



# MYANMAR

country study 2016



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# LIST OF ABBREVIATIONS

ALR	Action Labour Rights
BWU	Burmese Women's Union
CBA	Collective Bargaining Agreement
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CCTU	Cooperative Committee of Trade Unions
CMP	Cut-Make-Pack
CSO	Civil Society Organization
CTUM	Confederation of Trade Unions of Myanmar
EBA	Everything But Arms
EU	European Union
FOB	Free-on Board
FWF	Fair Wear Foundation
GDP	Gross Domestic Product
GSP	Generalised Scheme of Preferences
HDI	Human Development Index
ILO	International Labour Organisation
ITUC	International Trade Union Confederation
IWFM	Industrial Workers Federation of Myanmar
LDC	Least Developed Country
LHEO	Let's Help Each Other
LRDP	Labour Rights Defenders & Promoters
MCRB	Myanmar Centre for Responsible Business
MGMA	Myanmar Garment Manufacturers Association
MICS – TUsF	Myanmar Industries Craft & Services Trade Unions Federation
NLD	National League for Democracy
PPE	Personal Protective Equipment
PPP	Purchasing Power Parity
SSB	Social Security Board
UMFCCI	Union of Myanmar Federation of Chambers of Commerce and Industry
UNDP	United Nations Development Programme
US	United States of America
US\$	United States Dollar
USDP	Union Solidarity and Development Party
WCC	Workplace Coordinating Committee

# INTRODUCTION

The first textile factories in Myanmar<sup>1</sup> were built when the country was still under British rule, between 1824 and 1948. A military junta has ruled the country since 1962. In 1988, the junta first allowed foreign investment, which led to considerable industry growth. At its peak in the early 2000s, the Myanmar garment industry counted around 400 factories employing around 300 000 workers, and generating an export volume of US\$600 million.

Growth halted during the second half of the 2000s, when severe trade and investment sanctions were imposed on the military government by the United States, Canada and the European Union, among others. The garment industry was hit hard and hundreds of factories had to close their doors. Some 130 factories survived the sanctions era, and mainly supplied Korean, Japanese, Taiwanese and Chinese companies.

Most of the sanctions were suspended and later lifted when the military government stepped down in 2011 and a quasi-civilian government was installed. Foreign investment has grown sharply since then. The garment industry has greatly benefited from these investments and grown exponentially over the past few years. In 2014, Myanmar garment industry export revenues were estimated to have reached US\$1.5 billion; that is US\$300 growth in one year and a doubling after less than three years. Currently, there are around 350 garment factories in Myanmar, employing approximately 350 000 workers, of which 90% are female. The garment industry has experienced consistent growth - reportedly one factory opens for business every week - which means the number of factories and workers is expected to grow as well.

A general election was held on 8 November 2015- the first free elections in 25 year. The National League for Democracy (NLD), led by Aung San Suu Kyi, won 77% of the votes while the military-aligned Union Solidarity and Development Party only won 10% of the votes. For several decades, trade union activities in Myanmar were not permitted. Trade unions only became legal in Myanmar in 2012. Before then, they were only marginally effective, and most worked from abroad. To date, Myanmar has ratified 3 of the 8 core ILO Conventions, including 87 (freedom of association). It has not signed Convention 98 on collective bargaining and the right to organise.

*Fair Wear Foundation (FWF) will continue to provide updated information on Myanmar on its website and will update this country study on a periodic basis in the future*

## Fair Wear Foundation

FWF has seen a slow but steady increase in the number of factories in Myanmar from which FWF members source. Currently, 8 FWF members are (actively) sourcing from 12 factories in Myanmar. In 2016 FWF began setting up activities in the country such as factory audits (including off-site worker interviews), a local complaints helpline for workers and its Workplace Education Programme.

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<sup>1</sup> In this report we use the name Myanmar, instead of Burma. This is not a political statement, but a reflection of the growing use of the name Myanmar by many different groups and people in Myanmar and internationally.

While Myanmar has demonstrated significant progress on civil and political rights, FWF continues to regard it as a high risk country, facing specific challenges with regard to implementation of labour standards. Garment factories in Myanmar face high risks for violations including low wages, long working hours, repression of union members and strike leaders, poor working conditions, child labour, and the lack of a healthy social dialogue among both employers and unions. These problems are exacerbated by high levels of corruption, land grabbing, and military/crony involvement in local business.

# 1. HOW TO READ THIS COUNTRY STUDY

This country study should provide a clear and concise picture of the industry, labour law, labour conditions and industrial relations within the textile/garment industry. The study is prepared through gathering information about national laws and local stakeholders' view on labour issues in the garment industry in Myanmar.

**Chapter 2, *General country information***, describes the economic, social, political, and governance situation as well as the general human rights situation, using international indicators and comparing the country to other garment producing countries.

**Chapter 3, *Stakeholders***, briefly presents the main stakeholders that are active in the garment/textile industry. The focus is on stakeholders which have an actual impact on labour conditions or play an active role in monitoring the situation for workers in the industry. This chapter serves as a reference point for stakeholders and brands that want to engage with or consult a local stakeholder to find further information or help concerning their activities in Myanmar.

**Chapter 4, *Garment industry***, presents an overview of the situation for the garment industry in Myanmar, areas of production, products and prospects for the industry.

**Chapter 5, *Industrial relations***, describes the trade union situation in the country, both in general and specifically for the garment industry. This chapter gives important information for understanding how well challenges regarding working conditions could be handled through the country's social dialogue, and how they currently are.

In **Chapter 6, *Implementation of the FWF Code of Labour Practices***, the implementation of every standard of the FWF Code of Labour Practices is assessed through official statistics on compliance (where available), laws and regulations, as well as different stakeholders views on implementation. Auditors and brands can use this section as a reference resource for their monitoring activities.

