse to negotiating with the unions, especially on salary increases, while certain provisions in the Guidelines for the Exercise of the Right To Organize of Government Employees, in Executive Order 180 of 1987, in the Amended Rules and Regulations Governing the Exercise of the Right of Government Employees to Organize, and in Resolution No. 2, series of 2004, of the Public Service Labour-Management Council (PSLMC), do not apply to SNG workers.<sup>70</sup> Although the unions are included in the PSB, their recommendations are rarely followed – effectively, it is the management or the LCE which has the final authority. In most cases, hiring and promotion decisions are taken without consulting the union and the legal provisions to protect workers are seldom implemented in reality.<sup>71</sup>

According to the Civil Service Record, there are 938 registered unions and 778 accredited trade unions in the public service, of which only 417 are active.<sup>72</sup> The unions feel they can advance the interests of public service workers and achieve a sustainable and harmonious labour relations environment.<sup>73</sup> For example, the Collective Negotiation Agreement (CNA) between the local government of Bislig and the Bislig City Employees Association (BISCEA) provides for a joint Labour-Management Consultative Council that will engage in regular consultations and dialogue to achieve healthy, just and sound labour-management relations. It discusses and agrees on programmes in relation to productivity and advises the city mayor and other concerned local executives on matters affecting the terms and conditions of employment covered or included in the CNA. The Council meets at least every two months, has binding powers upon approval by the LCE, and is fully funded by the employer.

With elections taking place every three years, often the new head or chairman refuses to honour the previous collective agreements reached between an employer and employee.<sup>74</sup> The labour movement has faced massive crackdowns, with trade union activists at times being targeted as terrorists or enemies of the State, and security personnel visiting workplaces to request that union members withdraw their membership. Almost 70 union leaders have lost their lives.

However, the country has a very active tripartite system. Public sector employers, worker representatives and the State, as policymaker, engage in social dialogue through the PSLMC and the Tripartite Industrial Peace Councils, which operate at the national, regional, provincial, city and municipal levels. However, the unions do not have the right to vote in the PSLMC and neither tripartite body covers the SNG workers exclusively. Women's participation in trade unions has steadily risen and is close to that of men, and there is strong advocacy for equal representation.<sup>75</sup>

The labour unions have continued to pursue collective bargaining and there is a longstanding practice of concluding collective agreements between employers and labour associations. These agreements often take the form of CNAs. For example, the CNA covering the Bislig City employees establishes that the BISCEA can participate in the formulation of policies, plans and programmes directly affecting the rights, career development, welfare and benefits of employees. In exchange, the union recognizes the local government as the entity in charge of implementing

<sup>69</sup> Online interview with CIU, 29 July 2023

<sup>70</sup> Online interviews with PSLINK, 31 July 2023

<sup>71</sup> Online interview with PIPSEA, 31 July 2023

<sup>72</sup> Online interview with PIPSEA, 31 July 2023

<sup>73</sup> Online interview with PSLINK, 7 August 2023

<sup>74</sup> Online interview with CIU, 29 July 2023

<sup>75</sup> Online interview with PSLINK, 7 August 2023

laws, policies and regulations on the working conditions and welfare of workers and has accepted agreements reached in committees to which it failed to send a representative.

## 4.5. Employee opportunities and inclusive employment

### 4.5.1. Training and capacity building

Section 25 of CSA 1959 requires that each “department, bureau, office or agency” have well-trained staff and establish in-service training programmes in accordance with the standards laid down by the Commission. To achieve this, the [Local Government Academy](#) (LGA) was established in 1987 to develop human resources in the public services and provide training for local government officials and department personnel (Official Gazette 1987). With the aim of enhancing local governance capacity by 2030, the LGA trains local government officials so as to increase their competencies and achieve performance excellence. It fosters a conducive environment for collaborative partnerships that benefit the LGA's clients and also promotes professional development and personal growth among LGA personnel in alignment with the organization's goals and objectives (LGA n.d.). The LGA works hand-in-hand with the Integrated Capability Building Programme created in 1993 to serve as the overarching framework for all training and capability-building initiatives across LGUs nationwide. As to the specific capacity-building requirements of LGUs in a given area, the local institute assumes the main responsibility while the LGA provides staff support and additional resources whenever possible.

In addition, the Technical Education and Skills Development Authority (TESDA) has regional offices across the country which develop the competency of mid-level skilled workers.<sup>76</sup> Lectures on leadership are given mostly to management-level employees and not workers.<sup>77</sup> However, ICT training is provided for administrative clerical workers, since they have to communicate with other agencies through email and platforms such as Zoom.

### 4.5.2. Gender equity

The Philippine Commission on Women (PCW) is the national machinery under the office of the President which promotes women's participation and empowerment, as well as gender equality in society and the economy. It instructs the public sector to take affirmative action for women in terms of employment, training and sex-segregated data collection.<sup>78</sup> [The Magna Carta of Women](#)<sup>79</sup> signed into law in 2009 is an anti-discrimination law that upholds women's rights in all spheres of life, particularly those in the marginalized sectors (Philippine Commission on Women n.d.). Also, government officials and staff are sensitized on gender issues under the Gender and Development (GAD) plan.

The number of women in local government has been on the rise, although it is still low. While 5.5 per cent of governors were women in 1987-92, by 2007 the figure had risen to 19.2 per cent. The proportion of women in vice-governor positions rose in the same period from 10.81 per cent to 12.81 per cent; for mayors, from 7.5 to 14.6 per cent; and for vice-mayors, from 6.03 to 17.1 per cent (Vermonte and Gayatri 2017). As of 1 January 2020, women still represented only 29.08 per

<sup>76</sup> Philippines, TESDA n.d.; Online interview with PSLINK, 7 August 2023

<sup>77</sup> Online interview with CIU, 29 July 2023

<sup>78</sup> Online interview with PSLINK, 7 August 2023

<sup>79</sup> Philippines, Congress of the Philippines, [The Magna Carta of Women](#), August 2009

cent of persons elected to local deliberative bodies (Berevoescu and Ballington 2021). In 2021, the Philippine Commission on Women claimed that females constituted 50.88 per cent of the human resources in the Philippine Civil Service and 57.59 per cent of those in second-level professional, technical and scientific positions.

However, Vermonte and Gayatri (2000) have pointed out that “to win elections, candidates must be either rich or popular. Women, along with poor farmers and labourers, are among the social groups within Philippine society that have little opportunity of winning elections”. Favouritism still plays a role in appointments and promotion. As a result, in 2000, women comprised only 32.5 per cent of those occupying senior management positions (Drage 2001). In one municipality, female employees account for one third of the workforce, but the four heads of offices are all male.<sup>80</sup> At the *barangay* level, frontline community health workers are overwhelmingly women who receive a minimal allowance or are engaged on a voluntary basis without any payment.<sup>81</sup> They are permanently on call, and must continue hoping to be hired for stable jobs as vacancies occur, thus effectively queuing up for jobs while volunteering.

#### 4.5.3. Localization of SDGs

The DILG spearheads the localization of SDGs and has organized a series of workshops at the regional and provincial levels. These are aimed at strengthening the capacity of LGUs by promoting awareness and garnering support for the [AmBisyon Natin 2040](#) – a strategy which aims to achieve a prosperous middle-class society where no one is poor (NEDA n.d.). The objective is to integrate SDGs into the plans and programmes of the LGUs. As of March 2018, 76 provinces and 1,373 municipalities had completed the planned workshops.

The National Economic and Development Authority (NEDA), in collaboration with the Philippine Statistics Authority (PSA) and the DILG, plans to include assessment criteria or a checklist of SDG implementation for the purposes of granting the [Seal of Good Local Governance](#) to LGUs. The DILG endeavours to localize national and regional indicators by identifying specific indicators at the provincial and municipal levels. These indicators will contribute to the attainment of the goals and outcome areas outlined in the Philippine Development Plan or PDP (2017-2022) and the SDGs.

In November 2018, the DILG and NEDA signed a Joint Memorandum Circular titled ‘Guidelines on the Localization of the PDP 2017-2022: Results Matrices and the SDGs’, which provides a framework for the localization process (Angeles 2022). The NEDA, through its national and regional subcommittees on the SDGs, then initiated an open call for exemplary practices from late 2021 to early 2022 to be showcased. The aim was to highlight and share successful initiatives demonstrating effective SDG localization, with the emphasis on replicable and expandable practices at SNG level.

An exemplary instance of SDG implementation at the local level is the TUPAD, a component of the Integrated Livelihood and Emergency Employment Programme launched by the DoLE. Since 2010, it has provided economic relief for those displaced by climate calamities, through engagement in social, economic and agro-forestry community projects. In response to COVID-19, TUPAD extended support to the informal sector, including self-employed individuals and unpaid family workers. It provided emergency employment opportunities to 2,876 disadvantaged and underemployed workers through community projects on sanitation and disinfection (NEDA n.d.).

<sup>80</sup> ; Online interviews with PIPSEA, 31 July 2023

<sup>81</sup> Online interview with PSLINK, 7 August 2023



It further extended entrepreneurial capacity-building assistance to 276 beneficiaries to improve their financial well-being (NEDA n.d.).

SDG 13 on Climate Action holds special significance in a country that is frequently hit by typhoons and cyclones, and “if they [SNGs] don’t do anything, the islands will either sink or disappear”<sup>82</sup>. Bislig city stands out in this regard and is “emblematic, since the CNAs are really huge and connected to disaster preparedness and therefore climate”.<sup>83</sup> A Memorandum of Understanding (MoU) was signed between the local government of the city and the Bislig City Employees Association in 2016 to strengthen disaster response through capacity building, networking and advocacy. It established a collaborative partnership between Bislig city and the Employees Association, which is affiliated to the Public Services Labour Independent Confederation (PSLINK) and the Public Services International Asia Pacific Region (PSI-AP). The PSLINK provided financial support of PHP 500,000 to bolster disaster risk reduction and management. Both parties developed an action plan and shared regular reports on its implementation. PSLINK also earmarked funds for operations to relieve affected government employees and endorsed mutual consultation in order to make changes in the terms of the partnership.

According to PSLINK, the prioritization of SDGs differs from one local authority to another, depending on geography and population, but there are cross-cutting goals relating to health (SDG 3), education (SDG 4), women and children (SDG 5) and decent work and economic growth (SDG 8). The first three classes of local government, including the provincial level, are allowed to submit concrete indicators/milestones on specific SDGs. Specially aligned with Goal 5 is the gender and development (GAD) budget which constitutes 5 per cent of the budget for all government agencies and public institutions. A GAD plan on programme and expenditure is being developed and monitored by the Commission on Audit, an independent constitutional body.

As part of the national strategy, NEDA initiated SDG localization efforts at the SNGs in 2022 (NEDA n.d.). As stakeholder, PSLINK identifies the SDGs in which the country is lagging behind, creates pressure on government (down to local governance units) and offers support for implementation.<sup>84</sup> In August 2023, PSLINK personnel attended a meeting with NEDA at which the officials reasoned that they would not be able to achieve the 2030 deadline on SDGs, owing to COVID-19.

The Philippines is one of the founding countries of the Open Government Partnership (OGP), a global platform established in 2011. Its purpose is to promote citizens’ engagement, transparency, accountability, use of technology and innovation towards full governance. The countries have developed a [Citizens Charter](#)<sup>85</sup> under the OGP to enable people to learn about frontline services in a step-by-step manner.

## 4.6. Observations

The Philippines has embarked on an ambitious journey of decentralization with a “big bang”, like Indonesia. In fact, it started its reforms earlier in 1990s in order to distribute fiscal and political responsibilities from central government to SNGs. However, its fiscal decentralization (and hence resource autonomy) has fallen behind, with local governments managing a much smaller share

<sup>82</sup> Online interview with PSLINK, 7 August 2023

<sup>83</sup> Online interview with PSI, 11 August 2023

<sup>84</sup> Online interview with PSLINK, 7 August 2023

<sup>85</sup> Philippines, Civil Service Commission, “[Citizen’s Charter 4th Edition](#)”, 2023

of government spending and national GDP, except for urban centres like Metro Manila.<sup>86</sup> The Philippines has a four-tier system of SNGs and one of its key concerns is how to execute myriad devolved responsibilities without the funds to support and empower local governance.<sup>87</sup> The fiscal allocation guidelines from the central level follow a regressive system of bestowing more resources on richer governance institutions, rather than on the ones that need more in order to sustain their everyday operations. A culture of patronage, combined with nepotism and high levels of corruption, has further weakened the capacity of the human resource pool and hindered sound policy implementation, including the planned decentralization reforms.<sup>88</sup>

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<sup>86</sup> Online interview with UCLG, 14 August 2023

<sup>87</sup> Online interview with PSLINK, 7 August 2023

<sup>88</sup> Online interviews with PIPSEA, 31 July 2023 and PSLINK, 7 August 2023



## ► 5 Indonesia

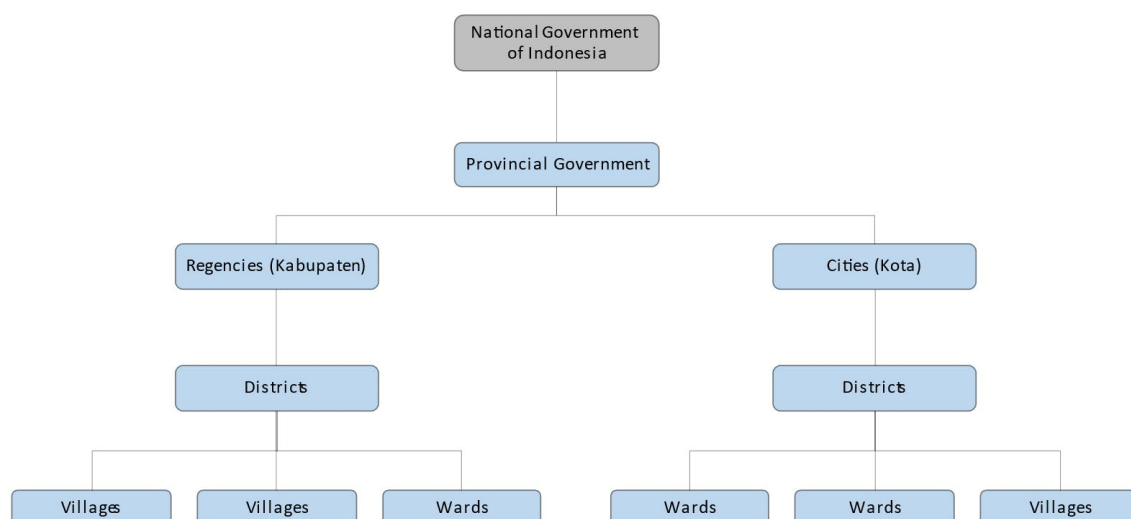
### 5.1. Introduction

Indonesia has encountered cycles of political instability, economic development and regional separatist movements since its independence in 1945 from Dutch colonial rule. In 1965, a “New Order” authoritarian regime under General Suharto took power in a *coup d’état* that deposed President Sukarno. This led to widespread protests and economic upheaval that culminated in General Suharto’s resignation in 1988 and started an era characterized by democratic reforms, the decentralization of power and a commitment to economic liberalization. Indonesia is a lower-middle-income country with a GNI per capita of US\$ 4,580 and a relatively high HDI of 0.705 (UNDP 2022). It is the world’s largest archipelago state, as well as being the most populous in South-east Asia and fourth most populous in the world, with 275.5 million people (World Development Indicator 2022).

### 5.2. Governance structure

Indonesia is a presidential representative democratic republic. At the SNG level, the primary administrative divisions are referred to as provinces. Each province has a regional assembly, known as *Dewan Perwakilan Rakyat Daerah* or Regional People’s Representative Council (DPRD), which is overseen by a governor (*Gubernur*). Governors and representative members are elected through popular vote for five years. Currently, Indonesia is divided into 38 provinces, nine of them having special status that grants them greater autonomy than the others.