## 2. GENERAL COUNTRY INFORMATION

Myanmar, with a population of around 51.5 million,<sup>2</sup> is the second largest country in Southeast Asia. On the north and northeast, the country is bordered by China, on the east and southeast it is bordered by Laos and Thailand, on the south it is bordered by the Andaman Sea and the Bay of Bengal and on the west by Bangladesh and India. The administrative capital of Myanmar is Naypidaw. Myanmar's largest city and its commercial capital is Yangon (Myanmar's capital city until 2006). Women make up 51.8% of the population of Myanmar, while 48.2% is male. It is an ethnically diverse nation, with 135 distinct ethnic groups officially recognised by the national government, grouped into eight 'major national ethnic races': Kachin, Kayah, Kayin, Chin, Mon, Bamar, Rakhine and Shan.<sup>3</sup> Ethnic Burmans (or Bamar) form roughly two-thirds of its population, followed by the Shan (9%), Karen (7%), Rakhine (4%) and Mon (2%). There are also significant Chinese and Indian minorities (3 and 4% of the population respectively).<sup>4</sup> Several ethnic groups are not recognised by the government of Myanmar, including the approximately 800 000 Rohingyas, a Muslim minority who are denied citizenship under the 1982 Citizenship Law. A considerable number of Myanmar people are living abroad, including some 5 million migrant workers and some 109 000 refugees living in refugee camps in Thailand.<sup>5</sup>

In 2015, the labour force was estimated at 36.18 million.<sup>6</sup> Labour force participation high, 85.2% among men and 50.5% amongst women.<sup>7</sup> At the moment of writing no current data was available on the division of the labour force by occupation.<sup>8</sup> The latest data are from 1990. At that time, 70% of the labour force was engaged in agriculture, 23% in the services sector, and 7% in the industrial sector.<sup>9</sup>

As of 2016, the garment industry employs around 350 000 workers,<sup>10</sup> of which 90% are women.<sup>11</sup> The Myanmar Garment Manufacturers Association (MGMA) projects that the industry will employ around 1.5 million workers by 2024.<sup>12</sup>

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2 United Nations Population Fund (UNFPA) Myanmar, 'Myanmar Country Profile', 15 March 2016

<http://myanmar.unfpa.org/country-profile-0>

3 Embassy of the Union of Myanmar, Brussels, 'Composition of the Different Ethnic Groups under the 8 Major National Ethnic Races in Myanmar', no date

<http://www.embassyofmyanmar.be/ABOUT/ethnicgroups.htm> (accessed on 11 May 2016)

4 Central Intelligence Agency (CIA), 'The World Fact Book – Burma', last updated May 5, 2016

<https://www.cia.gov/library/publications/the-world-factbook/geos/bm.html>

5 Burma Campaign UK, Burma Briefing, Burma's 2015 Elections and the 2008 Constitution. No. 41 October 2015

[http://burmacampaign.org.uk/media/Burma\\_per\\_centE2\\_per\\_cent80\\_per\\_cent99s-2015-Elections-and-the-2008-Constitution.pdf](http://burmacampaign.org.uk/media/Burma_per_centE2_per_cent80_per_cent99s-2015-Elections-and-the-2008-Constitution.pdf), page 9.

6 Central Intelligence Agency (CIA), 'The World Fact Book – Burma', last updated 5 May 2016

<https://www.cia.gov/library/publications/the-world-factbook/geos/bm.html>

7 United Nations Population Fund (UNFPA) Myanmar, 'Myanmar Country Profile', 15 March 2016

<http://myanmar.unfpa.org/country-profile-0>

8 The International Labour Organisation (ILO) is currently conducting a labour force survey in Myanmar. The results will become available in October 2016. Source: ILO website, 'Myanmar: New labour force survey addresses data gap', 26 June 2015 [http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS\\_378029/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_378029/lang--en/index.htm)

9 Central Intelligence Agency (CIA), 'The World Fact Book – Burma', last updated 5 May 2016

<https://www.cia.gov/library/publications/the-world-factbook/geos/bm.html>

10 Interview with MGMA, 4 May 2016.

11 Oxfam, 'Made in Myanmar – Entrenched poverty or decent jobs for garment workers?' December 2015

[https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf)

12 Myanmar Garment Manufacturers Association (MGMA), 'Myanmar Garment Industry – 10 year strategy 2015 – 2024', August 2015

<http://www.myanmargarments.org/wp-content/uploads/2015/09/Myanmar-garment-industry-10-year-strategy-Aug-2015.pdf>



## Military rule

Myanmar was ruled by a military junta for decades. On 2 March 1962, the military led by General Ne Win took control of the country, then known as Burma, through a military coup; the government has been under direct or indirect control by the military ever since. In 1989 the military government changed the name of the country to Myanmar

Sporadic protests against military rule were almost always violently suppressed. In 1988, unrest over economic mismanagement and political oppression by the government led to widespread pro-democracy demonstrations throughout the country. Security forces killed thousands of demonstrators, and General Saw Maung staged a coup d'état and formed the State Law and Order Restoration Council (SLORC, later renamed the State Peace and Development Council or SPDC). In 1989, the SLORC declared martial law after widespread protests, and placed Aung San Suu Kyi, leader of the most influential pro-democracy party Nation League for Democracy (NLD), under house arrest.

In May of 1990, the government held free elections for the first time in almost 30 years. The NLD won 392 of 489 seats. However, the military junta refused to cede power and continued to rule the nation. In 2008, the military government introduced a new, widely criticised constitution. The 2008 constitution stipulates that unelected military representatives must hold 25% of the seats in the Upper and Lower House. In addition, the constitution bars anyone who has foreign citizens in their immediate family from the presidency. NLD leader Aung San Suu Kyi has two sons who are British nationals, as was her late husband. This makes her ineligible to be president. Constitutional amendments require a 75% majority, giving military representatives a crucial veto opportunity.

General elections were held for the first time in 20 years in November 2010. Although opposition groups alleged there had been widespread fraud, and many Western countries condemned the vote as a sham, the military-backed Union Solidarity and Development Party (USDP) claimed a resounding victory. The junta said the election marked the transition from military rule to a civilian democracy. In March 2011 Thein Sein was sworn in as president of a quasi-civilian government.

A process of reform has been underway since 2010: Aung San Suu Kyi was released from house arrest; more than 200 political prisoners were released; new labour laws that allow labour unions and strikes were passed and press censorship has been relaxed.<sup>13</sup> However, great concerns remained. Armed clashes between government forces and ethnic groups continued in various states; and child recruitment by government and other armed forces was still reported.<sup>14</sup> Overall, the military continues to exert great power over all domains of society.

General elections were held on 8 November 2015 – the first free elections in 25 years. It should be noted that around 10 million people (20% of the population) were not allowed to vote, including people living in conflict-affected areas, migrant workers and refugees living abroad, internal migrants, members of the Rohingya community and Buddhist monks and nuns.<sup>15</sup>

13 BBC, Timeline: Reforms in Myanmar, 8 July 2015.

<http://www.bbc.com/news/world-asia-16546688> (accessed on 18 November 2015)

14 UN Office of the Special Representative of the Secretary General for Children and Armed Conflict, no date

<https://childrenandarmedconflict.un.org/countries/myanmar/> (accessed on 16 June 2016).

15 Burma Campaign UK, Burma Briefing, Burma's 2015 Elections and the 2008 Constitution. No. 41 October 2015

<http://burmacampaign.org.uk/media/Burma%E2%80%99s-2015-Elections-and-the-2008-Constitution.pdf>, page 9.



The NLD won 77% of the votes while the Union Solidarity and Development Party won only 10%. On 30 March 2016, Htin Kyaw was sworn in as president. Aung San Suu Kyi was appointed Minister of Foreign Affairs and head of the President's Office. The post of State Counsellor – a role similar to that of Prime Minister – was approved by the Myanmar Parliament in April 2016,<sup>16</sup> and was taken by Aung San Suu Kyi, placing her at the heart of the Myanmar administration.

The new government brought the number of ministries down from 36 to 21. While there is a civilian government, the 2008 Constitution prescribes that the Minister of Home Affairs, the Minister of Defence and the Minister of Border Affairs are to be appointed by the military. The combined Ministry of Labour, Immigration and Population Affairs is now headed by USDP central executive member Thein Swe, who served as Minister of Transport under the military government.<sup>17</sup>

## 2.1. Economic indicators

Myanmar is highly vulnerable to climate change and extreme weather events, such as the devastating Cyclone Nargis in 2008. This heightens the risks and vulnerabilities for the rural poor. The country ranks 148 of 188 on the Human Development Index of the United Nations Development Programme. This ranking places Myanmar in the 'low human development category'. Bangladesh and Cambodia – two main competitors in terms of garment production – rank 142 and 143 respectively and are placed in the 'medium human development category'.<sup>18</sup>

In 2015, the GDP per capita was USD 5 200. Per capita GDP increased by 8% compared to the preceding year. In Bangladesh per capita GDP was USD 3 600 in 2015 and in Cambodia USD 3 500.

Myanmar's main exports partners are China, India, Japan, South Korea, Germany, Indonesia and Hong Kong.<sup>19</sup> Oil and natural gas dominate Myanmar's exports. Other exports include vegetables, wood, fish, clothing, rubber and fruits. EU imports from Myanmar are dominated by clothing and agricultural products.

### 2.1.1 Sanctions

In response to grave human rights violations, trade and investment sanctions and other restrictions were imposed on Myanmar's military government by the United States, the European Union and the International Labour Organization, among others, in the early 2000s.

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<sup>16</sup> The army representatives in Parliament refused to vote, stood in protest and complained repeatedly that this new bill was unconstitutional. Source: BBC News, 'Myanmar parliament approves Aung San Suu Kyi "PM-like" role', 5 April 2016 <http://www.bbc.com/news/world-asia-35967763>

<sup>17</sup> Myanmar Times, 'Who's who: Myanmar's new cabinet', 23 March 2016 <http://www.mmtimes.com/index.php/national-news/nay-pyi-taw/19609-who-s-who-myanmar-s-new-cabinet.html>

<sup>18</sup> United Nations Development Programme (UNDP), 'Human Development Report 2015 – Work for Human Development', 2015 [http://hdr.undp.org/sites/default/files/2015\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf)

Trading Economics website, 'Myanmar Exports 2010-2016', no date

<sup>19</sup> Trading Economics website, 'Myanmar Exports 2010-2016', no date <http://www.tradingeconomics.com/myanmar/exports> (accessed on 11 May 2016)

## International Labour Organization

In 1999 the International Labour Conference imposed various restrictions on Myanmar. The country was excluded from receiving technical assistance from the ILO except for the purpose of combating forced labour. In addition, Myanmar was no longer invited to ILO meetings or activities on various labour matters. The restrictions were put in place after it was concluded that the use of forced labour was widespread in the country. A number of recommendations were made for changes in legislation and practice. In 2000, when it was concluded that Myanmar was not implementing these recommendations, further measures were enacted by the ILO, including a request to ILO Member States to review their relations with Myanmar to ensure that their actions could not be used to perpetuate the use of forced labour. In June 2012, the ILO suspended its restrictive resolution on Myanmar.<sup>20</sup>

## EU sanctions

The EU imposed various sets of sanctions on the Myanmar military government. The sanctions included stopping non-humanitarian aid, implementing an arms embargo and withdrawing the military staff from embassies – in 1991, in response to the refusal of the SPDC to accept the 1990 election results; a travel ban on members of the military junta, their relatives and their supporters following the death during detention of honorary consul of several European nations, James Leander Nichols in 1996; the withdrawal of the EU's Generalised Scheme of Preferences (EU GSP) related to tariffs in 1997 due to violations of the principles of the ILO convention on forced labour; further extension of restrictive measures to the trade of goods from which the junta leaders and its supporters benefited, such as timber, gold, tin, iron and copper, after violent repression of the 2007 protests.<sup>21</sup>

In April 2013 the European Union agreed to lift all sanctions on Myanmar, except for an arms embargo. A year earlier, the EU had already suspended sanctions following a series of reforms put in place by the quasi-civilian government installed in 2011.

Myanmar was reinstated into the EU GSP tariff preferences system in July 2013, in response to its process of political and economic reform and following the decision by the Conference of the International Labour Organization to suspend its restrictive resolution on Myanmar in June 2012.

The European Union's Generalised Scheme of Preferences allows exporters from developing countries to pay lower or no duties on their exports to the EU. As a Least Developed Country (LDC), Myanmar benefits from the most favourable regime available under the GSP scheme, the Everything but Arms (EBA) scheme. The EBA scheme gives the 49 Least Developed Countries duty free access to the EU for export of all products, except arms and ammunition.<sup>22</sup>

The EU and Myanmar are currently negotiating an Investment Protection Agreement.