► Figure 5.1: Governance Structure of Indonesia



The secondary administrative divisions are categorized as regencies (*kabupaten*) and cities (*kota*). The regencies, led by a regent (*bupati*), and the cities, led by a mayor (*walikota*) hold equivalent status and have their own local government bodies and legislative institutions. Regencies are predominantly rural areas whose economic activities are primarily agriculture, mining and forestry, while cities (understood as municipalities) are largely urban areas with mainly non-agricultural

economic activities, but they also contain villages.<sup>89</sup> Regencies and cities further consist of districts, headed by a *Camat*, who is a civil servant responsible to the regent or mayor. Municipalities in Indonesia can be either regencies or cities, the former being largely rural and the latter predominantly urban, however not exclusively so.<sup>90</sup>

District officials are appointed by the mayor or the regent. The districts are subdivided into *desa* (villages) or *kelurahan* (wards) which enjoy similar degrees of authority. However, *desas* have autonomous governments and the village head is directly elected by the people, while the *kelurahans* are headed by civil servants (*lurahs*), appointed by the mayor or the regent. Wards are heavily dependent on their districts and the higher tiers of government.<sup>91</sup>

## 5.3. Roles and responsibilities of SNGs

### 5.3.1. The regulatory framework

Towards the end of the 1990s, the push towards a decentralized governance system was underpinned by two key laws: Regional Government Law No. 22/1999 and Law No. 25/1999 on Financial Balance between Central and Regional Government, intended to guide devolution and local autonomy (Jumroh 2017). Law No. 22/1999 directly granted autonomy to local governments in regencies and cities at the sub-provincial level rather than to the provincial government (Nasution 2016). Later, Law No. 23/2014 on Local Government prescribed a clear division of responsibilities between the central and SNG levels. It accorded less autonomy to local governments than Law No.22/1999 and restored some powers to both provinces and the central government “including mandates to dismiss renegade regional government leaders” (LPS Alliance 2015). To promote power sharing and decentralized governance at the village level, Village Law No. 6/2014 bestowed the status of self-governing community to villages (Lopulalan 2019). This law has since enabled village governments to develop with greater resources and autonomy (Ferrazzi 2023).

At the national level, the responsibility for coordinating key aspects of subnational governance is divided among three government agencies – the Ministry of Finance for fiscal matters, the National Development Planning Agency (BAPPENAS) for handling regional development planning, and the Ministry of Home Affairs for general guidance and support to the regional governments (Ferrazzi 2023).

### 5.3.2. Interrelationship between government spheres and key services

Government in Indonesia is divided into three categories: matters under the authority of the central government; concurrent government affairs (shared between local and central government and the provinces); and general government affairs under the authority of the President as head of government.

For concurrent powers, the central government is authorized to establish standards, procedures and criteria for the implementation of government affairs and to supervise the same under the authority of the regional government, as established in Chapter IV of [Local Law No. 23/2014](#). Concurrent powers can be *Mandatory* or *Optional*. *Optional* affairs pertain to government functions

<sup>89</sup> Online interview with the Association of Indonesia Municipalities (APEKSI), 28 August 2023

<sup>90</sup> Online interview with UCLG, 14 August 2023

<sup>91</sup> Online interview with APEKSI, 28 August 2023

that cannot be performed where particular sectors do not exist in a region. These include agriculture, forestry, fisheries, tourism, energy, trade and industry and migration. The *Mandatory* concurrent government affairs relate both to basic services such as health, education, public works, spatial planning, housing and protection of society and to non-basic services such as food, land, population, environment, communication, culture, women empowerment, child protection, youth and sports, among others. The overall division of responsibilities and services provided across the SNG levels is summarized in Table 5.1.

► **Table 5.1. Main responsibilities of SNG tiers in Indonesia**

Sectors and Sub-Sectors	Provincial Level	Intermediate and Municipal Levels
1. General Public Services (Administration)	Public administrative services including inter-regency municipal services; Other basic services not yet provided by regencies/ municipalities; Population administration and civil registration; Community empowerment and village; Statistics	Local public administrative services; Community and village empowerment (citizen participation in village government, more inclusive village institutions)
2. Public order and safety	Maintenance of public peace and order	Firefighting
3. Economic affairs/ transports	Provincial economic development; SME's policy (except for providing education, training and guidance) and inter-regency/municipal businesses; Agricultural services; Capital investment services including inter-regency/municipal services; Inter-regency/municipal manpower services; Provincial roads; Coastal management	Local economic development including responsibility for microenterprise development (except for providing education, training and guidance); Manpower services; Agrarian services; Capital investment services; Local roads; Management of fisheries
4. Environmental protection	Bio-diversity protection; Hazardous work; Environmental licenses; Waste management; Conservation of natural resources, ecosystem and national parks (limited power on forestry)	Sanitation; Waste collection and management
5. Housing and community amenities	Provision and rehabilitation of victims of provincial disasters; Facilitation for the provision of housing for people affected by the relocation of provincial government programmes	Spatial and urban planning; Water supply; Rehabilitation of disaster victims of district or city; Housing for people affected by district relocation or city government programmes; Building permits and housing development
6. Health	Medical licences; Regulation on medicines and medical equipment; Food and beverage production; Provincial Referral Health Hospitals; Provincial health centres	Primary health care services; Small local hospitals/clinics; Local health centres
7. Culture and recreation	Youth and sport; Culture	Youth and sport; Culture; Library; Archives
8. Education	Senior secondary education, including infrastructure and teachers' salaries; Vocational education; Special education service	Early childhood education; Primary and junior secondary education, including infrastructure and teachers' salaries; Non-formal education

Sectors and Sub-Sectors	Provincial Level	Intermediate and Municipal Levels
9. Social welfare	Social assistance policies and control of inter-regency/municipal social issues	Social services

Source: OECD and UCLG 2022

Within the decentralized architecture of governance, provincial governors have the dual roles of autonomous regional heads and representatives of central government. As the regional authority, they supervise and coordinate matters under regencies and cities. As central government representatives, they oversee the functioning of local governments. District governments guide and support the village governments but provincial governments also have some influence (Ferrazzi 2023). However, the “coordination and consolidation among these different levels of government are not very smooth and the local governments do not always know what policy to follow, especially if the policies from national and provincial levels do not match”.<sup>92</sup>

Local governments are obliged to maintain basic minimum standards of public service delivery across 15 sectors<sup>93</sup>. The Minimum Service Standards (MSS) framework was developed in the early 2000s to evaluate the performance of local governments in implementing obligatory functions related to basic services (World Bank 2011). However, it has been argued that the MSS can lead to a greater burden on local government resources and increase their dependence on grants from the central government (Roudo 2014).

### 5.3.3. Fiscal autonomy and resource allocation

SNG expenditure constitutes 9.1 per cent of the country's GDP and 46.6 per cent of public expenditure, the latter being a high figure among unitary countries (OECD and UCLG 2022). Generally, local governments command a high share of the SNG budget and thus have substantial financial capacity.<sup>94</sup> However, disaggregation by tiers of SNG shows a stark disparity – provincial government expenditure amounts to only 2.1 per cent of GDP and 11.1 per cent of the national budget, while the combined expenditure of regencies, cities and villages accounts for 6.9 per cent of GDP and 35.5 per cent of the national budget (OECD and UCLG 2022).

The SNGs rely primarily on two sources to fund their expenditures: own-source revenue and intergovernmental transfers from the national budget (OECD 2022). The intergovernmental transfers make up much of their funding, creating a significant dependence on central government. Tax allocation is regulated by [Law No.28/2009 on Regional Taxes and User Charges](#), which shifted certain taxes from local governments to provincial governments. The taxes allotted to provinces include vehicle taxes and ownership transfer taxes, while municipal taxes relate to hotels, restaurants, entertainment, advertisements, public lighting, mining and parking. SNGs have limited fiscal autonomy and can only set tax rates within central government limits and must adhere to specific criteria for raising revenue.

The intergovernmental fiscal transfer system, an equalization tool, provides grants from the General Allocation Fund, the Special Allocation Fund, the Revenue-sharing Fund and the Village

<sup>92</sup> Online interview with APEKSI, 28 August 2023

<sup>93</sup> The 15 sectors are: Public Housing, Home Affairs Government, Social, Health, Women's Empowerment and Child Protection, Environment, Family Planning and Welfare, Employment, Basic Education, Public Works, Food Security, Art, Communication and Information, Transportation and Capital Investment.

<sup>94</sup> Online interview with UCLG, 14 August 2023

Fund, among others. The general transfer fund forms the bulk of the local budget, and the special transfer fund is sector-specific for public services, health and education. A maximum of 30 per cent of the local government budget is dedicated to operational funds for fixed costs like salaries, overheads and maintenance, while the remainder is for development programmes.<sup>95</sup> After the enactment of [Village Law No. 6/2014](#), the distribution of village funds (*dana desa*) for the advancement of the rural economy became a responsibility of central government. Corruption and fraudulent management of funds have undermined the original aim of good governance and equitable development (Munir et al. 2020). For resource mobilization purposes, local governments enjoy a range of options including borrowing, crowdfunding, entering into public-private partnerships and creating state-owned companies or SOEs - Jakarta has more than 100 such companies.<sup>96</sup> Few SOEs can be public benefit corporations providing goods and services to the public. On the whole, they are profit-making joint-stock companies which can contribute to [government revenue](#).

## 5.4. Employment in SNGs and labour practices

### 5.4.1. Labour regulations

[Act No. 13/2003 Concerning Manpower](#) is the overarching labour law of the country. In November 2020, [Law No. 11/2020 on Job Creation](#), commonly referred to as the Omnibus Law, was enacted. This law introduced significant changes relating to employment contracts, working hours, wages, social security, leave policies and termination procedures, by modifying the existing legislation (Better Work Indonesia 2021). Some of the changes include removing mandatory paid leave, cutting severance pay and minimum wage, and promoting privatization. While the duration of employment contracts was increased from two to five years, contracts were no longer allowed to be renewed, and overtime hours were increased from three hours to four. In 2021, four supplementary regulations were created to accompany the Omnibus Law, covering foreign workers, non-permanent contracts, outsourcing, working hours, rest hours, termination, wages and unemployment insurance.

Although the new law was intended to create a conducive investment climate, reduce unwieldy bureaucratic processes (for granting permits) and curb corruption and nepotism,<sup>97</sup> workers, students and environmentalists criticised it for being pro-business and reducing labour and environmental protections (Suroyo and Sulaiman 2022). For over 20 years, trade unions in the electricity subsector have been campaigning against the privatization of the electricity subcluster and have expressed strong opposition to the Omnibus Law (PSI 2021). In 2020, they submitted an analysis of the electricity subcluster, providing reasons for their opposition, to the House of Representatives. In 2021, the Indonesian Constitutional Court deemed the law unconstitutional and asked the Government to rectify the objectionable clauses within two years.

<sup>95</sup> Online interview with APEKSI, 28 August 2023

<sup>96</sup> Online interview with UCLG, 25 August 2023

<sup>97</sup> Online interview with APEKSI, 28 August 2023

## ► The Re-municipalization of PAM

In 1998, the public water utility company (PDAM or PAM Jaya) granted two private companies exclusive management rights for 25 years, while maintaining a supervisory role. After the privatization, water prices increased six-fold (but with no change in the number of consumers), the quality of the water supply became poor and labour rights abuses increased (Hasibuan 2007). Some 2,800 of the 3,000 workers were “seconded” (i.e. transferred) without any contract or agreement, to the private companies. The pay of direct employees of PAM Jaya and the “seconded” workers differed by a factor of 2.5 to 5 (Hasibuan 2007). Along with residents and activists, SP PDAM launched a campaign and their coalition filed a class-action lawsuit in 2012. In 2015, the Central Jakarta District Court rescinded the water privatization contracts due to negligence in relation to water-quality delivery. The Supreme Court in 2017 sustained that ruling and directed the central and the provincial governments to restore service delivery through the public water utility companies (Varagur 2017). Finally in 2019, the Jakarta administration entrusted PAM Jaya with water management. The governor remarked that “water services should be perceived as a basic need, not as a mere business” (Fardah 2019).

**Law No. 5 of 2014 on State Civil Administration**<sup>98</sup> outlines the framework for the management of public servants in central government and SNGs. It establishes the State Civil Apparatus Commission (KASN) as an independent institution free from political interference to provide oversight and ensure human resource excellence in civil service. This includes supervising the recruitment and placement processes of high-ranking officials within government in order to foster globally recognized governance standards (Hidayah 2023). The activities of the Civil Service are overseen by three other national departments and agencies, namely the Ministry of Administrative and Bureaucratic Reform (MenPAN), the National Institute of Public Administration and the National Civil Service Agency (BKN for *Badan Kepegawaian Negara*) (World Bank 2018).

### 5.4.2. Extent and types of public sector employment

Most public service employees work for regency or city authorities. In 2018, their number at the regency and city level was 2,681,717. There were 276,699 employees at the provincial level and 939,645 at the central level. Table 5.2 presents sex-disaggregated employment data for the three levels of government in 2017 and 2018.

► **Table 5.2. Employment at three levels of Government in Indonesia, 2016-17 (by sex)**

Governmental level	2017			2018			% change (2017/2018)
	Male	Female	Total	Male	Female	Total	
Central	556 777 (59%)	376 854 (41%)	933 631	553 880 (59%)	385 765 (41%)	939 645	1%
Provincial	288 880 (50.7%)	280 221 (49.2%)	569 101	280 003 (50.2%)	276 699 (49.7%)	556 702	-2%
Regency/City	1 294 030 (46.5%)	1 487 088 (53.5%)	2 781 118	1 231 869 (46%)	1 449 848 (54%)	2 681 717	-4%

Source: Statistical Yearbook of Indonesia, 2019

<sup>98</sup> Indonesia, “Law No. 5 of 2014 on State Civil Administration”, 2014.

The largest workforce is engaged at the regency and city level, where female participation is proportionally higher than in central and provincial governments. In the provinces, there are almost equal numbers of male and female employees; at the regency and city levels women outnumber men; and at the central level, men outnumber women.

The hierarchical structure of the Civil Service places “structural employees” with managerial responsibilities above “non-structural employees” with functional duties such as teachers, nurses and agricultural extension workers (ADB 2021). Non-structural employees constitute the majority. All civil servants start their careers as non-structural employees and can progress, on the basis of qualifications, work experience, rank and annual performance evaluations, to occupy structural status as heads of national agencies, director generals, and deputy ministers (ADB 2021; World Bank 2018; Law No. 5/2014).

Government institutions including SNGs have permanent civil servants (PSN or *pegawai negeri sipil*) whose employment agreements last until retirement.<sup>99</sup> Law No. 5/2014 instituted the practice of hiring non-permanent State employees called *pegawai pemerintah dengan perjanjian kerja* (PPPK or government employees with a work agreement), who are effectively contract workers with fixed-term agreements as cleaners, drivers, security guards, even as health care workers.<sup>100</sup> Their working conditions are regulated by Government Regulation No. 49/2018 on Management of Government Employees with Work Agreements, which guides the recruitment, selection and termination of PPPKs (Helan et al. 2023). The recruitment of PPPKs follows a needs assessment by relevant government agencies and a determination of qualifications. Although the legislation dictates that PPPK recruitment must be done centrally, in reality it continues to be conducted at SNG level according to local requirements. PPPKs can be dismissed at the end of the specified contract period due to changes in government requirements, or for incompetence or wrongdoing in the workplace (Helan et al. 2023).

### 5.4.3. Human Resources (HR) practices

#### 5.4.3.1. Recruitment, promotion, dismissal and wages

In Indonesia, Civil Service Law No. 5/2014 governs the recruitment of civil servants. Overall, the National Civil Service Agency (BKN) is responsible for overseeing the selection of candidates, conducting competency assessments and formulating standards and technical procedures. However, it is the duty of the respective government agencies to determine the need for a particular position and plan the hiring process.

Local government units annually submit job vacancies to the Local Government Employee Board (BKD). After reviewing these submissions, the BKD selects and sends the positions to be filled to the BKN for further evaluation. The BKN checks the legitimacy of the request and advises the MenPAN, which then seeks advice from the Ministry of Finance, since most civil servants in SNGs are paid with funds transferred from central government.

The recruitment process usually entails an initial screening, a written entrance exam and subject-specific entry exams (ADB 2021). Once selected by the Trustees Personnel Officer, the candidate undergoes a probation period which includes education and training. A civil servant can be dismissed on grounds of committing fraud or a criminal offence or of joining a political party.