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<sup>20</sup> ILO website, 'ILO lifts restrictions on Myanmar', 13 June 2012

[http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_183287/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_183287/lang--en/index.htm)

<sup>21</sup> European Policy Centre, 'The effectiveness of EU sanctions - An analysis of Iran, Belarus, Syria and Myanmar (Burma)', November 2013

[http://www.epc.eu/documents/uploads/pub\\_3928\\_epc\\_issue\\_paper\\_76\\_-\\_the\\_effectiveness\\_of\\_eu\\_sanctions.pdf](http://www.epc.eu/documents/uploads/pub_3928_epc_issue_paper_76_-_the_effectiveness_of_eu_sanctions.pdf)

<sup>22</sup> Ibid.

## US sanctions

The US first imposed sanctions in 1988, in response to the violent repression of protests. All foreign assistance and arms sales to Myanmar were suspended. In 1989 the US suspended Myanmar's Generalized System of Preferences (GSP) eligibility because GSP criteria related to worker rights had not been met.<sup>23</sup> Additional sanctions were imposed after the military government ignored the results of the 1990 elections. In 1997, sanctions were tightened as new investments in Myanmar were banned and travel to the US by Burmese officials was limited. Following a crackdown, which included the detention of Aung San Suu Kyi in 2003, the US Congress passed the Burmese Freedom and Democracy Act, which authorised the prohibition of imports of any article that is produced, manufactured or grown in Myanmar.<sup>24</sup>

In 2011 the US began loosening its sanctions in response to the instalment of the quasi-civilian government. US investment, imports of Burmese products into the United States (except for jadeite and rubies), and the use of the Myanmar financial sector are now allowed. Remaining restrictions, such as those on targeted entities and individuals on the Treasury Department's Specially Designated Nationals (SDN) list and any investment with the military, are intended to target those who would obstruct political reform in Myanmar, abuse human rights in Myanmar or propagate military trade with North Korea. In addition, the Burma Responsible Investment Reporting Requirements, introduced in 2013, require US businesses investing US\$ 500 000 or more in Myanmar to submit annual reports to the US State Department on their operations, procedures and impact. The US Department of State aims to use the information collected as 'a basis to conduct informed consultations with US businesses to encourage and assist them to develop robust policies and procedures to address a range of impacts resulting from their investments and operations in Myanmar.' In addition, 'the public reports should empower civil society to take an active role in monitoring investment in Myanmar and to work with companies to promote investments that will enhance broad-based development and reinforce political and economic reform'.<sup>25</sup>

One of the main sticking points to dropping the sanctions entirely is the way Myanmar's army still commands considerable influence over its political system, US officials have said.<sup>26</sup> Local media reported in March 2016 that discussions had taken place between the Myanmar and US governments about a possible reinstatement of the GSP status.<sup>27</sup>

## Post-sanctions developments

Since the suspension of most of the sanctions, foreign investment has grown sharply. The garment industry has benefited from these investments and grown exponentially over the past few years. The Myanmar government is attracting foreign investors by offering zero-tax policies and building new economic zones.

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23 Congressional Research Service, 'Generalised System of Preferences: Background and Renewal', August 2015 Debate <https://fas.org/sgp/crs/misc/RL33663.pdf>

24 USA\*Engage website, 'US Foreign Policy Sanctions: Burma', no date <http://usaengage.org/Issues/Sanctions-Programs/Myanmar/> (accessed on 13 July 2016).

25 US Department of State, 'Burma Responsible Investment Reporting Requirements', May 2013 <http://www.state.gov/r/pa/prs/ps/2013/05/209869.htm>

26 The Wall Street Journal, 'US Sanctions on Myanmar to Stay Until Military's Influence Is Reduced', 22 May 2016 <http://www.wsj.com/articles/u-s-sanctions-on-myanmar-to-stay-until-militarys-influence-is-reduced-1463915073>

27 Myanmar Business Today, 'US to Discuss Myanmar GSP in June And July', 15 March 2016 <http://www.mmbiztoday.com/articles/us-discuss-myanmar-gsp-june-and-july>

## 2.2 Social, political & governance indicators

### Democracy and rule of law

Myanmar ranks 114 in the 2015 Democracy Index of the Economist Intelligence Unit. The relatively free and fair elections in Myanmar in November 2015 resulted in its move from 'authoritarian regime' to 'hybrid regime'. Cambodia, ranked 113th, is just one place ahead of Myanmar. Bangladesh is ranked 86 and, like Myanmar and Cambodia, considered a hybrid regime.<sup>28</sup>

Myanmar scores 0.42 on the Rule of Law Index of the World Justice Project (with scores ranging from 0 to 1, where 1 indicates strongest adherence to rule of law). With this score, Myanmar comes in position 92 out of 102 ranked countries. Bangladesh receives a similar score while Cambodia, with a score of 0.37, is one of the worst-performing countries (ranked 99).<sup>29</sup> For 2014 (before the transition to the NLD-led government), Myanmar scored 9% on the government effectiveness index of the World Bank. Bangladesh had a score of 22% and Cambodia 25%.<sup>30</sup>

### Corruption

Myanmar ranks 147 out of 168 countries on Transparency International's 2015 Corruption Perception Index, receiving a score of 22 points (out of 100: one point better than its score in 2013 and 7 higher than in 2012). Bangladesh scores slightly better with 25 points (rank 139). Cambodia is ranked 150, with a total of only 21 points. Since the transition to a quasi-civilian government in 2011, Myanmar's government has made a strong commitment to stamp out corruption. However, under the previous government (2011-2016), suspicion about cronyism<sup>31</sup> and corruption continued to cloud the Myanmar business sector, according to the Myanmar Centre for Responsible Business.<sup>32</sup> Corruption is also rife in the public sector and even though efforts to combat corruption have increased, the effectiveness of these measures is questionable. The Myanmar Times reported in February 2015 that most of the 450 civil servants punished for corruption escaped punishment. Only one civil servant received a jail sentence, others received minor administrative penalties. In September 2014, the Myanmar Anti-Corruption Commission admitted in Parliament that it had only solved three cases of the more than 530 complaints it had received since its formation.<sup>33</sup> Since the new government took office in March 2016 there have been changes of staff at high-level positions. However, the vast majority of civil servant positions have remained unchanged, which may be a challenge if sustained change is to take effect.

28 The Economist Intelligence Unit, 'Democracy Index 2015 - Democracy in an age of anxiety'

[http://www.eiu.com/public/topical\\_report.aspx?campaignid=DemocracyIndex2015](http://www.eiu.com/public/topical_report.aspx?campaignid=DemocracyIndex2015)

29 World Justice Project, 'Rule of Law Index 2015',

[http://worldjusticeproject.org/sites/default/files/roli\\_2015\\_0.pdf](http://worldjusticeproject.org/sites/default/files/roli_2015_0.pdf)

30 The World Bank, 'Worldwide Governance Indicators', 1996-2014

<http://info.worldbank.org/governance/wgi/index.aspx#home>

31 The word 'crony' describes the business elite who have exploited their closeness to the country's military rulers to amass vast wealth in the past decades. See The Washington Post, 'In Burma, fear gives way to anger toward well-connected business elite', 26 March 2013

[https://www.washingtonpost.com/world/asia\\_pacific/in-burma-fear-gives-way-to-anger-toward-well-connected-business-elite/2013/03/26/b7985234-800b-11e2-a350-49866afab584\\_story.html](https://www.washingtonpost.com/world/asia_pacific/in-burma-fear-gives-way-to-anger-toward-well-connected-business-elite/2013/03/26/b7985234-800b-11e2-a350-49866afab584_story.html)

32 Myanmar Centre for Responsible Business, 'Pwint Thit Sa Project - Transparency in Myanmar Enterprises', July 2015

<http://www.myanmar-responsiblebusiness.org/pdf/TiME/2015-2nd-Pwint-Thit-Sa-Report.pdf>

33 Myanmar Times, 'Corrupt civil servants dodge prison terms', 27 February 2015

<http://www.mmtimes.com/index.php/national-news/13266-slap-on-the-wrist-corruption-goes-unpunished.html>

Civil society organisations have expressed concerns about ongoing corruption within the labour inspectorate. Due to low wage levels, inspectors are easily susceptible to bribes offered to them by factory managers, according to civil society representatives.<sup>34</sup>

## Gender inequality

Myanmar scores 0.413 on the UNDP Gender Inequality Index. In comparison, both Bangladesh (0.503) and Cambodia (0.477) perform worse on this index.<sup>35</sup> But sexual violence against women is widespread in the conflict-affected states Kachin, Shan, Rakhine and Chin. In addition, forced marriages of women and girls have been reported, as well as cross-border trafficking for the purpose of sexual exploitation. In August 2015, the controversial Special Marriage Law was enacted. The law applies to Burmese Buddhist women, but not to Buddhist men, age 18 and over and their non-Buddhist husbands. The law permits the township registrar to publicly display a couple's application for marriage for 14 days, and allows any objections to the marriage to be taken to local court. The law places further discriminatory restrictions on women under age 20, who are required to obtain consent from their parents or legal guardian to marry a non-Buddhist. The law also applies to existing marriages, requiring interfaith couples to register as an interfaith marriage. Offences under the Special Marriage Law could lead to prison sentences of two to four years.<sup>36</sup> Another law, the Population Control Healthcare Bill, imposes restrictions regarding 'birth spacing'. The law requires a 36-month interval between each child and thus violates the right to privacy and a women's right to choose when to have children.<sup>37</sup>

Women are under-represented in the political arena. During the military rule, women were prevented from achieving political power: women were not admitted to the Defence Services (Tatmadaw). Since the top offices were reserved for the military, women were effectively excluded from political participation.<sup>38</sup>

Between 2010 and 2015, women members of Parliament represented a mere 5.9% of all elected MPs in the Union Parliament (Pyidaungsu Hluttaw), the lowest percentage in Asia. In the country's 14 state and regional parliaments, the number of women MPs was even lower, at 3.8%. After the 2015 elections, the number of women in Parliament increased significantly. The number of women MPs has increased to 13% in each of the lower (Amyotha Hluttaw) and upper (Pyithu Hluttaw) houses.<sup>39</sup>

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34 SOMO interviews with various civil society organisations, February – April 2016.

35 Source: United Nations Development Programme (UNDP), 'Human Development Report 2015 – Work for Human Development', 2015 [http://hdr.undp.org/sites/default/files/2015\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf) The Gender Inequality Index (GII) reflects gender-based disadvantage in three dimensions—reproductive health, empowerment and the labour market. It ranges between 0, where women and men fare equally, and 1, where one gender fares as poorly as possible in all measured dimensions.

36 Human Rights Watch, 'Burma: Reject Discriminatory Marriage Bill', 9 July 2015

<https://www.hrw.org/news/2015/07/09/burma-reject-discriminatory-marriage-bill>

37 Human Rights Watch, 'Burma: Reject Discriminatory Population Bill', 16 May 2015

<https://www.hrw.org/news/2015/05/16/burma-reject-discriminatory-population-bill>

38 Global Justice Center, 'The Gender Gap and Women's Political Power in Myanmar/Burma', May 2013

[http://globaljusticecenter.net/documents/Gender%20Gap%20in%20Burma%20\(Timeline\).pdf](http://globaljusticecenter.net/documents/Gender%20Gap%20in%20Burma%20(Timeline).pdf)

39 International Women's Development Agency, 'Women MPs doubled in Myanmar's new-look parliament', 1 February 2016

<https://www.iwda.org.au/women-mps-doubled-in-myanmars-new-look-parliament/>

The Constitution cites that every citizen shall enjoy the rights of equality and equal opportunity and that 'in appointing or assigning duties to civil service personnel, no citizen of the Republic of the Union of Myanmar shall be discriminated against based on race, birth, religion, or sex'. However, the Constitution also stipulates that 'nothing in this Section shall prevent appointment of men to the positions that are suitable for men only'. This last sentence suggests that there are certain job types that are considered unsuitable for women.

## 2.3 Income and poverty

According to the UNDP, poverty levels are estimated at 26% of the population.<sup>40</sup> Poverty is twice as high in rural areas, where 70% of the population lives.<sup>41</sup> Women in rural areas are among Myanmar's most marginalised groups, with high vulnerability to food insecurity and poverty. The remote border areas, mainly populated by Myanmar's minority ethnic groups as well as areas emerging from conflict, are particularly poor. Of the working population, 67% is categorised as 'working poor', which means they earn less than PPP (Purchasing Power Parity) \$US 2 a day.<sup>42</sup>

## 2.4 General human rights situation

### Conflict

Myanmar has been in a state of constant civil war since its independence in 1948. Ethnic minority groups – who make up an estimated 30–40% of the total population – have long been marginalised and discriminated against, resulting in a large number of ethnic armed opposition groups fighting the central government – which is dominated by the ethnic Burman majority – for ethnic rights and autonomy. The fighting has taken place mostly in Burma's borderlands, where ethnic minorities are concentrated.<sup>43</sup>

In October 2015, the USDP-led government signed a controversial ceasefire agreement (the Nationwide Ceasefire Agreement) with eight armed groups. Seven of the 15 invited armed groups declined to sign due to disagreements over who the process should include and distrust of the Myanmar government and its still-powerful military. The Kachin Independence Army, Shan State Army and United Wa State Army are among the parties that refused to sign the agreement. Other key parties, including the TNLA (Ta'ang National Liberation Army), were excluded from the process.