<sup>99</sup> Online interview with APEKSI, 28 August 2023

<sup>100</sup> Online interview with APEKSI, 28 August 2023



The salary of civil servants is determined by level of responsibility, local cost of living and the nature of the job. Despite civil service positions being popular, higher-level positions within the bureaucracy often receive comparatively low monetary compensation (Tjiptoherijanto 2014). To offset this, in addition to their basic salary, various allowances and non-monetary benefits are provided, including special allotments of rice, holiday bonuses, access to insurance benefits and retirement plans (ADB 2021).

Local governments have the authority to handle appointments, transfers, dismissals, pensions, salaries and benefits, as well as education and training based on needs and capabilities; these are regulated by the regional government.<sup>101</sup> Transfers and changes at the local level (city/regency) require the approval of the BKN and are arranged by the provincial government. Transfers from the local level to provincial or national government or at the provincial level are organized by the Ministry of Home Affairs and have to be authorized by the BKN. The KASN handles complaints about recruitment and transfers and mediates between the institution concerned and the employees. Critical decisions on organizational structure and staff administration pertaining to the recruitment, promotion, transfer and training of civil servants are taken on the recommendation of the *Baperjakat*, which is an advisory committee on rank and position. However, it is often the “subjective assessment of the local leader (like the mayor) which is more dominant than the evaluation mechanism according to the rules of *Baperjakat*”.<sup>102</sup> This undermines the *Baperjakat*’s role and makes it superfluous to governmental institutions. It has been argued that in Indonesia, the “main powers are with the leaders like mayors and governors”.<sup>103</sup>

Promotions are governed by meritocratic principles and internal career advancement mainly relies on performance reviews, with a panel of higher-ranking officials assessing candidates. At the district level, the elected district heads hold considerable authority in making promotion decisions (ADB 2021). Law No.5/2014 decrees that promotions to higher structural positions must be conducted through an open and competitive process, rewarding competence, education, training, work experience and integrity while strictly avoiding any discrimination based on age, gender, religion, marital status, disabilities or political affiliation (ADB 2021).

In two separate cases in 2021, the Supreme Court and the High Administrative Court of Jakarta issued verdicts to protect disabled persons’ rights to public sector employment. Initially, these employees had brought cases of unfair dismissal and discrimination in appointment before lower-level courts and lost (Afrianty 2022).

#### 5.4.3.2. Social security provisions

Social security is a constitutional mandate enshrined in Articles 28 and 35 of the 1945 Indonesian Constitution. [Law No. 40/2004 concerning the National Social Security System](#) establishes national schemes to provide social security benefits for citizens, including old-age pension, old-age savings, national health insurance, work injury insurance, and death benefits for the dependants of deceased workers. Funding for these schemes is obtained through a payroll tax levied on the wages of both employees and employers, primarily within the formal sector. This legislation expanded the scope of the existing social security programmes in Indonesia, which previously covered only civil servants and formal sector employees, to include those engaged in informal economic activities (Arifianto 2006).

<sup>101</sup> Online interview with APEKSI, 28 August 2023

<sup>102</sup> Online interview with APEKSI, 28 August 2023

<sup>103</sup> Online interview with UCLG, 25 August 2023



Between them, Law No. 11/1969 on Pensions for Employees [Civil Servants] and Employees' Widow/Widower and Government Regulation No. 25/1981 on Social Insurance, entitle civil servants to a monthly pension as well as a lump-sum old-age savings payment (ILO n.d.). Moreover, Civil Service Law No. 5/2014 mandates insurance cover for health, accidents and life, as well as legal assistance, for civil servants. All female employees are entitled to 13 weeks of paid maternity leave fully funded by employers.

#### 5.4.3.3. Collective rights and workers' representation

In domesticating the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Indonesia introduced [Trade Union Law No. 21/2000](#), which grants workers the right to establish unions at the enterprise level. This law guarantees the right to organize, and as few as 10 workers can form a union, while employees of State-owned enterprises and civil servants can establish and join independent unions (Trade Union Law 21/2000; Ford and Sirait 2016). It also allows for multiple union federations/confederations and permits enterprise-level unions to affiliate with any union federation/confederation at the regional or national level (Ford and Sirait 2016). Additionally, it protects the right to organize by outlawing anti-union activities such as intimidation, campaigns against union formation, termination or temporary suspension of employment, demotion or transfer and withholding or reducing payment.

Civil servants are members of the *Korps Pegawai Republik Indonesia* (KORPRI) or Civil Servants Corps Republic of Indonesia, which is a long-standing and strong organization.<sup>104</sup> In 1999, workers of State-owned enterprises were given the option to continue to affiliate with KORPRI and many expressed the wish to withdraw their membership (Budiarti 2011). The CEACR observed in 2022 that “these organizations do not appear to be organizations in the sense provided for by the Convention [No. 87] or equivalent to organizations of workers of the private sector” and requested that the Government “take necessary measures to ensure the right of civil servants to form and join organizations of their own choosing, as is their right under the Convention, and to provide information on all steps taken to that end.”<sup>105</sup>

## 5.5. Employee opportunities and inclusive employment

### 5.5.1. Training and capacity building

Civil Service Law No. 5/2014 decrees that all government agencies must create an annual competency development plan to build employee capacity through training, seminars, courses and upgrading. As part of their training, employees can also practise their job in other agencies situated in the area, for one year.

Government Regulation No. 101/2000 on Education and Training for Public Servants stipulates three types of training for civil servants: leadership, functional, and technical. Leadership training is obligatory for employees holding structural positions. Functional training is for improving the performance of specific civil service occupations like teacher, lecturer, or doctor, while technical training is for developing general technical skills, such as computer literacy, required to enable civil servants to carry out their tasks effectively. Recently, the Government has focused on enhancing the digital capabilities of civil servants through the Government Transformation

<sup>104</sup> Online interview with APEKSI, 28 August 2023

<sup>105</sup> [Observation \(CEACR\)](#) - adopted 2022, published at ILC 111 (2023), regarding Convention No. 87.

Academy Training for State Civil Servants (Santhika 2023). Its chief goal is to improve participants' comprehension of computer devices, office applications and awareness of information security. Since the advent of decentralization, the responsibility for technical training costs has shifted to SNGs. However, most local governments have allocated only a small budget for training, resulting in a lack of emphasis on technical training (Turner et al. 2009).

### 5.5.2. Gender equity

There exist “large variations in gender balance between government departments at both the national and subnational levels” (World Bank 2018, iii). According to this study, the management-level positions are dominated by men, while women account for about one per cent of government employees and are less likely than men to be promoted in a given year (World Bank 2018, iii). Furthermore, women are predominantly employed as teachers and nurses and are frequently not even considered for promotion. In some instances, women themselves refuse promotions when it requires them to move to remote provinces or rural areas (World Bank 2018). The Government has institutionalized gender mainstreaming through the State Ministry for Women's Empowerment (SMWE) which, by virtue of Presidential Decree 9/2000 on Gender Mainstreaming and its accompanying implementation guidelines, promotes gender equality and technical leadership in all national and local level government bodies (ADB 2006). One-fifth of SMWE's budget, so-called “stimulation funds”, (*dana stimulan*), is devoted to gender integration activities in SNGs intended to increase awareness and address gender disparity, and to setting up regional women's empowerment divisions (WEDs). However, the functioning of these divisions has been compromised by very limited funding and human resource capacity. Interestingly, there is no specific reference to gender or women in the Indonesian Constitution, which instead guarantees rights to “him/her.”

### 5.5.3. Localization of SDGs

Two years after the adoption of SDGs, Presidential Decree No. 59/2017 mandated the inclusion of SDGs in national and subnational mid-term development plans (UCLG-ASPAC 2019). The decree emphasized involving local governments in this effort and designated the BAPPENAS as the lead agency responsible for coordinating the implementation of the SDGs by both national and local governments (UCLG-ASPAC 2019). It also required the creation of an SDG roadmap and action plans with specific deadlines at the national, provincial, district and city levels (UCLG 2023). According to Indonesia's Voluntary National Review (VNR) 2017, the subnational integration of SDGs was planned to be achieved through medium-term regional development plans and regional work plans. SDG coordination teams have been established to involve and engage all stakeholders at subnational levels (UCLG 2023).

Decree No. 59/2017 was amended by Presidential Decree No. 111/2022 on the Implementation of the Achievement of SDGs, which requires provinces to develop local action plans and compile reports by collecting data from cities and regencies within their areas. Cities and regencies do not have the obligation to prepare such plans; instead, they provide data support and field reports on SDG implementation to the provinces. The 2022 Amendment identifies the governor as the representative of central government in the preparation of regional action plans, in coordination with BAPPENAS, the Ministry of Home Affairs, the regencies/cities and other relevant stakeholders. It also underscores the need to update the National Roadmap for 2017 – 2030 in light of the COVID-19 pandemic. By 2021, 29 provinces had adopted local action plans aligned with the SDGs, which are mandatory for provinces but not for municipalities (UCLG 2023). Other initiatives on implementing SDGs at the local level include the setting up of an SDG secretariat in

the Bojonegoro District and the formulation of an SDG regional action plan in Pangkep District, with the focus on poverty, gaps or inequalities in education and health, and marine ecosystems (Indonesia, National Development Planning 2017).

Moreover, in 2018 UCLG-ASPAC launched a flagship initiative called Leadership, Ownership and Capacity for Agenda 2030 Local Implementation and Stakeholders Empowerment (LOCALISE SDGs – Indonesia) in collaboration with BAPPENAS and the Association of Indonesian Municipalities. This aims to contribute directly to Indonesia's goal of expanding its SDG initiatives and currently encompasses 30 local governments and 5 local government associations (UCLG-ASPAC 2019). As part of EU-supported projects implemented through UCLG, cities were also evaluated for their SDG proposals and, though they have no obligation to develop local action plans, 70 out of 98 cities won awards.<sup>106</sup> Local authorities have expressed interest in a Voluntary Local Review (VLR), beginning with the city of Surabaya and followed by Jakarta. A Voluntary Subnational Review (VSR) is also being developed for the entire country and has already produced three VNRs, in 2017, 2019 and 2021. These VNRs and VLRs also reflect best practices by selecting from the inputs to the metadata platform, thus adopting a bottom-up approach.<sup>107</sup>

Target 8.5 of the SDGs advocates full employment, inter alia, including for persons with disabilities. The Law on Disabilities (No. 8/2016) in Indonesia, based on the UN Convention on the Rights for Persons with Disabilities which it ratified in 2011, guarantees equal rights and opportunities in all aspects of life and livelihood for disabled people, including access to employment opportunities. It states that at least 2 per cent of the workforce in government institutions, State-owned enterprises and local state enterprises should be persons with disabilities.<sup>108</sup>

## 5.6. Observations

The end of authoritarian rule in the late 1990s, which roughly coincided with the Asian financial crisis, brought a major impetus towards decentralization in Indonesia, along with waves of constitutional amendments and reforms to its governance structure. At the same time, this unitary country turned towards democracy, holding direct elections across the different tiers of SNGs. “From the point of view of trade unions, Indonesia is one of the most decentralized countries in the South-East Asia region and the SNGs employ the majority of the public sector employees”<sup>109</sup>. The expenditure on decentralization has placed a lot of resources in the hands of local government, but capacity building and workforce training have not followed at a commensurate level. At the lower tiers of governance, local public servants do not have the technical skills to decide autonomously and deliver on resource use, policy implementation and service delivery (Ostwald et al. 2016). Indonesia lags behind in its achievement of SDGs, for which it was ranked 101 out of 166 countries in 2020 (Ferrazzi 2023). The potential of decentralization has been undermined by the relative inattention paid to provincial government, which has led to a “missing middle”, and reforms have occurred at the expense of the meso-level (Hutchinson 2017).

<sup>106</sup> Online interview with APEKSI, 28 August 2023

<sup>107</sup> Online interview with UCLG, 25 August 2023

<sup>108</sup> Online interview with APEKSI, 28 August 2023

<sup>109</sup> Online interview with UCLG, 14 August 2023

## ► 6 Bangladesh

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### 6.1. Introduction

Bangladesh gained its independence from West Pakistan (now Pakistan) in 1971. British colonization, partition from India, the formation of East Pakistan and the eventual independent republic inform the country's complex past. In its early years, Bangladesh established democratic governance and rebuilt its economy amidst political instability and military coups. Since the 1990s, it has witnessed progress in the form of stable governance and sustained economic development. Bangladesh is a lower-middle-income country with a Human Development Index (HDI) value of 0.661 (UNDP 2022) and a Gross National Income (GNI) per capita of US\$ 2,820 (World Bank n.d.). It is among the most densely populated countries in the world, with a total of 171 million people (World Development Indicator 2022) living in a deltaic region that is frequently beset by floods and cyclones.

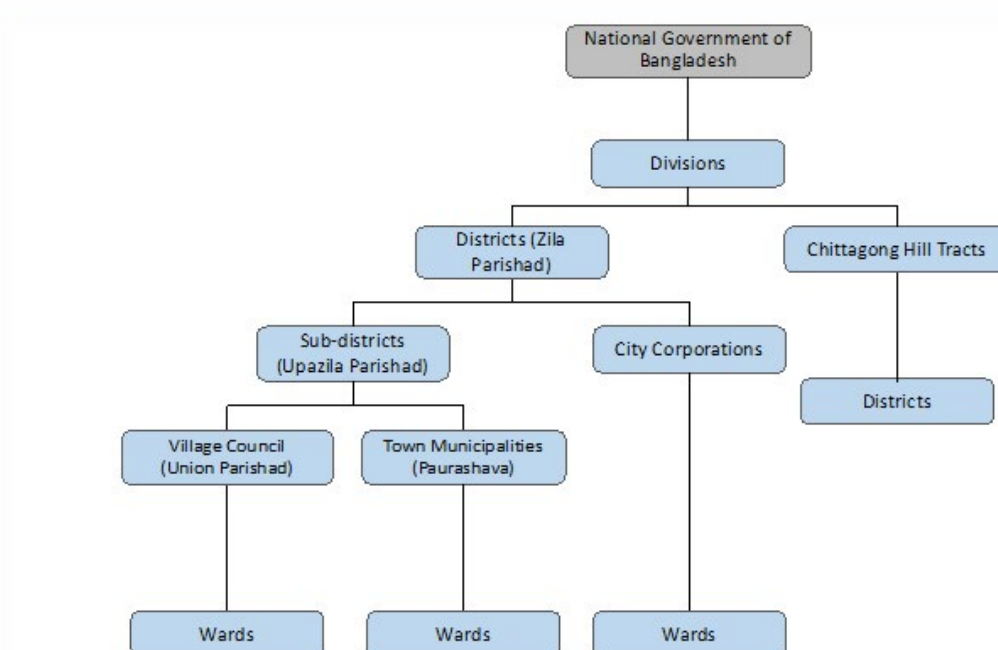
### 6.2. Governance structure

Bangladesh is a democratic unitary State with the President at its head. However, the position of the President is somewhat symbolic, since real executive power lies with the Prime Minister, who serves as the head of the Government. The country is divided into eight administrative divisions, namely Dhaka, Chittagong, Rajshahi, Khulna, Barisal, Sylhet, Rangpur and Mymensingh. These divisions are then subdivided into districts, which serve as the primary administrative units at the subnational government (SNG) level. Additionally, there exists a semi-autonomous region called the Chittagong Hill Tracts (CHT).

The administrative divisions are organized into 64 districts, each overseen by a deputy commissioner (commonly referred to as DC) appointed by the Deputy Secretary of the Bangladesh Civil Service (BCS) Administration Cadre. Within the districts, there are 495 sub-districts (*upazilas*). The administration of each *upazila* (formerly *thana*) is managed by the *Upazila Nirbahi Officer* (UNO) and a committee called the *upazila parishad*. The *upazila parishad* consists of a chairman, a male vice-chairperson and a female vice-chairperson, all elected directly by the people. Further, these sub-districts are divided into 4,571 village councils (*Union Parishad*) and 330 town municipalities (*Paurashava*) headed by mayors. The heads of the village councils are elected for a term of five years.