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40 For Myanmar there is no Gini coefficient available.

41 United Nations Development Programme website, 'About Myanmar', no date <http://www.mm.undp.org/content/myanmar/en/home/countryinfo.html> (accessed on 11 May 2016)

42 The UNDP categorises employed people living on less than PPP\$2 as 'working poor'. UNDP, 'Myanmar Human Development Report 2015' <http://hdr.undp.org/en/countries/profiles/MMR>

43 Transnational Institute and Burma Centrum Netherlands, 'Access Denied - Land Rights and Ethnic Conflict in Burma', Burma Policy Briefing Nr. 11, May 2013 <https://www.tni.org/files/download/accesdenied-briefing11.pdf>



In 2015, fighting intensified between the government army and armed ethnic groups as well as between different ethnic groups. Kachin State, Shan State and Rakhine State are particularly affected by conflict. There are ongoing reports of killings, disappearances, rape and other crimes of sexual violence and forced labour.<sup>44</sup>

Decades of fighting between ethnic minority groups and the government have resulted in large numbers of internally displaced persons (IDPs), a massive exodus of refugees from Myanmar to Thailand and other nearby countries and mass human rights abuses. There are over 600 000 internally displaced persons in Myanmar, many of them living in IDP camps, often in deplorable conditions.<sup>45</sup>

### Political prisoners

The generals who ran the country for decades suppressed almost all dissent. According to NGO Burma Partnership estimated that between 7 000 and 10 000 political prisoners have been imprisoned in Myanmar since 1962.<sup>46</sup> Since 2010, a process of reform has been underway: Aung San Suu Kyi was released from house arrest and more than 200 political prisoners were released. After its landslide victory in the November 2015 elections, the NLD pledged that it would free all prisoners of conscience. One week after the new government took office, 83 political prisoners were released, among them many student activists. According to the Assistance Association for Political Prisoners, as of 22 May 2016, there are 64 political prisoners in Myanmar.<sup>47</sup> In addition, 174 people are awaiting trial.

### Land rights and community rights

Various state and non-state armed actors have been responsible for land grabs in Myanmar during the past several decades. Especially during the 1980s and 1990s, military state and non-state armed actors seized large tracts of (farm) land, often without compensating the former users of those lands.

Since the mid-2000s, Myanmar's rich soils have increasingly attracted foreign agribusiness investment. In addition, recent political developments, and the subsequent end of economic sanctions, paired with the new economic opportunities have led to an increase in foreign investments in mining, oil and gas, dam and logging projects. To facilitate and attract foreign investments, three Special Economic Zones (Dawei, Kyaukpyu and Thilawa) are being developed.

Under the previous government, legal reforms sought to liberalise foreign investment and place all land under the ownership of the state. There is growing evidence that these reforms have

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44 Amnesty International website, 'Countries – Myanmar 2015/2016', no date  
<https://www.amnesty.org/en/countries/asia-and-the-pacific/myanmar/report-myanmar/> (accessed on 27 May 2016)

45 Internal Displacement Monitoring Centre website, 'Myanmar IDP Figure Analysis', no date  
<http://www.internal-displacement.org/south-and-south-east-asia/myanmar/figures-analysis>

46 Burma Partnership, 'After release I had to restart my life from the beginning' The Experiences of Ex-political Prisoners in Burma and Challenges to Reintegration', 25 May 2016  
<http://www.burmapartnership.org/2016/05/after-release-i-had-to-restart-my-life-from-the-beginning-the-experiences-of-ex-political-prisoners-in-burma-and-challenges-to-reintegration/>

47 Assistance Association for Political Prisoners (Burma) website, 'Political Prisoner Data', last updated 22 May 2016  
<http://aappb.org/political-prisoner-data/>



undermined the rights to land and resources of local communities.<sup>48</sup> There have been numerous cases of land grabs, resource grabs and forced relocations in the past years. Some examples:

- A Global Witness report describes how in the mid-2000s, Myanmar armed forces forced farming communities out of their lands in the north-eastern Shan State and handed the land over to companies and political associates to develop rubber plantations.<sup>49</sup>
- In 2005, the China Power Investment Corporation and Asia World Company<sup>50</sup> from Myanmar established a joint venture to build a cascade of hydropower projects. The Myitsone Hydro-electric Dam in Kachin State is the largest of seven dams planned on the headwaters of the Irrawaddy River. The US\$ 3.6 billion project is located in an area recognised as one of the world's eight hotspots of biodiversity. The livelihoods of thousands are directly impacted by the Myitsone project, and the government has underreported the number of people directly affected by the dam, listing as few as 2 146 people in five villages. Indigenous people did not give free, prior and informed consent for the Myitsone Dam project, and major Kachin ethnic organisations oppose it. Environmentalists also have objected because the Irrawaddy is Burma's most important water resource, supporting a thriving fishing industry, irrigating Burma's rice bowl, and supplying silt to the Irrawaddy Delta. In spite of opposition, construction began in December 2009. As work got underway, the Kachin Independence Army broke a 17-year-old ceasefire to attack the site. In 2010, ten bombs exploded around the dam site, killing a Chinese worker. In August 2011, Aung San Suu Kyi of the NLD published the Irrawaddy Appeal, calling for a halt to the project, explaining that roughly 12 000 people from 63 villages would be relocated by the dam cascade project. On 30 September 2011, President Thein Sein decided to suspend the Myitsone Dam until the end of his term. Even after the project was suspended, none of the more than 2 000 residents who had already been forcibly relocated were able to return to their original villages. China has been lobbying for resumption of the project.
- In January 2012, the Karen National Union and the Myanmar government signed a ceasefire. Following the ceasefire, the Myanmar Stark Prestige Plantation Company (MSPP), a Malaysian-Myanmar joint venture, obtained permission from the Myanmar government for its palm oil plantation project. Permission was granted to use 42 200 acres of land in the Ka Wutt-Kawtmapyin area in the Tanintharyi region. Many villagers left their lands during the armed conflicts and were eager to return after the ceasefire. However, more than 40 families from Bawsanway village and eight families from Thein Byin village lost their land and plantations, including betel nut, cashew and coconut trees, to make way for the palm oil plantation. The villagers are now seeking compensation.<sup>51</sup>

48 Forest Peoples Programme, 'Agribusiness large-scale land acquisitions and human rights in Southeast Asia - Updates from Indonesia, Thailand, Philippines, Malaysia, Cambodia, Timor-Leste and Burma, August ', August 2013 <http://www.forestpeoples.org/sites/fpp/files/publication/2013/08/lsla-studies.pdf>

49 Global Witness, 'Guns, Cronies and Crops', March 2015 <https://www.globalwitness.org/campaigns/land-deals/guns-cronies-and-crops/>

50 The family controlling ASW has been linked to drug trade and money laundering.

51 Myanmar Times, 'Peace brings plantations and displacement in Myeik hills', 2 March 2015 <http://www.mmtimes.com/index.php/national-news/13296-peace-brings-plantations-and-displacement-in-myeik-hills.html> and The International Center for Transitional Justice, 'Myanmar: land-grab communities hope for election savior', 30 September 2015 <https://www.ictj.org/news/myanmar-land-grab-communities-hope-election-savior>

In August 2012, the National Democratic Force (NDF) established a commission as part of its Farmers' Affairs Committee to identify farmland ownership disputes. The committee has received over 4 000 complaints of land grabs and dispossession since its formation.<sup>52</sup>

The Monywa project comprises the Sabetaung and Kyisintaung (S&K) and the Letpadaung copper mines. S&K has been operational since the 1980s, and thousands were forcibly evicted in the 1990s to make way for the mine. Letpadaung is under construction and thousands more have been forcibly evicted since 2011 to make way for this mine as well. In 1996, Canadian company Ivanhoe Mines Ltd. (now Turquoise Hill Resources) entered into a joint venture with Myanmar state company Mining Enterprise No. 1 (ME1) to set up the Myanmar Ivanhoe Copper Company Limited (MICCL), each with a 50% interest. MICCL operated the S&K mine. The Letpadaung mine is run by the Chinese company Wanbao and Union of Myanmar Economic Holdings (UMEHL), the economic arm of the Myanmar military. Wanbao has directly engaged in forced evictions, and colluded with the authorities, including by providing bulldozers to destroy crops. In November 2012, security forces used white phosphorous, a highly toxic explosive substance, in a deliberate attack on villagers and monks who were protesting the negative impacts of the mine. More than 100 people were injured, with some suffering horrific burns and lifelong disability. In December 2014 several demonstrators were injured and a woman died when police opened fire on protestors at the Letpadaung site. On 11 March 2015, a group of monks filed criminal and civil suits against Home Minister Lieutenant General Ko Ko, who ordered the crackdown, and others. On 24 March, the monks' charges against the Home Minister and police were rejected on the grounds that no lawsuit can be filed against officials who are 'operating in good faith'. After five years of construction, Wanbao announced that it would start production in May 2016. This announcement sparked new protests by villagers and farmers who object to operations while Wanbao ignores recommendations made by a parliamentary commission – including payments to farmers who lost crops to the project. Two women who led the protest by farmers and other residents were arrested and charged under Article 18 of the Peaceful Assembly and Peaceful Procession Law and Article 147 of the penal code, articles often used to arrest activists for exercising their right to freedom of assembly.<sup>53</sup>

## Religious intolerance

In 2015 the Religious Conversion Bill and the Buddhist Women's Special Marriage Bill were adopted by the Myanmar government. These laws include provisions that are discriminatory on religious and gender grounds. The Religious Conversion Bill stipulates that anyone who wants to convert to a different faith will have to apply for permission through a state-governed body. This is in clear violation of the universal right to choose one's own religion. The Buddhist Women's Special Marriage Bill explicitly and exclusively targets and regulates the marriage of Buddhist women to men from another religion. The bill discriminates against Buddhist women as well as against non-Buddhist men, who face significantly more burdens than Buddhist men if they marry a Buddhist woman.

<sup>52</sup> The Irrawaddy, 'Parliament to Revisit Investment Laws in Final Session', 17 November 2015

<http://www.irrawaddy.org/business/parliament-to-revisit-investment-laws-in-final-session.html>

<sup>53</sup> Radio Free Asia, 'Myanmar Police Arrest Two in Letpadaung Copper Mine Protest', 6 May 2016

<http://www.rfa.org/english/news/myanmar/myanmar-police-arrest-two-in-letpadaung-copper-mine-protest-05062016164650.html>

In its 2015-2016 annual report, Amnesty International highlighted the alarming rise in religious intolerance, in particular anti-Muslim sentiments incited by hard-line Buddhist nationalist groups.<sup>54</sup> To illustrate these rising tensions, in April 2016 the Myanmar Times reported that members of the Patriotic Monks Union had violently evicted Muslim vendors from the Shwedagon area in Yangon, claiming that Muslims should not be allowed to do business near Buddhist pagodas.<sup>55</sup>

### Forced labour

A major concern in Myanmar has been the widespread and systematic use of forced labour of civilians by the Tatmadaw (the Myanmar army) and the civilian administration over several decades. There have been allegations of forced labour in relation to a variety of infrastructure projects, including in connection with security provided in the areas around oil and gas pipelines. Since the reform process began in 2011, many observers, including the ILO, have welcomed the decrease in forced labour, but have noted that the practice is still ongoing in some areas<sup>56</sup>

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54 Amnesty International website, 'Countries – Myanmar 2015/2016', no date  
<https://www.amnesty.org/en/countries/asia-and-the-pacific/myanmar/report-myanmar/> (accessed on 27 May 2016)

55 Myanmar Times, 'Peace activists call on authorities to intervene over Shwedagon incidents', 27 April 2016  
<http://www.mmtimes.com/index.php/national-news/yangon/19976-peace-activists-call-on-authorities-to-intervene-over-shwedagon-incidents.html>