The divisions serve as administrative boundaries, ensuring close support for the district administrations. The rural areas are governed by village councils, each of which is divided into nine wards. From these nine wards, the local citizens elect nine ward commissioners; for every three wards, one woman commissioner is elected. The urban areas are divided into city corporations, currently amounting to 12 across the country. There are 328 town municipalities divided into four grades, A, B, C and D, based on area, population and annual revenue collection.

► Figure 6.1. Governance Structure of Bangladesh



## 6.3. Roles and responsibilities of SNGs

### 6.3.1. The regulatory framework

The 1972 Constitution of the People's Republic of Bangladesh upholds the principle of democratic local governance (Talukdar 2019). It grants authority to the legislature to determine the structure, scope of power and degree of autonomy for local governments (Talukdar 2019). The country has adopted five laws to regulate the organization and management of districts ([Zilla Parishad Act 2000](#)), sub-districts ([Upazila Parishad Act 2009](#)), village councils ([Union Parishad Act 2009](#)), municipalities ([Municipality/Pourashava Act 2009](#)) and city corporations ([City Corporation Act 2009](#)). Collectively, they form a comprehensive framework for the functioning of SNGs.

The Local Government Division (LGD) operating under the Ministry of Local Government, Rural Development and Cooperatives (MLGRD&C) is responsible for formulating and executing legislation concerning local governance (CLGF 2018b). Effectively, all the different levels of SNGs come under the Local Government Ministry and abide by its directives. However, the Hill District Local Government Parishad Act, 1989 falls under the jurisdiction of the Ministry of Hill Tract Affairs (CLGF 2018b). Additionally, the Rural Development and Cooperatives Directorate oversees rural local government entities (OECD and UCLG 2022).

### 6.3.2. Interrelationship between government spheres and key services

The urban local governments have greater responsibilities than the rural local governments. The central government has limited service-delivery responsibilities, and the urban-based local

authorities perform the key functions of city planning, local infrastructure development, water supply and solid waste management. Unlike the city corporations which govern large cities, “the *Paurashavas* are located nearer to rural areas and are expected to play additional roles including promoting local industries, invigorating physical distribution in rural areas and serving as a centre for developing the local economy as a whole.” (JICA 2017, 16).

► **Table 6.1. Main responsibilities of municipalities in Bangladesh**

Sectors and Sub-Sectors	Municipal Level (City Corporations)	Municipal Level (Paurashavas)
<b>1. General public services(administration)</b>	Public buildings and facilities	Administrative services (marriage, birth, death, character certificate, etc.); Public building and facilities
<b>2. Public order and safety</b>	Regional firefighting services	Municipal traffic signs; Preparedness for rescuing flood-affected people; Developing rules on harmful and illegal businesses and their prevention; Construction, maintenance and operation of graveyards and cremation spots
<b>3. Economic affairs/transport</b>	Regional roads, railways, airports and ports, inter-city and regional railway transport, transports; Employment services; Support to local enterprises and entrepreneurship; Agriculture and rural development; Regional tourism	Local roads (shared); Park spaces; Local ports; Urban transport; Local tourism
<b>4. Environmental protection</b>	Nature preservation; Soil and groundwater protection, Climate protection; Sewerage	Parks and green areas; Waste management; Street cleaning; Waste disposal; Operating and maintenance of public toilets and supervision of private toilets; Supervision of unhygienic buildings
<b>5. Housing and community amenities</b>	Construction/renovation; Management	Construction/renovation (shared); Distribution of drinking water; Public lighting; Urban and land use planning
<b>6. Health</b>	Hospitals and primary health clinics	Primary health care-medical centres (shared); Control and prevention of communicable diseases
<b>7. Culture and recreation</b>	Regional museums; Cultural heritage	Sports; Libraries; Local museums
<b>8. Education</b>	Primary, secondary and intermediate education	Pre-primary and primary education (shared)
<b>9. Social welfare</b>	Care for the elderly; Disabled people (benefits and services); Vagrant homes	Social care/Shelters for children and youths without parents (shared); Support services for slum-based/ urban poor families

Source: OECD and UCLG 2022

The local government regulations underscore the overall duties and task divisions across the different tiers of SNGs. The Municipal Association of Bangladesh (MAB) has raised concerns about the overlap of responsibilities and the lack of rules, circulars or guidelines to operationalize the



principles enshrined in the laws.<sup>110</sup> The coordination mechanisms between the various SNG levels are very fragile and local governments are “not very strong and only end up becoming local administrators in practice”.<sup>111</sup> Raman and Pabon (2018, 37) also highlight the shortage of municipal staff, numerous vacant positions and “weak coordination between the many government ministries, departments and agencies on which they (local governments) must depend to implement their mandate”.

### 6.3.3. Fiscal autonomy and resource allocation

The financial resources of SNGs in Bangladesh are inadequate, and local governments predominantly depend on transfers from the national government.<sup>112</sup> In the 2019-20 financial year, urban SNGs spent less than 1 per cent of GDP, or 5.1 per cent of the country's total expenditure (OECD and UCLG 2022). This expenditure was classified into “Development” and “Recurrent”. Development expenditure includes expenses for infrastructure building, staff development and training, while Recurrent expenditure covers salaries and wages, office maintenance and centrally directed matters (OECD and UCLG 2022).

For budgetary purposes, one-third of the total revenue of urban local governments comes from their own sources, such as taxes and fees, and covers everyday expenses (OECD and UCLG 2022). The majority of their funding accrues from external sources like grants, subsidies from central government and other development partners, public transfers, and private donations. These funds are primarily directed towards development activities. This heavy reliance on external funding means that urban SNGs often depend on the central government to compensate for revenue shortfalls. The transfer of funds to urban local authorities is typically facilitated through the block grant mechanism of the annual development programme (ADP).

Bangladesh's fiscal and revenue system is centralized, with different taxes, local revenues and foreign income going to the national government.<sup>113</sup> The Centre prepares an ADP for the fiscal year (July to June) and aligns it with the budget. After the ADP and the budget are approved by Parliament, the budgetary allocations are then disbursed through various ministries, divisions (such as the family planning division under the Health Ministry) and different divisional directorates, before reaching the SNGs. The resources are channelled through the Ministry of Local Government and not directly to local authorities, which lengthens the process of budget utilization at the local level. Local governments have limited sources of revenue, which primarily comes from household taxes, certain certificates and licences for small-scale trade, rickshaw number plates and other activities. Their expenditures are strictly regulated and SNGs have very little freedom to decide their budgets, given that the allocations to various social and economic sectors such as health, education or sanitation are specified by law.<sup>114</sup> The SNGs cannot step away from the central government's rules and jurisdiction.<sup>115</sup>

The chain of command makes directorates accountable to their higher authorities and they too are not bound to follow up any request from local councils.<sup>116</sup> They prepare action plans for budget disbursement based on common templates, for every district, sub-district, city or *Paurashava* and “hardly go out of these templates, resulting in the mis-utilization of a big portion of the

<sup>110</sup> Online interview with MAB, 23 August 2023

<sup>111</sup> Online interview with MAB, 23 August 2023

<sup>112</sup> Online interview with UCLG, 14 August 2023

<sup>113</sup> Online interview with MAB, 23 August 2023

<sup>114</sup> Online interview with MAB, 23 August 2023

<sup>115</sup> Online interview with WASA, 29 July 2023

<sup>116</sup> Online interview with MAB, 23 August 2023

national revenue”.<sup>117</sup> Often, the welfare schemes prepared by different government ministries and departments overlap, covering the same area for the same population, making it difficult to identify who is actually responsible for the programmes.<sup>118</sup>

## 6.4. Employment in SNGs and labour practices

### 6.4.1. Labour regulations

The key laws and regulations governing employment in Bangladesh are the [Bangladesh Labour Act, 2006](#) and the [Bangladesh Labour Rules, 2015](#). The 2022 amendment to the Labour Rules addresses the critical issues of workers' rights under third-party contractors and the classification of permanent work. Contracting agencies cannot pay their employees less than the wage of a permanent worker (or employee of a similar rank) and must establish a Workers' Social Security Fund for gratuity facilities. Permanent workers are defined as those who have worked in a specific organization for more than six months. The 2006 Labour Act is the central piece of legislation on labour and applies to all types of employees, without exception, even those in SNGs.<sup>119</sup> However, the amended laws are unlikely to have much impact on permanent workers, as their benefits were already protected, with hardly any violations.<sup>120</sup>

### 6.4.2. Extent and types of public sector employment

The 2016-17 Labour Force Survey reported that only 3.8 per cent of the workforce is engaged in the three spheres of government: central, autonomous and local (Bangladesh Bureau of Statistics 2018). Generally, more employees work in central government (2.9%) followed by the autonomous authorities (0.6%) and local governments (0.2%). In absolute terms, between 2016 and 2017, local government accounted for more than 149,000 employees, autonomous authorities more than 355,000 employees, and central government 1,785,000 employees.

Informal employment is also prevalent in the public service. Between 2016 and 2018, 24.8 per cent of government employees working were informal; 49.2 per cent were so in autonomous councils; and 77 per cent in local governments.

► **Table 6.2: Formal/informal employment by sex and area (in thousands), 2016-2017**

	Rural			Urban			Bangladesh		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Informal employment									
Government	171	105	276	111	55	167	282	161	443
Autonomous	73	49	121	45	9	53	117	57	175
Local Government	62	34	96	15	4	19	77	38	115
NGO	94	84	178	62	36	98	156	120	276
Individual proprietorship	19 392	4 321	23 713	5 713	1 163	6 875	25 105	5 484	30 588
Household	3 170	7 606	10 776	593	1 212	1 805	3 763	8 819	12 582

<sup>117</sup> Online interview with MAB, 23 August 2023

<sup>118</sup> Online interview with MAB, 23 August 2023

<sup>119</sup> Online interview with WASA, 29 July 2023; Online interview with MAB, 23 August 2023

<sup>120</sup> Online interview with WASA, 29 July 2023



	Rural			Urban			Bangladesh		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Private	2 453	919	3 372	2 469	1 499	3 968	4 923	2 418	7 340
Other	97	11	108	94	14	108	191	25	216
Total	25 511	13 130	38 641	9 102	3 991	13 093	34 613	17 121	51 734
Total employment									
Government	632	250	882	666	237	903	1 298	487	1 785
Autonomous	127	59	186	130	39	168	257	97	355
Local government	79	38	117	26	7	33	105	45	149
NGO	121	93	215	78	42	120	200	135	335
Individual proprietorship	22 706	4 988	27 693	7 937	1 420	9 357	30 643	6 408	37 051
Household	3 238	7 616	10 854	603	1 215	1 818	3 841	8 831	12 672
Private	2 805	1 021	3 826	2 834	1 597	4 431	5 639	2 618	8 257
Other	102	11	113	98	14	112	199	25	225
Total	29 809	14 076	43 885	12 372	4 570	16 943	42 182	18 646	60 828
Informal employment as % of total employment									
Government	27	42.1	31.3	16.7	23.3	18.4	21.7	33	24.8
Autonomous	57	82.6	65.1	34.3	22.8	31.7	45.6	58.9	49.2
Local government	78.5	90.2	82.3	59	53.8	57.9	73.7	84.8	77
NGO	77.2	90.6	83	79.2	84.5	81	78	88.7	82.3
Individual proprietorship	85.4	86.6	85.6	72	81.8	73.5	81.9	85.6	82.6
Household	97.9	99.9	99.3	98.3	99.8	99.3	98	99.9	99.3
Private	87.5	90	88.1	87.1	93.9	89.6	87.3	92.4	88.9
Other	95.7	95.2	95.7	96	100	96.5	95.9	97.9	96.1
Total	85.6	93.3	88.1	73.6	87.3	77.3	82.1	91.8	85.1

Source: Labour Force Survey Bangladesh, 2016-17

Apart from permanent employees, there are three categories of workers in SNGs: contractual, outsourced, and the *Kanamana*. Contractual employees are recruited by the Government on a fixed monthly salary with no other payments or benefits. SNG institutions issue 89-day contracts and continue renewing them in order to bypass the labour law clauses which require the regularization of employees after a 90-day contract.<sup>121</sup> Outsourced workers are generally hired by private contractors on a monthly salary, mostly without a written agreement. They form the bulk of the workforce in SNGs. For example, the Water Supply and Sewerage Authority (WASA) has more than 1,000 outsourced employees who do not receive any written contract.<sup>122</sup> The *Kanamana* are hired for daily wages on a no work-no pay basis under a hire-and-fire system. There are around 350 daily paid workers in WASA, some of whom have worked for the company for 12 years. There are “very few permanent staff (except in the clerical section) in the municipalities and city corporations these days and all are outsourced in some way, be it community health workers, cleaners and sweepers”.<sup>123</sup>

In part, the problem is due to the fact that municipalities generate insufficient funds to fulfil their responsibilities and “pay their own staff, which has been a challenge for a long time”.<sup>124</sup> As a result, municipalities hire cleaners and sweepers (faecal sludge sanitation workers) under a muster roll and on a daily wage. Until recently, they hired third parties through tenders to carry out waste management services. These private contractors recruit workers who actually come under

<sup>121</sup> Online interview with WASA, 28 July 2023

<sup>122</sup> Online interview with WASA, 28 July 2023

<sup>123</sup> Online interview with PBBSKU, 1 September 2023

<sup>124</sup> Online interview with MAB, 23 August 2023

the City Corporation Waste Management or Conservancy Department but are not directly hired by it. They also recruit supervisors or heads (*sardar*) on a daily wage to manage the remainder of the staff across municipalities. With daily paid workers and outsourced employees, the labour laws are not honoured, and they are “paid very little”.<sup>125</sup> In some local government institutions, permanent employees are perceived to be a drain on the treasury, given their many entitlements such as medical insurance and retirement benefits. Local governments and their entities therefore outsource services or hire temporary workers so as to reduce labour costs at the expense of workers, contrary to the ILO Labour Clauses (Public Contracts) Convention, 1949 (No. 94), not ratified by Bangladesh.<sup>126</sup>

Two unions have brought allegations of corruption against contractors that have been awarded lucrative contracts because they are politically well connected and collude with the authorities.<sup>127</sup> This would, if the allegations are proven, have implications for the working conditions and wages of the majority of the workers, since daily paid and outsourced workers are mainly engaged by these contractors, which maximize the profits derived from contracts at the expense of workers’ welfare and benefits. In the past, many contractors submitted tenders for specific jobs and the lowest bidder was awarded the project, but that is no longer the case – contractors now inflate costs and use political networks to obtain the contract, even though their bid may not be the lowest.<sup>128</sup>

### 6.4.3. Human Resources (HR) practices

#### 6.4.3.1. Recruitment, promotion, dismissal and wages

Local government legislation establishes the basic tenets of policy on recruitment, duties, suspension, salary and allowances for employees at the following SNG levels. At the sub-district level, the Upazila Parishad Act (2011) does not contain any specific guidelines on these issues.

- **Districts or Zila (following the Zilla Parishad Act 2000):** The council can recruit employees under stipulated conditions. It also has the right to penalize, suspend or dismiss employees. The central government can set the conditions of employment for employees through notifications. This includes preparing a list of positions/vacancies, qualifications, salaries and benefits, disciplinary rules, etc.
- **Village Council or Union Parishad (following the Union Parishad Act 2009):** The central government formulates the rules relating to appointments, conditions of employment, salaries and benefits, and disciplinary actions for *Union Parishad* employees. With prior authorization from the centre, the *Union Parishad* can recruit additional employees, whose salaries and benefits have to be met from its own funds.
- **Municipality or Paurashava (following the Paurashava Act 2009):** A municipal service is formed to recruit municipal employees. Based on government guidelines, the municipal authorities can formulate recruitment conditions, responsibilities, salaries and benefits as well as impose disciplinary actions including suspension and termination.
- **City corporations (following the City Corporation Act 2009):** For the purposes of corporation activities, the central government devises guidelines for the recruitment of officials,

<sup>125</sup> Online interview with MAB, 23 August 2023; Online interview with PBBSKU, 1 September 2023

<sup>126</sup> Online interview with PBBSKU, 1 September 2023

<sup>127</sup> Online interview with WASA, 29 July 2023; Online interview with PBBSKU, 1 September 2023

<sup>128</sup> Online interview with PBBSKU, 1 September 2023

employees and advisors. The corporations can recruit workers at a daily rate to complete any emergency task, subject to budget limitations and prior approval from the centre.

Recruitment to a permanent position starts with the management drawing up a list of requirements and then seeking approval from the Ministry of Local Government.<sup>129</sup> After receiving approval, the management issues a recruitment advertisement in the media, citing the salary scales. Thereafter, applicants must take a written test, selected applicants are then interviewed and those who qualify are formally appointed.<sup>130</sup>

As previously stated, outsourced and daily paid workers have no job security, and if the zonal or departmental authority is displeased, they can be dismissed. Both appointment and dismissal are done verbally.<sup>131</sup> In most instances contractual workers are dismissed on the pretext of breach of contract. Moreover, only permanent employees enjoy annual increments, allowances and job assurance. In the event of termination, due process is rarely followed and sometimes even the financial dues are not honoured.<sup>132</sup>

Organizationally, government positions are subdivided into four classes. Classes I and II are for gazetted government officers, while classes III and IV are for non-gazetted officials who mostly provide clerical and support services to senior officials (Siddiquee and Faruqi 2017). Across these four classes, the National Pay Grade ranks the salaries from grade 1 to grade 20 in descending order, so that gazetted officers fall under grades 1 to 12 and the remainder under grades 13 to 20. There are numerous instances of delayed payments, especially for outsourced and daily paid workers. Even higher-level officials are not always remunerated on time. In 2019, an inquiry report by the Ministry of Local Government stated that, at the end of December 2018, a total of 34,415 officers and employees were owed 692 crore Taka (approximately US\$ 62 million) in outstanding pay. Among these, 1,274 workers were Grade 1 and 2 officials, 11,424 were Grade 3 and 4 employees and 21,717 were muster-roll workers (Kamol 2019). In the same year, officers and employees of 328 municipalities across the country went on an indefinite strike for 18 days demanding that their wages and allowances be paid from the Government's revenue fund instead of the municipality's fund, in order to avoid wage arrears (Hossain 2019). The 18-day strike hindered the delivery of basic civic services such as road-cleaning, garbage removal and the issuance of trade licences and birth certificates, causing serious inconvenience to the public (Kamol 2019).

One association of municipalities complains of overstaffing due to nepotism and political interference. Sometimes, elected officials will appoint as many as five relatives, friends or neighbours to permanent positions and try to have these regularized. After the elections, the next official in charge might do likewise. Thus, in the long run, municipalities "become overloaded with manpower", putting massive pressure on the local budget.<sup>133</sup>

#### 6.4.3.2. Social security provisions

The social security framework is governed by several instruments including the [General Provident Fund Rules, 1979](#), which establish the Provident Fund. Government servants who have completed two years of continuous service automatically qualify for the Provident Fund as "compulsory subscribers" and can opt out when they reach 52 years of age (Bangladesh, Road and Highways Department 2005). The premium is usually deducted at source. The 1982 Government

<sup>129</sup> Online Interview with WASA, 28 July 2023

<sup>130</sup> Online interview with WASA, 28 July 2023

<sup>131</sup> Online interview with WASA, 28 July 2023

<sup>132</sup> Online interview with PBBSKU, 1 September 2023

<sup>133</sup> Online interview with MAB, 23 August 2023

and Autonomous Bodies Employees Benevolent Fund and Group Insurance Ordinance provides employees with a secure financial corpus which can be claimed in the event of removal from service on the grounds of physical or mental impairment or death. In the latter case, the family of the employee is entitled to 24 months' pay.

Government employees also receive pensions under the Public Service Retirement Act, 1974, which applies to local authorities and provides a superannuation pension to those who have worked a minimum of 25 years, as well as a gratuity and options of commutation and leave encashment (Alam 2018). The pension rate has been raised from 80 per cent to 90 per cent of final basic salary (Kashem 2020). Additionally, both government pensioners and family pensioners are now granted an annual increment of 5 per cent on their monthly pension amount (Kashem 2020).

According to the Bangladesh Service Rules, a permanent female employee can be granted maternity leave separately from her paid leave allowance. She can receive full pay at the same rate during the maternity leave, which can extend to up to three months from the start date or up to six weeks from the date of her confinement, whichever comes earlier. For those in temporary employment, maternity leave may be granted up to four weeks before and four weeks after the date of confinement, provided that the mother has been in government service for at least nine months.

On retirement, permanent government employees are entitled to a monthly pension calculated at 50 per cent of final basic salary, until death.<sup>134</sup> For other categories of government workers there are no such benefits; they have low earnings and need to rely on some of the numerous government safety nets.<sup>135</sup> They include informal sector workers such as the daily paid workers hired on muster roll, who survive on different schemes such as the *Ekti Bari*, the *ekti khamaar* (one house one farm project), old-age pension and widow's pension.

The faecal sludge sanitation workers operate "without proper safety equipment and even if the equipment is there, they do not even know how to use it".<sup>136</sup> They only receive very short aprons to identify them as government sweepers, but have no gloves, footwear or other protective gear. In the past, these workers received personal protective items, but no longer, despite the fact that "workers from the 13th to 20th Grade deserve these, it is their right".<sup>137</sup>

#### 6.4.3.3. Collective rights and workers' representation

Article 38 of the 1972 Constitution bestows the "right to association" upon citizens, ensuring that every individual has the freedom to form associations or unions. However, this right is subject to limitations imposed to safeguard morality or public order. Bangladesh has also ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

For SNG employees, the right to organize is stipulated according to salary scale, and now only those below the level of +2 officers (salary grade 1 to 12) can be a part of labour organizations. Effectively, it is the employees in grades 13 to 20, "the workers", who are entitled to form unions. Previously, senior officers could also join unions, but when it was observed that the unions were

<sup>134</sup> Online interview with WASA, 29 July 2023

<sup>135</sup> Online interview with MAB, 23 August 2023

<sup>136</sup> Online interview with PBBSKU, 1 September 2023

<sup>137</sup> Online interview with WASA, 29 July 2023

becoming very powerful, the Government changed policy.<sup>138</sup> This has enabled management to undermine and weaken the unions by identifying effective and popular union leaders and appointing them to senior positions, so that they can no longer “participate in unions, resulting in workers losing good union leadership”.<sup>139</sup> The growing lack of permanent positions in SNGs also presents a challenge to trade unions and labour relations. For example, the Water Supply and Sewerage Authority (WASA) has not recruited to permanent positions in the last 17 years, except for a few official posts and lower-level positions.<sup>140</sup> Given that contractual and outsourced employees cannot participate in unions, their membership is in significant decline, and elections to collective bargaining agent (CBA) positions have become very rare. When they do happen, there is “a lot of undue government influence”.<sup>141</sup> The management holds too much power and renders the bargaining process skewed, such that the “Collective Bargaining Agreement exists only in name”.<sup>142</sup>

Labour organization in SNGs is precarious, and at the subdistrict (*upazila*) level there are very few unions, so that workers have barely any voice. Collective bargaining with the influential and powerful elected officials in city corporations and municipalities is challenging for workers and unions. The big city corporations of Khulna and Barishal have two separate unions, one for white-collar workers (e.g. tax collectors, accountants, administrative staff) and the other for blue-collar workers (such as drivers, pump operators and technicians).

In the last 10 to 15 years, the national trade union movement has dwindled owing to the government crackdown on union activities and the threatening and arrest of trade unionists.<sup>143</sup> The right to strike is enshrined in Bangladesh labour law, and unions are required to serve 21 days’ notice of a strike if their demands are not resolved through dialogue and negotiations.

## 6.5. Employee opportunities and inclusive employment

### 6.5.1. Training and capacity building

The National Institute of Local Government (NILG) was established in 1969 by the central government to enhance the capacity of local government officials. The NILG conducts national and international seminars, conferences and workshops, provides consultancy services to local authorities and conducts research (NILG 2015). Its programmes cover foundational, orientational and refresher courses, training of trainers, demand-based training and courses on specialized subjects (NILG 2015). However, the current training programmes offered by NILG are limited in content and participant base, particularly those intended for *Paurashavas* (JICA 2017). Hence, the Asian Development Bank (ADB) and the World Bank have provided support for institutional capacity building and infrastructure development for large and medium *Paurashavas* (JICA 2017). Nevertheless, the challenge of reaching every small *Paurashava* remains.

To address this gap, the Bangladeshi Government obtained assistance from Japan in 2013 for the Northern Bangladesh Integrated Development Project, or NOBIDEP (JICA 2017). This project focuses on developing the administrative capacity of small *Paurashavas* and improving the basic urban infrastructure in surrounding areas.

<sup>138</sup> Online interview with WASA, 29 July 2023

<sup>139</sup> Online interview with WASA, 28 July 2023

<sup>140</sup> Online interview with WASA, 28 July 2023

<sup>141</sup> Online interview with WASA, 29 July 2023; Online interview with PBBSKU, 1 September 2023

<sup>142</sup> Online interview with WASA, 29 July 2023

<sup>143</sup> Online interview with PBBSKU, 1 September 2023

Training is geared towards permanent workers across the government tiers, while other government agencies like WASA have their own trainers in addition to drawing on an external pool of trainers.<sup>144</sup> There is no training for contractual, outsourced and *Kanamana* workers – they are simply called in for a day and verbally briefed about their job terms and description. Although the labour rules require that employees must receive training after promotion, the practice is not widespread, partly because promotions are rare.<sup>145</sup> The *Paurashavas*, city corporations and sometimes other SNGs train their own permanent employees as and when needed.<sup>146</sup>

### 6.5.2. Gender equity

The Constitution of Bangladesh states that “the State shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth” and that “steps shall be taken to ensure participation of women in all spheres of national life”. Bangladesh became a signatory to the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) in 1972 and is committed to promoting equality of opportunity and treatment irrespective of sex, religion, nationality or social origin. The Labour Rules Amendment of 2022 focuses on crucially important gendered dimensions of employment, defining what constitutes “sexual harassment” in the workplace and imposing specific rules on “behaviour with women” (VDB 2022). The Bangladesh Labour (Amendment) Act, 2023 extended maternity leave from 112 days (16 weeks) to 120 days, although some worker advocates have argued that the changes will actually reduce maternity benefits (Yasmin 2022).

Although the Bangladesh Public Service Commission (BPSC) reserves 10 per cent of posts for female candidates in classes I and II and 15 per cent in classes III and IV in the government sector, the level of women’s employment in classes I and II remains unsatisfactory (Islam 2017). These quotas have nonetheless contributed to women’s participation. However, according to the Assistant Chief (Secondary and Higher Education Division) in the Ministry of Education, classes III and IV have posts “specially filled by female personnel such as Nurse, Family Welfare Visitor (FWV), Family Welfare Assistant (FWA), and *Aya* (mid-wife or caregiver) due to the specialized nature of the jobs suitable and fit for women” (Islam 2017, 9). The gendered understanding of women’s “suitability” for specific jobs is self-evident, and emblematic of a strong gender imbalance in the economy and society overall. Women are mostly engaged in the lower ranks, though female participation has increased, primarily from urban areas (Mahtab 2014). Departments and directorates employ a higher proportion of women, who are engaged in direct service delivery as teachers, nurses, and health and family planning assistants. Although quotas are not always met, there is a positive relationship between the quotas and the number of women in public administration (UNDP 2011, 13). However, women’s invisibility in SNGs is very apparent, partly because they are “kept behind in most organisations and are employed in back-end positions of data entry operator, office assistant, cleaner; but are very minimal - women engineers are in negligible numbers”.<sup>147</sup>

### 6.5.3. Localization of SDGs

Bangladesh conducted Voluntary National Reviews (VNR) in 2017 and 2020 to incorporate the SDGs into its national development plans and policy strategies (Sarkar et al. 2022). The 2017

<sup>144</sup> Online interview with WASA, 29 July 2023

<sup>145</sup> Online interview, 28 July 2023

<sup>146</sup> Online interview with PBBSKU, 1 September 2023

<sup>147</sup> Online interview with WASA, 29 July 2023



report focused on seven specific goals: SDG 1 (No poverty), SDG 2 (Zero hunger), SDG 3 (Good health and well-being), SDG 5 (Gender equality), SDG 9 (Industry, innovation, and infrastructure), SDG 14 (Life below water), and SDG 17 (Partnerships for the goals). In the 2020 review, all these SDGs were evaluated to provide an overview of the progress made in implementing the 2030 Agenda. This updated assessment aimed to identify challenges and inform the strategic plans needed to address them (VNR 2020).

Divisional commissioners organized local consultations with government officials and other stakeholders to ensure local participation in the VNR process and examine the status of selected SDG indicators (VNR 2020). Workshops conducted in the Rangpur and Chattogram divisions were attended by approximately 250 local stakeholders, including officials from divisions, districts and subdistricts, and other relevant parties. It was acknowledged in the VNR that “localizing SDGs in alignment with domestic development plans” had been a challenge. Rokiba and Hussain (2021) also highlight the absence of well-defined institutional mechanisms for involving local government institutions in the process.

In addition to the National Committee, three further committees bolster the coordination of SDG localization efforts at the divisional, district, and sub-district levels (VNR 2020). These are led by the divisional commissioner, the deputy commissioner (DC) and the Upazila Nirbahi officer (UNO), respectively (VNR 2020). The central government has identified the Natore District model of SDG localization as a promising initiative (Rokiba and Hussain 2021). The local government of Natore district has developed an SDG district action plan which aligns all its government offices and stakeholders with the 2030 Agenda, though it is still in its early stages.

Conversely, municipal associations and employees are sceptical of the progress made in SDG localization. Their understanding of SDG localization is still nascent and no guidelines have yet been issued. Bangladesh is non-compliant on most of the SDG indicators and there is a need for the Government to invest in a sound SDG management programme and integrate it into the ADP so that it is reflected in the fiscal budget.<sup>148</sup> Although district commissioners hold divisional meetings on the SDGs every 3-4 months together with the UNOs, departmental heads and other officials, these discussions tend to focus on the positive aspects and not the shortcomings.<sup>149</sup>

## 6.6. Observations

The unitary state of Bangladesh has a decentralized governance system within a democratic regime, with the Constitution acknowledging the need for robust and autonomous local governance. Local government is chosen through majority elections and the elected representatives enjoy considerable authority. However, their capacities are restrained by central government control, ambiguous power transfer and inadequate resources, all of which undermine their autonomy in everyday operations and decision-making. “The Ministry of Local Government at the Centre provides the structure and framework of governance and the SNGs do not have the right to operate outside of that in any way”<sup>150</sup>. Between the different tiers of SNGs there are overlapping responsibilities, with the central government retaining power to a considerable degree. The level of fiscal decentralization is also inadequate, with resources concentrated at the higher levels. Thus, effective devolution of power and resources has not truly materialized, and instead a model of administrative deconcentration has been followed. “Bangladesh is a mixed case - even

<sup>148</sup> Online interview with MAB, 23 August 2023

<sup>149</sup> Online interview with PBBSKU, 1 September 2023

<sup>150</sup> Online interview with WASA, 29 July 2023

if local governments are elected, they depend on the national government for implementing any policy; so, their capacity of management is very limited”<sup>151</sup>.

There has been an obvious shift towards precarity in the labour regime and employment standards practised in SNGs. Notably, the City Corporation Act (2009), legitimises the hiring of workers “on a daily rate to complete any emergency task”. The trade unions are weakening, with declining numbers of members and a paucity of collective action. Job security and labour conditions are very poor, except in the rapidly diminishing pool of permanent employees, the large majority of whom are “always apprehensive about losing their job and anxious that their superiors might be displeased with them. With this constant apprehension, he is no longer motivated about work”<sup>152</sup>. This affects their work performance and quality, service delivery to the people and, ultimately, progress in achieving the SDGs.

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<sup>151</sup> Online interview with UCLG, 14 August 2023

<sup>152</sup> Online interview with WASA, 29 July 2023



## ► 7 Nepal

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### 7.1. Introduction

Nepal is a landlocked country that was never colonized. It became the Federal Democratic Republic of Nepal in 2008 following the abolition of the 240-year-old monarchy (Nepal, MoFA n.d.,<sup>1</sup>) under the influence of the People's Movement, which precipitated the dethroning of the monarch, the reinstatement of Parliament and the establishment of a multi-party political system (Nepal, MoFA n.d.,<sup>1</sup>). In 2015, the country adopted a new Constitution which marked a significant milestone in its democratic journey and the transition to a federal state with a parliamentary republic system.

Nepal's demographic, ethnic and geographical landscape is diverse, with a population of approximately 30 million (World Development Indicator 2022). Urbanization has been on the rise, but 79 per cent of the population resides in rural areas (World Development Indicator 2022). Cities like Kathmandu and Pokhara serve as important hubs of economic and cultural activity (Nepal, National Statistics Office 2023). Nepal is classified as a lower-middle-income country, with a per capita Gross National Income (GNI) of US\$ 1,340 (World Development Indicator 2022). The Human Development Index (HDI) of Nepal is 0.602, placing it in the medium category of human development (UNDP 2022).

### 7.2. Governance structure

A secular democratic republic, Nepal transitioned from a unitary governance model to a federal country with the promulgation of the 2015 Constitution. The governance structure was reorganized by the Constitution into a federal three-tier system: federal/national government, provincial government and local government units operating autonomously. As in other countries, decentralization followed a long period of unrest.

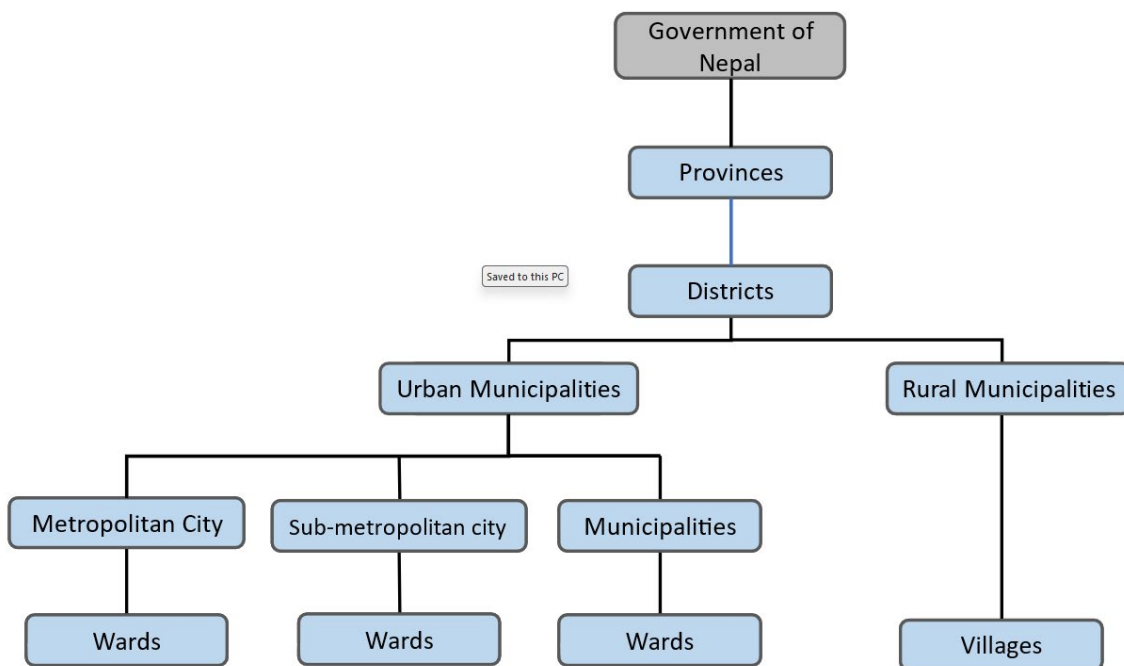
Nepal is divided into seven provinces, each with its own autonomous legislative, executive and judicial powers. Provinces only became constituent units under the 2015 [Constitution](#).<sup>153</sup> The executive arm of the provincial government is led by a chief minister, while the provincial assembly represents the legislative arm and comprises elected representatives who draft laws at the regional level. Within each province are districts governed by elected district assemblies, which appoint district coordination committees (DCC). The primary role of the DCC is to facilitate coordination among the local governments within the district and oversee their functioning and performance (OECD 2022).

There are 77 districts and 753 local government units in the country. Districts constitute urban and rural municipalities, headed by mayors and chairpersons respectively. The number of local governments within a district can range from 4 to 15.<sup>154</sup> The chief administrative officer (CAO) manages the staff and serves as secretary to the mayors and chairpersons in a local government.

<sup>153</sup> See Article 56 (3)

<sup>154</sup> Online Interview with Kathmandu Metropolitan, 5 August 2023

► Figure 7.1: The Governance Structure of Nepal



## 7.3. Roles and responsibilities of SNGs

### 7.3.1. The regulatory framework

The 2015 Constitution delineates the three tiers of government in the country, whose relations are “based on the principles of cooperation, co-existence, and coordination”.<sup>155</sup> According to Article 232 of the 2015 Constitution, provincial and local legislatures have the authority to formulate laws specific to their exclusive functions and to conduct elections at all levels of governance. The Constitution also defines the allocation of both revenues and responsibilities among these levels of government.

The Local Government Operation Act, 2017 (LGOA) plays a central role in strengthening local government service delivery and the overall socio-economic development of communities by defining the functions and powers of local governments. Alongside the LGOA, other important pieces of legislation have been introduced to support the new governance structure. These include the Employees Adjustment Act, 2017, the Inter-Governmental Fiscal Management Act, 2017 and the National Natural Resource and Fiscal Commission Act, 2017, which collectively contribute to robust governance at the SNG level (Ghosh and Payne 2017).

Though the federal arrangement in Nepal is overseen primarily by the Ministry of Federal Affairs and General Administration (MOFAGA), the latter is also responsible for local government affairs (Rohdewold 2023). Additionally, the Ministry of Urban Development plays a crucial role in supporting urban local governments. The Ministry of Finance is responsible for determining the fiscal allocation of intergovernmental transfers to SNGs, relying on recommendations from the National Natural Resource and Fiscal Commission (NNRFC) (Rohdewold 2023). Last, the Ministry

<sup>155</sup> See Article 232(1) of the [Constitution](#), 2015

of Law and Justice develops legislative frameworks for federalism and offers technical support to SNGs for legal drafting purposes.

The districts do not have legislative and executive powers. They fall under the federal government and are funded by the central treasury. The other tiers of government can formulate rules and regulations by themselves and implement them subject to approval from their council. As to districts, either the federal or provincial government can enact laws to mobilize district authority. The district administrative officer is appointed by the central government. Given that provincial governments are a recent addition under the Constitution, their functioning is yet to fully mature.<sup>156</sup> They are still in the process of formulating basic laws and setting up primary institutions.

### 7.3.2. Interrelationship between government spheres and key services

The division of exclusive functions between the three spheres of government is explicitly stipulated in the Constitution. The federal, provincial, and local levels are invested with 35, 21 and 22 exclusive powers, respectively. The list of concurrent powers includes 25 shared by the federal and provincial levels and 15 shared by the federal, provincial and local levels (Acharya et al. 2020, Devkota 2022).

Concurrent power-sharing is a disputed area, according to some stakeholders.<sup>157</sup> The LLEU has argued that the current assignment of powers and functions among the three levels of government requires further refinement and a reduction in concurrent functions.<sup>158</sup> The notably slow pace of coordination and collaboration between the three tiers of government has been particularly concerning. The first National Coordination Council meeting between federal, provincial and local governments only took place in July 2023, that is, eight years after the adoption of the new Constitution and three years after the adoption of the [Federal, Province, and Local Levels \(Coordination and Interrelation\) Act, 2020](#).<sup>159</sup> The meeting was chaired by the Prime Minister, who established that the Council should meet twice per year in compliance with the Coordination and Interrelation Act, 2020, which states that the “meeting of the Council shall be held at least once a year”<sup>160</sup>. Table 7.1 summarizes the division of services between the three levels of government according to the 2015 Constitution.

<sup>156</sup> Online interview with Kathmandu Metropolitan, 5 August 2023; Online interview with ADCCN, 22 August 2023

<sup>157</sup> Online interview with ADCCN, 22 August 2023

<sup>158</sup> Online interview with LLEU, 26 July 2023

<sup>159</sup> Online interview with ADCCN, 22 August 2023

<sup>160</sup> See Article 16 (3) of the Federal, Province, and Local Levels (Coordination and Interrelation) Act, 2020

► **Table 7.1: Exclusive and concurrent powers by assignment**

	EXCLUSIVE POWERS	CONCURRENT POWERS	
		<i>Federal and Provincial</i>	<i>Federal, Provincial and Local</i>
<b>FEDERAL</b>	Defence, central planning, currency, foreign affairs, citizenship, passports, etc. (Schedule 5)		
<b>PROVINCIAL</b>	Provincial police administration, provincial civil service, higher education, provincial level development activities such as electricity, irrigation, roads, land management, etc. (Schedule 6)	Civil & criminal procedure, supply & distribution of essential goods, population management, social security, casino, etc. (Schedule 7)	Cooperatives, education, health, agriculture, irrigation, mines, minerals, disaster management, environment, forest, personal events, archaeology, motor vehicle permits, etc. (Schedule 9)
<b>LOCAL</b>	Town police, management of local services, basic and secondary education, basic health, local roads, drinking water, etc. (Schedule 8)		

Source: Constitution of Nepal, adapted from Devkota (2021)

### 7.3.3. Fiscal autonomy and resource allocation

After the introduction of federalism in Nepal, SNG expenditure increased substantially and constituted 44 per cent of public expenditure in 2020 (OECD and UCLG 2021). Established in 2018, the National Natural Resource and Fiscal Commission (NNRFC) is a constitutional body charged with the equitable distribution of natural and fiscal resources among the government tiers through internal borrowing, revenue distribution and grants (Steytler 2021). It is stipulated in the Constitution that the federal, state, and local governments possess the authority to impose taxes within their respective fiscal domains and generate revenue from various sources. The Municipal Financing System was established to realize the development goals outlined in the National Urban Development Strategy (NUDS). It has three key components: own-source revenue (OSR), inter-government fiscal transfers (IGFT) and a local borrowing framework which includes a town development fund (TDF). Municipalities can additionally borrow funds from financial institutions. While local governments mostly rely on grants from the federal government, they also collect taxes such as the integrated property tax (IPT), house rent tax, house and land registration fee (HALT), vehicle tax, land revenue tax, entertainment tax, advertisement tax and business tax.

The central treasury of the federal government allocates the budget according to the NNRFC's recommendations. The revenue collected by SNGs is deposited in the central treasury, which disburses approximately 15 per cent to the local governments, 15 per cent to the provincial governments and retains 70 per cent for the central government.<sup>161</sup> Local governments receive four types of grants: equalization grants, conditional grants, special grants and matching funds. Their disbursement is based on a formula developed by the National Planning Commission (NPC) under the Ministry of Finance. After an annual assessment of indicators such as population, performance, adherence to government rules and guidelines, income and budget reforms, and documentation every fiscal year, the money is transferred to the provincial and local levels. The developmental stage and own-revenue generation status of a local government are important criteria, because the least developed areas receive more grants compared with those that are

<sup>161</sup> Online interview with ADCCN, 22 August 2023

already developed.<sup>162</sup> However, certain contradictions exist in the revenue collection system. For example, the main source of revenue in urban areas is property taxes, which the Constitution clearly mandates local governments to collect, whereas the national government still collects them. From the tax revenue generated at local government levels, 40 per cent is sent to the provincial government and 60 per cent is retained by the local authorities.

## 7.4. Employment in SNGs and labour practices

### 7.4.1. Labour regulations

The [Labour Act of 2017](#), which replaced the Labour Act of 1992, governs employment relations, working hours, labour disputes and occupational safety and health standards. Importantly, it recognizes the right of workers to form and participate in trade unions or engage in other union-related endeavours. The bye-laws under the amended Labour Act were also adopted in 2018 under the [Right to Employment Act](#) (Danish Trade Union 2023).

The Ministry of Labour, Employment, and Social Security (MoLESS) is the central ministry for formulating and executing labour and employment policies and supervising labour administration bodies. The Public Service Commission (PSC) of Nepal, a constitutional body established in 1951, is responsible for the recruitment of human resources in the public sector. The [Civil Service Act 1993](#) (CSA 1993) directs the appointment of civil servants and administers their employment conditions, job security, retirement benefits and bonuses as well as the conduct expected of civil servants. The Ministry of General Administration is tasked with the operation and conditions of service of the civil service and the management of civil employees.

Constitutionally, recruitment at the provincial level is a responsibility of the Provincial Public Service Commission (PPSC) but it is not yet fully operational in most provinces. In the interim, the Civil Service Adjustment Act 2017 allows the Federal PSC to hire on behalf of provincial and local governments. However, recruitment by the federal government has been met with strong resistance from the provinces,<sup>163</sup> which have alleged a tendency towards “anti-federalism” and that indigenous groups are excluded from the recruitment process (Rai 2019). The issue was taken to the Supreme Court, which ruled in favour of the Federal PSC in 2019 (Rai 2019/2020).

Efforts to update the Federal Civil Service Act or *Nizamati Aayeen* have failed, mainly because of a lack of consultation with the provincial and local governments, including the trade unions. A 2019 bill on The Federal Civil Service was withdrawn in 2021 owing to negligible participation by relevant stakeholders, including workers’ organizations. A revised Federal Civil Service Bill could not be passed for lack of consensus (Wagley and Upadhyay 2022). The absence of a revised Civil Service Act after the transition to federalism has created legal challenges for the SNGs. According to the Constitution, federal laws supersede provincial and local government laws, while provincial laws supersede local government laws. Thus, local governments, even after drafting rules and guidelines for service delivery, cannot implement them until a federal or provincial law is passed and local regulations are aligned. The federal government is lagging behind in developing and passing “any laws to coordinate among the three tiers of government”.<sup>164</sup>

<sup>162</sup> Online interview with Kathmandu Metropolitan, 5 August 2023

<sup>163</sup> Online interview with Kathmandu Metropolitan, 5 August 2023

<sup>164</sup> Online interview with LLEU, 26 July 2023

A central Civil Service law is crucial to ensuring uniformity and avoiding ambiguity: “If the local government laws are not consistent with the future central law, it could lead to extra burden and dispute”.<sup>165</sup> The current situation has resulted in delayed service delivery, and even basic local projects/activities cannot be implemented unless and until the federal and provincial governments enact the requisite legislation.<sup>166</sup> This has made the administration of SNGs difficult – all the provinces are waiting for federal civil laws so that they can “take the lead [and organize] the Province Civil Service Laws in such a way that they are identical to the federal law” (Devkota 2023).

### 7.4.2. Extent and types of public sector employment

According to the 2021 census, approximately 585,164 employees work in provincial governments in Nepal, of whom 29 per cent are female and the remainder male. Across all provinces, women account for between 21 per cent and 35 per cent of government employment. The highest number of government employees was recorded in Bagmati province; Karnali province had the lowest. Koshi, Gandaki and Lumbini registered approximately one-third involvement of women employees in their workforces.

► **Table 7.2: Government employees in provinces of Nepal (by gender)**

No	Provinces	Male	Female	Total
	Koshi	64 778 (68%)	30 433 (32%)	95 211
	Madhesh	53 164 (79%)	14 127 (21%)	67 291
	Bagmati	116 128 (71%)	48 218 (29%)	164 346
	Gandaki	40 680 (65%)	21 728 (35%)	62 408
	Lumbini	63 398 (69%)	28 030 (31%)	91 428
	Karnali	32 559 (74%)	11 212 (26%)	43 771
	Sudurpaschim	45 234 (75%)	15 475 (25%)	60 709
	<b>Total</b>	415 941 (71%)	169 223 (29%)	585 164

Source: Census 2021, Government of Nepal

The 2015 Constitution stipulates that government employees must be adjusted across governance units.<sup>167</sup> This is also laid down in the Civil Servant Adjustment Act or [Employee Adjustment Act of 2017](#), which requires existing employees to undergo reassignment to the federal, provincial, and local levels (Devkota 2021). The purpose is to divide the workforce across the various SNG tiers and to depute federal staff for work at the SNG level. Out of a total of 99,571 eligible civil servants, 40.12 per cent have remained at the federal level, 13.87 per cent have been allocated to the provinces, and the remaining 46.01 per cent have been reassigned to the local levels (Devkota 2021). However, this is still deemed insufficient, since an estimated total of 138,622 employees are required across all three tiers of government. The SNGs are supposed to manage this shortfall by themselves.

This situation has created mistrust and tension among the three levels of government regarding the duties of adjusted staff, which are not precisely clarified. SNG employees are also unwilling

<sup>165</sup> Online interview with ADCCN, 22 August 2023

<sup>166</sup> Online interview with ADCCN, 22 August 2023

<sup>167</sup> Constitution of Nepal. Article 302. “[Formation and Operation of Government Services in Provincial and Local Level](#)”. 2015.

to go to remote areas.<sup>168</sup> Over 10,000 federal employees who were transferred to SNG posts filed grievances in 2020 (Rai 2020). Accusations have also been made that employees adjusted from the central level to the local government are given promotions, and even upgraded by two levels, at the expense of the existing workers who have to continue in the same post without any promotion.<sup>169</sup>

► **Table 7.3: Staff adjustment and requirement across government tiers in Nepal**

Government level	After Adjustment	Requirement	Total
Federal	39 960	48 606	88 566
Provincial	13 821	22 297	36 118
Local	43 807	67 719	111 526
Total	99 571	138 622	238 193

Source: Devkota 2021.

The federal government admits that despite providing posts and resources to local governments, there has been insufficient deployment and mobilization of management-level officials from the district level to the municipalities. There is a large mismatch between the required and the currently existing number of employees in SNG organizations, especially in the local units. The mismatch is more pronounced in the Madhesh, Karnali and Sudurpaschim provinces, where SNGs are forced to overload junior employees with responsibilities (Devkota 2023). Some 35 per cent of new positions created in SNGs remain vacant (Wagley and Upadhyay 2022).

As of October 2023, the Council of Ministers was proposing an amendment to the Federal Civil Service Bill for consideration by the House of Representatives. “Under the proposed bill, the chief administrative officer of the local government will be employed by the provincial government and the chief secretary of the provincial government by the federal government” (The Himalayan Times 2023). The teachers’ union, in turn, was proposing that the Federal Civil Service Act should be replaced by a Unified Civil Service Act covering all three tiers of government and incorporating the right to join unions.

### 7.4.3. Human Resources (HR) practices

#### 7.4.3.1. Recruitment, promotion, dismissal and wages

The federal PSC is vested with the authority to select suitable candidates for civil service. Civil Service staff at the provincial and local levels are recruited through the Provincial Public Service Commissions (Kyle and Resnick 2019). These commissions have discretion to hold written and practical examinations, as well as interviews. The prevailing service law determines the number of vacant posts to be filled through open competition and promotion. Under the Civil Service Act of 1993, vacancies are filled according to the criteria outlined in table 7.4.

<sup>168</sup> Online interview with PSI, 30 August 2023

<sup>169</sup> Online interview with LLEU, 26 July 2023



► Table 7.4: Criteria for vacancies according to the Civil Service Act of 1993

Post	Open Competition	By Promotion		
		Evaluation of work capacity	Internal competitive examination	Seniority and evaluation of work efficacy
(a) Classless/Non-gazetted fifth class	100%	-	-	-
(b) Non-gazetted fourth class	-	-	-	-
(c) Non-gazetted third class	-	-	-	-
(d) Non-gazetted second class	70%	-	20%	10%
(e) Non-gazetted first class	40%	20%	-	40%
(f) Gazetted third class	70%	-	-	30%
(g) Gazetted second class	10%	35%	20%	35%
(h) Gazetted first class	10%	35%	20%	35%

Source: Maharjan and Kim n.d.

The PSC posts vacancy announcements in the *Gorkhapatra* (National Daily), its own weekly bulletin and its website. The results of the written or practical evaluation are published, along with the dates of subsequent tests and interviews. Interview committees are headed by the chairperson and are set up to ensure diversity – they include women, indigenous nationalities including Madheshi and Dalit, and members from remote areas. After the selection process is concluded, the PSC announces the final results together with an alternative list of candidates. It also issues a separate merit list of candidates who are not qualified for permanent positions but are recommended for temporary appointments.

In accordance with the CSA 1993, the Government of Nepal is responsible for appointments to the civil service posts that are announced in the Nepal Gazette. For non-gazetted posts, authority rests with the head of the department concerned. PSC selection is extremely competitive, and the recruited permanent employees enjoy decent wages and non-wage benefits, but the permanent staff in the municipalities mostly come from the federal and provincial tiers. Where the federal government reassigns employees to local government, it usually pays their salaries.<sup>170</sup> Otherwise, local governments pay for their own permanent and contractual employees.

Contract workers in temporary posts who do not enter the system through the PSC have little job assurance. After a permanent staff member has been hired or transferred to a post, sweepers, drivers and technicians who were recruited on contract to that post by the municipalities can be dismissed.<sup>171</sup> These workers are not paid adequately and are deprived of the usual employment benefits.<sup>172</sup> They are often outsourced from recruitment agencies and are not paid by the Government – instead, it deposits their whole salary into the private accounts of third parties, who then only pay the minimum wage outlined in the Labour Law.<sup>173</sup> The Labour Law of 2017 stipulates the daily or monthly remuneration for four categories of employees: highly-skilled, skilled, semi-skilled and unskilled. The municipality sometimes pays more than (never less than) the minimum wage and hires on the basis of market rates. Some municipalities provide an additional

<sup>170</sup> Online interview with Kathmandu Metropolitan, 16 August 2023

<sup>171</sup> Online interview with Kathmandu Metropolitan, 16 August 2023

<sup>172</sup> Online interview with PSI, 30 September 2023

<sup>173</sup> Online interview with LLEU, 26 July 2023



four months' salary every year to acknowledge the high occupational safety and health risks to which garbage collectors, dump site workers and drivers are exposed.<sup>174</sup>

Employees are usually allowed to defend themselves before they are dismissed. In specific cases this opportunity may not be given, such as when employees are convicted of a criminal offence or corruption in court, or when individuals have disappeared with no known whereabouts or means of contact, or when the persons concerned are in temporary posts, including contractual employees. All civil employees receive a monthly salary and any applicable allowances, which cannot be withheld. They also receive a yearly increment, and in case of any delay, the official concerned must provide a written justification and provide an approval date for the increment. They are also entitled to an amount equivalent to one month's salary each year to cover festival expenses related to their religion, culture and customs.

To be eligible for promotion, a candidate must possess the educational qualifications required for "one class below the class of the post to which promotion is made" (CSA 1993). Additionally, they need to have completed three years of service, for a non-gazetted post, and five years of service for a gazetted post. However, for marginalized and minority groups such as women, Adiwasi/Janajati, Madheshi, Dalit, disabled individuals, or those who reside in low-income communities, the service requirement is relaxed by one year. In accordance with the rules laid down in CSA 1993, a promotion committee must be established to evaluate the recommendations for promotion.

#### 7.4.3.2. Social security provisions

The social security schemes in Nepal can be grouped into social insurance, social assistance, and labour market interventions (Khadka 2017). The most relevant for government employees are the social insurance schemes designed to provide support and financial protection to formal sector employees. These schemes include the Gratuity and Pension Benefits, the Employees' Provident Fund and the Citizen Investment Trust (Khadka 2017). In the event of death, the employee's pension is passed on to their spouse, or else to a minor child until they reach adulthood (CSA 1993). Additionally, there is insurance coverage for disability, maternity leave, work-related injury, sickness and survivors' benefits (Khadka 2017). However, these benefits accrue only to permanent employees and not to contractual SNG workers.

Article 45 of the [Labour Act 2017](#) entitles female employees to a total of 14 weeks of maternity leave, to be taken either before or after delivery. The leave is mandatory for at least two weeks before the expected delivery date and extends to at least six weeks after childbirth. The employee receives full remuneration for the initial 60 days but not for the remaining period. Male employees are entitled to 15 days of paid parental leave. The Government of Nepal has also established a fixed-term life insurance fund for civil employees, in line with CSA 1993. Two hundred rupees are deducted from the monthly salary of the employee and deposited into the fund. The Government adds an equal amount, making it a twenty-year life insurance policy with an insured sum of 100,000 rupees. Upon retirement, the employee receives the insured sum and any applicable bonuses from the insurance fund.

<sup>174</sup> Online interview with Kathmandu Metropolitan, 16 August 2023

### 7.4.3.3. Collective rights and workers' representation

Nepal has ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) in 1996 but is yet to ratify the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Labour Relations (Public Service) Convention, 1978 (No. 151).

The [Trade Union Act, 1992](#) provides for the registration and operation of trade unions, and for the protection and promotion of employees' professional and occupational rights. Amended in 1999 (No. 16), the Act details the functions of trade unions, their associations and federations, and the conditions for their registration and amalgamation. The recognized trade union of public servants is the Nepal Civil Services Employees Union (NECSEU) which, in January 2019, signed an agreement with the Government regarding staff readjustment and career growth plans (Shrestha 2019). The employees of local government bodies can form and register their organization under the Trade Union Act and be recognized by the Government for negotiating and bargaining purposes (Dhungel and Sapkota 2015).

Besides the Maldives, Nepal is the only country in South Asia which constitutionally recognizes workers' right to strike; it is more worker-friendly compared with the other countries in its region. Unlike in the past when strikes were common, labour relations have improved and there are only minor protests on specific local labour issues. Labour demands are mostly met by achieving settlement or through concessions by the Government.<sup>175</sup> However, the press reported in October 2023 that "[t]he work of the municipalities has come to a standstill after civil servants working at the local level protested against the Federal Civil Service Act, which is being brought by the Government. The civil servants protested saying that the Government had discriminated against the local level employees through the Act." (República 2023). The employees demanded the following:

► There should be proper management of adjustment staff (following directives of the Supreme Court). Provision should be made for equal moral development of all three levels of employees. Employee welfare funds should be made mandatory for the employees working at the local government, the employees have demanded, concessions should be provided to the local service employees in the service facilities received from the civil hospital. There should be no age limit and service period should be added to all the three levels of advertisement for the employees who are in service at any level. Trade union rights should be granted to local service employees. Provision should be made for temporary and contract employees (República 2023).

## 7.5. Employee opportunities and inclusive employment

### 7.5.1. Training and capacity building

The Nepal Administrative Staff College (NASC), a national autonomous institution established in 1982, provides training for government and public enterprise employees (NASC n.d.). Its policies focus on integrating training into personnel administration, aligning it with government and public enterprise development activities, and promoting career development through knowledge and skill building for employees (NASC n.d.). The Public Training Department under the NASC primarily conducts induction and in-service training. As provided for in CSA 1993, civil employees who

<sup>175</sup> Online interview with Kathmandu Metropolitan, 16 August 2023

have completed three years of service can be nominated for studies, training or a study tour by their employers, provided it is necessary to the service. Nominations are based on educational qualifications, seniority, work performance and service experience in the geographical region.

The 2017 elections to the new SNGs were characterized by growing demand for services on the part of constituents. This persuaded the three levels of government to quickly assess institutional and human resource needs and invest in measures to strengthen governance institutions (MoFAGA 2019). Provincial and local government support programmes were launched in 2019 to enhance the capabilities of both elected officials and civil servants and equip them with the organizational tools, leadership skills and professional knowledge needed to improve service delivery.

However, the quality of training programmes is highly dependent on the availability of resources, especially since the central government does not provide any funds for local level training.<sup>176</sup> The impact is felt mostly by rural municipalities and small urban municipalities, which struggle to mobilize funds and are “unable to meet the training needs of their staff and mentor them”.<sup>177</sup> Affluent municipalities like Kathmandu Metropolitan have ample resources and a separate training and development division, which prepares needs-based training modules every fiscal year. It can also focus on lower-level employees such as sweepers and garbage collectors.

Every provincial government has a training institution whose personnel can be sent to develop training schedules on diverse topics. The Local Development Training Academy (LDTA) is an autonomous body responsible for developing training packages and ensuring the quality of the training schedules developed by provincial training institutions. It offers customized training modules and regular training packages. The latter come free of charge while the former are offered at a fee.<sup>178</sup> The use of ICT in training is limited, and work is under way to provide and improve connectivity. The LDTA operates eight training centres – five rural development centres, two women’s development centres and one urban development centre – tasked with strengthening the managerial and administrative capabilities of local institutions (MuAN n.d.).

### 7.5.2. Gender equity

Article 84 of the Constitution provides for proportional representation in the House of Representatives for individuals from marginalized groups, including women, Dalits, Adiwasi/Janajatis, the Madheshi community, disadvantaged classes, impoverished farmers, and labourers who have faced economic, social, or educational disparities. In 2007, the second amendment to the CSA 1993 stipulated that 45 per cent of all job vacancies must be open to competition among women and other marginalized groups. These reserved posts are filled through separate competitions for six categories of candidates: Women (33 %), Adiwasi/Janajati (27 %), Madheshi (22 %), Dalit (9 %), disabled persons (5 %), and individuals from backward areas (4 %). As of 2018, the total number of civil servants amounted to 89,039, with women accounting for nearly 24 per cent of the workforce. In health care services, women constitute more than 40 per cent of the workforce but they fall below 20 per cent in other sectors. Although the number of women in government service has increased, their representation in the gazetted classes remains notably low.

Favourable conditions exist in SNG institutions for women.<sup>179</sup> The age limit for recruitment to civil service is higher for female candidates than for male applicants (Male: 35 years vs Female: 40

<sup>176</sup> Online interview with LLEU, 26 July 2023

<sup>177</sup> Online interview with Kathmandu Metropolitan, 16 August 2023

<sup>178</sup> Online interview with Kathmandu Metropolitan, 16 August 2023

<sup>179</sup> Online interview with Kathmandu Municipality, 16 August 2023

years). One third of the employees must be women, and male employees require five years of service in the previous post to be eligible for promotion, whereas female employees need four years. Women's participation at local government levels is relatively high and their presence is visible, even sometimes in senior positions.<sup>180</sup> It is estimated that 30-40 per cent of women in SNGs are engaged in the health care sector at the local level, in activities such as immunization, vaccines and family planning, and in sanitation services as sweepers and cleaners.

### 7.5.3. Localization of SDGs

Nepal has integrated the SDGs into its 14th and 15th Periodic Five-Year Plan. A document entitled *Sustainable Development Goals: Status and Roadmap 2016–2030* serves as the overarching framework for this integration. Additionally, key policy documents such as the SDG Baseline Report of 2017, two VNRs (Voluntary National Reports) conducted in 2017 and 2020, and the SDG Needs Assessment, Costing, and Financing Strategy (2017) have played significant roles in supporting Nepal's efforts towards achieving the SDGs.

The 2017 VNR stated that Nepal was moving towards localizing and mainstreaming SDGs at all levels of government (VNR 2020). Unlike the 2017 VNR, the 2020 version was a collaborative process for which relevant stakeholders such as various federal, provincial and local government institutions; parliamentarians; the private sector; the cooperative sector; civil society organizations including women's groups; Dalits and other indigenous groups; and multilateral organizations were consulted. Civil society had prepared a parallel VNR in 2017 and rejected the Government's version, which had involved only the NPC and a few hired consultants.<sup>181</sup>

According to the 2020 VNR, provincial governments had set up their commissions and integrated the core principles of the SDGs into their periodic plans. Similarly, local governments had incorporated programmes through the local adaptation plans of action and had encouraged community participation. To facilitate this process, the NPC has developed planning and monitoring guidelines, together with an SDG Localisation Resource Book. The Government emphasizes the importance of localizing SDGs in light of the country's new federal structure and prioritizes capacity development and the use of ICT, big data and emerging technologies in order to obtain high-quality and disaggregated data (VNR 2020). Most local governments are already pursuing the SDGs through the national policy on water supply and sanitation, on climate change and on reaching out to marginalized groups.<sup>182</sup> Investments and expenditures have focused mainly on health, education and other social sectors. The underdeveloped or underperforming sectors have been identified, and grants are provided from the national government to municipalities and provincial governments based on the SNGs' annual budget expenditure on SDGs.

The 2017 SDG assessment identified 479 targets instead of the universal set of 232 targets and aligned them with local requirements.<sup>183</sup> The NPC undertook an extensive survey and made a financial gap assessment which revealed a shortfall of 589 billion rupees, even before gathering resources from government, private, cooperative and even household sources. Subsequently, the number of targets was reduced to 301, but localizing them remains a dilemma, mainly because SNGs "do not understand whether SDGs are a new project or a development discourse to be followed and adjusted with the regular government system".<sup>184</sup> The NPC created three pillars

<sup>180</sup> Online interview with LLEU, 26 July 2023; Online interview with PSI, 30 September 2023

<sup>181</sup> Online interview with ADCCN, 22 August 2023

<sup>182</sup> Online interview with Kathmandu Metropolitan Municipality, 16 August 2023

<sup>183</sup> Online interview with ADCCN, 22 August 2023

<sup>184</sup> Online interview with ADCCN, 22 August 2023

of economic, environmental and social in its 15th Five-Year Plan to include the SDGs. Planning at the federal level is well organized and there is interest in cascading it from the federal to the provincial and local levels. The challenge to be faced is that provincial governments are not functioning properly, and their planning processes are also somewhat diluted. A new VNR will be developed under the 16th Five-Year Plan, and civil society is “joining hands with the Government and trusting the NPC – the paper and intent are there”.<sup>185</sup>

Established in 2016, the Nepal SDG forum is the sole civil society platform recognized by the federal government. It embraces several civil society organizations, trade unions, national and international NGOs, UN agencies, cooperatives and the media. Along with the NPC and local government associations, the Nepal SDG forum also produces Voluntary Local Reports (VLR) on the progress of SDGs at the local level. In September 2023, the NGO Federation of Nepal (Secretariat of Nepal SDGs Forum) issued a report which concluded that “Nepal has not made the expected progress” and identified the existing challenges, which included politicization of the civil service and trade union interference:

►► *Nepalese bureaucracy has many weaknesses. Among them, low levels of motivation, unnecessary expansion of government agencies, multiple layers of decision-making process and weak accountability are major hurdles. Also, trade unionism is another alarming hurdle. Lengthy and process-oriented administrative function has been obstructing public service delivery and decision process. The lack of predictability in government mechanisms has also hindered national business as well as investors looking to invest in Nepal (NGO Federation of Nepal 2023).*

## 7.6. Observations

For Nepal, federalism is a recent phenomenon, and it was the passing of the new Constitution in 2015 which brought an end to the old unitary system of governance. This heralded a multi-party democratic political regime and reconfigured the earlier decentralization initiatives taken by the monarchy by introducing a new institutional structure, namely the province. “Federalism has three principles - it has to work in coordination; it has to be organized in a cooperative manner and they (SNGs) have to co-exist and validate each other”<sup>186</sup>. This spirit of federalism is yet to be realized in the country given that “the hangover of the central government still overshadows this ‘cooperative federalism’ and all the authority, all the power, is captured by the central level”<sup>187</sup>. However, administratively, fiscally and politically, SNGs have relative authority and autonomy (OECD and UCLG 2021). The resource management and spending of local government has risen greatly since federalism came in. However, the regulatory guidelines have not been updated in tandem, and this legal vacuum means that the “local government is waiting just in anticipation of the federal law and then the provincial law”<sup>188</sup>. Law-making has been disrupted by the political situation in the country and the Constitution is not yet supported by the required legislative framework. “Constitutionally, for proper functioning of division of authority, laws have to be formulated to execute that power – without that, though politically it’s federal, still power sharing [between SNGs] is a latent kind of conflict”<sup>189</sup>.

<sup>185</sup> Online interview with ADCCN, 22 August 2023

<sup>186</sup> Online interview with ADCCN, 22 August 2023

<sup>187</sup> Online interview with Kathmandu Municipality, 16 August 2023

<sup>188</sup> Online interviews with LLEU, 26 July 2023 and ADCCN, 22 August 2023

<sup>189</sup> Online interviews with ADCCN, 22 August 2023

The functioning of the provinces is still underdeveloped, and the staff adjustment procedure undermines the autonomy of local governments and the accountability of overall public service delivery. The organizational structures and coordination within local governments are not fully mature, which hampers their ability to handle the various development sectors. The lack of well-defined strategies and guidelines for devolving sectoral functions to SNGs has significantly hampered smooth transition to a federal system. Consequently, the execution of functions and responsibilities across different levels of government has been dogged by inconsistencies, overlaps, gaps and an overall lack of clarity. Federalism has yet to benefit SNG employees –in fact, it has presented them with a number of challenges.



## ► Conclusion

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Heralded as a “silent or quiet revolution”, the phenomenon of decentralization has been one of the reforms of the past 50 years with the greatest potential to bring about democracy, efficiency, accountability and regional and local development (OECD 2019, 3). This report on the working conditions of subnational government (SNG) employees in five countries commenced with multiple interpretations and perspectives of decentralization. There is considerable heterogeneity among the countries in their approach to decentralization and in its extent and outcome. The study has demonstrated this variety by adducing evidence from two South Asian and three South-east Asian countries with differing decentralized governance structures and SNG configurations. These countries were selected so as to capture the widest range of experience of decentralization, which was done through extensive secondary data review and 18 in-depth interviews with local authorities, SNG associations and trade union members. The findings presented in the individual country chapters highlight the main features of the decentralization process, namely authority, autonomy, accountability and capacity (see Table 2.1).

The study also presents the cross-cutting issues that emerge from its analysis of the decentralization process, the consequent governance restructuring, the labour relations and employment conditions of SNG employees and the eventual impact on public service delivery in the five countries. The discussion starts with the legal protection accorded to the SNG workforce and moves on to address the increasing trend of privatization and informalization in the public sector. It then presents the counter-movement in terms of the re-municipalization of public services and describes the social protection measures and collective bargaining rights enjoyed by local and regional government employees. It underscores the need for SNGs to have fiscal autonomy and assesses the extent of their gender equity. Finally, the study raises the important issue of data challenges, which has implications for decent work among SNG workers, public service delivery and progress in achieving the SDGs. The study itself constitutes an attempt to fill this crucial data gap.

### 8.1. Legal coverage for the SNG workforce

The legal coverage for SNG workers varies significantly across the five countries. While some have made major improvements by establishing labour laws and protection, others have allegedly undermined the legal framework protecting labour rights. For instance, in Malaysia, recent amendments to the Employment Act of 1955 expanded the scope of worker protection to encompass nearly all employees, irrespective of occupation or income level. These changes were partly motivated by the need to align labour standards with international trade agreements, notably the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). In the Philippines, the Civil Service Act of 1959 emphasizes merit-based appointments and the safeguarding of workers' rights, which has fostered an efficient public service system. By contrast, Indonesia undertook a controversial overhaul of its regulatory framework with the enactment of the Omnibus Law in 2020. This law was intended to boost the investment climate, but it also curtailed worker protection and was met with opposition from labour unions and environmentalists. Elsewhere, Bangladesh addressed critical issues related to workers' rights under third-party contractors in 2022, ensuring fair pay and social security for permanent workers under the Bangladesh Labour Act 2006. Nepal revitalized its labour market with the Labour Act of 2017 and took an important positive step by recognizing workers' right to form trade unions. While these countries have all worked on strengthening labour regulations, they vary in the extent of the public service employment regulation and oversight they provide. Overall, the regulatory

landscape reveals mixed results from the efforts made to enhance worker protections and address challenges influenced by local factors.

## 8.2. Informalization and privatization in the SNG sector

Over time, the private sector has steadily entered the domain of public service delivery. Globally, many developing countries have opted for the contractualization and casualization of their SNG workforce. Privatization has come wearing the garb of efficiency, improved services and lack of bureaucratic delay. The countries examined in this study have concluded various agreements between the State and private capital which have resulted in the withdrawal of the State as principal employer and guarantor of labour rights. Except in the Philippines, where privatization has been minimal, the considerable presence of private contractors and labour recruitment agencies in these countries has resulted in the dilution of workers' rights in terms of decent work embracing quality full employment, social protection, social dialogue and collective bargaining.

The consequences have been unfavourable to workers: in Malaysia, they are recruited via multiple layers of sub-contracting with few or no rights, and in Indonesia the privatization of the water utility companies has led to huge protests and legal battles. In Bangladesh, large contractors dominate government infrastructural development, public service delivery and the employment of outsourced and daily paid workers. In Nepal, the State has made attempts to privatize electricity and water supply at the provincial and local levels. The sectors most widely penetrated by private sector players are health care, energy, water, sanitation and security. Across the report, job insecurity has increased, employment contracts defining workers' entitlements are rarely issued, wage and non-wage benefits have been reduced (the latter have disappeared completely in a few cases) and government services have lost the security and assurance that they once granted employees. This has also affected employees' performance: they are demotivated, find themselves in insecure and precarious contractual relationships, and thus the quality of public service delivery has suffered.

## 8.3. Re-municipalization of public services

A reverse trend has been observed in some countries, namely the reclaiming of public services and their restoral under direct municipal responsibility. This has taken the form of de-privatization and/or insourcing in response to declining service quality, the retrenchment of workers and abuse of labour rights and a higher financial burden on municipality and citizens (through user fees), even the discontinuation of essential services for some who are unable to pay. The process of re-municipalization is best illustrated in Indonesia, where the water utility system in Jakarta was handed over to private companies. Residents, trade union members and activities together campaigned for water to be reclaimed as a public good and filed a class-action lawsuit. The court ruled against the private companies and directed the central and provincial governments to entrust the water supply system to the Government.

A PSI workshop on Countering Privatization in South Asia in Local and Regional Governments (LRG) in 2023 found that the drivers of privatization include international financial institutions, multi- and transnational companies, governments, regional and global trade agreements, digitalization, large corporates, and austerity. The "results of privatisation after three decades were essential services becoming unaffordable, declining share of wages in GDP, unprecedented rise in income and wage inequality and increased cases of evading taxes" (PSI 2023).



## 8.4. Social protection for SNG employees

Among the three South-east Asian countries, Malaysia and the Philippines stand out for their provision of comprehensive social security coverage to SNG workers. They have well-established institutions offering a range of benefits, including those for retirement, disability, and maternity. The Employees Provident Fund in Malaysia ensures that both workers and employers contribute, thus guaranteeing financial security during retirement or in the event of disability. Similarly, the Government Service Insurance System in the Philippines embraces wide-ranging social security measures, from life insurance to retirement and disability benefits. By contrast, Indonesia, Bangladesh and Nepal offer limited protective coverage for SNG employees.

For the most part, these countries focus primarily on providing social security to formal government employees, largely disregarding temporary or contractual workers who are in informal employment. However, recent reforms in Indonesia under the National Social Security System aim to extend protection to a broader segment of the population, bringing informal workers into its ambit. Bangladesh and Nepal ignore the multitude of temporary or contractual workers, offering inadequate protection. All the countries offer varying degrees of maternity benefits, with Malaysia at the forefront – its Employment Act Amendment 2022 brought significant improvements in maternity provision: female employees are now entitled to extended maternity leave and paid paternity leave has been introduced in alignment with international labour standards.

## 8.5. Collective bargaining and trade unionism

All five countries in the study recognize the rights of workers to self-organize in accordance with the ILO Right to Organise and Collective Bargaining Convention, 1949 (No.98) and have established legal frameworks to protect workers' rights and the formation of trade unions. These legal stipulations aim to ensure that SNG employees have the freedom to join unions, collectively bargain, and participate in union activities. However, challenges to collective bargaining persist in the form of low union membership, especially among contract workers or those with no fixed employers. Employers' recognition of unions is often a barrier, and an additional problem is that enforcement of the labour laws can be lacking in practice.

Despite the presence of a legal framework, SNG employees face a number of obstacles to their right to organize (Cibrario 2021a). Excessive sanctions and prerequisites are imposed on those who mount strikes. The Philippines is particularly notorious for the practice of “red-tagging” (labelling of individuals or organizations as communists, subversives or terrorists), and there has been severe State suppression of union activities. Public sector employees in Malaysia enjoy the right to freedom of association but are denied the right to bargain collectively (Cibrario 2021a). In Bangladesh, salary scales are used to impose limitations on the right to unionize, and there is an observed trend of making senior trade union officials part of the management team, so as to weaken the unions. SNG employees rarely participate in social dialogue processes at international gatherings, where central government officials are typically present as representatives. This renders SNG concerns and decent work issues invisible, despite the fact that SNG employees constitute key State actors in delivering services to the public.

## 8.6. Fiscal autonomy of SNGs

While the five countries have delegated authority to local regions in order to bring essential services closer to the public, they have not allocated them the resources and fiscal powers needed to accomplish that task (Cibrario 2021b). The main reasons for this are insufficient funding, an

overall paucity of resources, governance issues and conflicts between different government authorities (Cibrario 2021b).

The featured countries display the myriad ways in which fiscal autonomy can combine with decentralized governance. While the SNGs in some countries have financial capacity and revenue-generating abilities, others heavily rely on fiscal transfers from the central government. The level of fiscal autonomy enjoyed by SNG institutions also varies widely across the different tiers of government within each country. In some cases, provinces or higher-ranked SNGs demonstrate greater flexibility to generate revenue from diverse sources, while lower-tier SNGs depend predominantly on grants and transfers. In Indonesia, the provinces have greater financial capacity, thanks to revenue from, for example, vehicle and ownership transfer taxes. Meanwhile, the lower-tier SNGs such as regencies, cities, and villages depend primarily on intergovernmental transfers.

Fiscal transfers from the central government play a significant role in financing SNGs across all the countries. Many local governments in the Philippines, especially in the lower tiers, derive their fiscal resources solely from central government, which can make up to 98 per cent of their revenue. When SNGs can raise revenues from taxes, they are often constrained by central government regulations. While they can set tax rates within defined limits, tax collection is largely under the jurisdiction of the central authorities. Elsewhere, the SNGs in Malaysia enjoy limited control over taxation, as most tax rates are set and collected by central government.

## 8.7. Gender equity in SNGs

Despite proactive endeavours to address gender equity in SNGs, this has not been realized in practice. The countries studied have legislative and specialized bodies in place to mainstream gender. The presence of the PCW and the Magna Carta of Women (an anti-discrimination law) in the Philippines demonstrates its commitment to gender inclusivity. Malaysia has also made some positive strides, as evident in the 2022 EA Amendment, which increased maternity leave and provided protection against pregnancy-related termination. Bangladesh's Constitution explicitly mentions the importance of ensuring women's participation in all spheres of national life and has been amended in order to enhance women's participation in employment, with particular focus on maternity leave and the definition of sexual harassment. The reserved quota for female candidates in the government sector indicate an effort to increase their representation. Indonesia has also integrated gender mainstreaming through the State Ministry for Women's Empowerment (SMWE), pursuant to Presidential Decree 9/2000.

Cibrario (2021c) rightly acknowledges that public policies designed and implemented by local authorities are a key lever for addressing gender and intersectional issues. However, most policies in these countries are drafted at the national level, thereby leaving a gap to be bridged by the SNGs in the future. Other country-specific challenges range from “fund crunch” and favouritism in recruitment, to implementation hurdles. Despite the establishment of quotas and policies favourable to women in Nepal, they continue to be underrepresented in senior positions and the gazetted occupational classes. Vertical segregation poses a significant challenge: women are seldom found in high-ranking positions within local regional government administration and public services, in better-paid posts which involve authority and decision-making (Cibrario 2021c). Instead, they are concentrated in sectors such as sanitation and health care. This indicates a gendered understanding of women's suitability for specific jobs, and the feminization of such jobs.

## 8.8. Data gaps concerning the SNG workforce

Despite SNG employees constituting the majority of the government workforce globally, information about them is sparse and mostly undisclosed (Daria, Trade Union 2021). This is particularly true for developing countries, where data on central government employees, their recruitment criteria, salary scale and benefits are usually presented in the public domain. But data on employees in local and regional governments do not receive the same attention or visibility. This data gap has posed a substantial challenge in designing informed policies, and the only evidence available relates to the 49 countries covered by ILOSTAT, which accounts for only a quarter of the global SNG workforce (PSI and UCLG 2018). Detailed information spanning countries in different regions is missing, and this compromises any understanding of the capacity of SNGs to provide quality public services to the public. “This deficiency has the potential to jeopardize the implementation of global development agendas such as the SDGs and the Decent Work Agenda, which are ultimately to be implemented at the local level” (PSI and UCLG 2018, 1).

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