56 Institute for Human Rights and Business, Myanmar Centre for Responsible Business & the Danish Institute for Human Rights, 'Myanmar Oil & Gas Sector Wide Impact Assessment', September 2014  
<http://www.myanmar-responsiblebusiness.org/pdf/SWIA/Oil-Gas/00-Myanmar-Oil-and-Gas-Sector-Wide-Assessment.pdf>

# 3. STAKEHOLDERS

*This section briefly introduces a number of active stakeholders in the garment/textile industry in Myanmar.*

## GOVERNMENTAL INSTITUTIONS

### Ministry of Labour, Immigration and Population

The new government that took office in April 2016 brought down the number of ministries from 36 to 21. Various policy areas are now combined under one ministry. Employment and labour issues are covered by the Ministry of Labour, Immigration and Population. This ministry is headed by USDP central executive member Thein Swe, who served as Minister of Transport under the military government.<sup>57</sup> The ministry describes its main functions as: 'ensuring workers enjoy rights and protection granted under the various labour laws; providing social services for the workers; promoting higher productivity of labour; participation in international labour affairs.'<sup>58</sup>

<http://www.mol.gov.mm/en/>

### Labour inspection

The Labour Inspection, part of the Factories and General Labour Laws Inspection Department of the Ministry of Labour, Immigration and Population, is responsible for checking the implementation of labour laws. According to local labour-rights NGOs, labour inspection is underfunded and understaffed and is plagued by corruption. Factory inspections may not uncover work floor realities as inspections are always announced and factory owners can prepare themselves. Labour rights NGOs reported instances where underage workers were hidden in a room during inspections.<sup>59</sup>

### Social Security Board (SSB)

The Social Security Board administers Myanmar's social security programmes, including benefits and contributions. The SSB has 77 township offices covering 110 townships (30% of existing townships). It is present in all states and regions, with the exception of Chin State.<sup>60</sup> In 2013, 33 462 companies and 706 750 workers, a small part of the formal workforce, were registered with the Social Security Board.

<sup>57</sup> Myanmar Times, 'Who's who: Myanmar's new cabinet', 23 March 2016

<http://www.mmtimes.com/index.php/national-news/nay-pyi-taw/19609-who-s-who-myanmar-s-new-cabinet.html>

<sup>58</sup> Website Ministry of Labour, Immigration and Population, 'Main functions', no date

<http://www.mol.gov.mm/en/main-functions/> (accessed on 27 May 2016).

<sup>59</sup> SOMO interviews with various civil society organisations, February – April 2016.

<sup>60</sup> International Labour Organisation, 'Evaluation of the operations of the Social Security Board, Ministry of Labour, Employment and Social Security of Myanmar', 2015

[http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms\\_375631.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_375631.pdf)

## Labour offices (township level)

Labour offices are formed at the state, division and township levels and fall under the responsibility of the Ministry of Labour, Immigration and Population. Labour offices at the township level are charged with 'ensuring peaceful industrial relations, managing local and overseas employment issues, enhancing the skills development of workers in the workplace, enforcing workers' rights in accord with labour laws, and cooperating in international and regional labour affairs.'<sup>61</sup>

The labour offices are also tasked with approving individual employment contracts. By law, employers must send a copy of the employment contract to the township labour office for approval.

## BUSINESS ASSOCIATIONS

### Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI)

UMFCCI is a business federation bringing together 47 business associations, including the Myanmar Garment Manufacturers Association (MGMA).

<http://www.umfcci.com.mm/>

### Myanmar Garment Manufacturers Association (MGMA)

MGMA is the business association for the Myanmar garment sector. As of October 2015, MGMA membership included 335 companies, both Myanmar and foreign-owned manufacturers. In addition MGMA members include several design firms, commodities inspection companies, retail shops and a pattern-making training school. MGMA works with a number of international partners, including the ILO, Pyoe Pin and CBI<sup>62</sup>. MGMA is affiliated with the UMFCCI. In 2015, MGMA drafted a 10-year strategy for the garment industry. MGMA formulated six strategic objectives: improve the competitive advantage of the Myanmar garment industry; ensure that full social compliance and social dialogue is practised at all levels of the industry; build an apparel training sector that supports the industry as it develops; build the image, position and brand of the Myanmar garment industry; improve the enabling environment for positive sustainable growth of the sector; and increase the service potential of trade associations.<sup>63</sup> In order to implement the 10-year strategy a Programme Management Unit was set up which includes representatives of MGMA, brands, factories, ILO and Pyoe Pin.

<http://www.myanmargarments.org/>

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61 Government of the Republic of the Union of Myanmar, National Employment and Skill Development, 'Labour Exchange Office', no date <http://www.nesdmyanmar.org/labour-exchange-office/> (accessed on 12 July 2016).

62 MGMA website, 'About MGMA', no date <http://www.myanmargarments.org/about/about-mgma/>

63 MGMA, 'Myanmar Garment Industry – 10 year strategy', 2015 <http://www.myanmargarments.org/wp-content/uploads/2015/09/Myanmar-garment-industry-10-year-strategy-Aug-2015.pdf>

## TRADE UNIONS

### Confederation of Trade Unions of Myanmar (CTUM)

The Confederation of Trade Unions of Myanmar (CTUM, formerly known as Federation of Trade Unions – Burma, FTUB) operated from Thailand during the years of military dictatorship. CTUM leaders spent years in exile, and only returned to Myanmar in 2012. In July 2015, the Myanmar government officially recognised CTUM.

CTUM is affiliated with the International Trade Union Confederation (ITUC). According to CTUM, as of July 2016, it has 745 affiliated basic unions with a combined paid membership of 61 385.<sup>64</sup> CTUM brings together five regional labour organisations (with one in the industrial sector) and 49 township level labour organization (with five in the industrial sector). CTUM covers the following sectors: agriculture (most members), industry, mining, transport, woodworkers, education and aquaculture.

### Industrial Workers Federation of Myanmar (IWFM)

The Industrial Workers Federation of Myanmar covers workers in the manufacturing industries (garments, shoes and food processing) and is affiliated with CTUM and IndustriALL. IWFM has 40 affiliated basic labour organisations and a total membership of 9 604. The majority of IWFM members (82%) are women<sup>65</sup>.

### Myanmar Industries Craft & Services Trade Unions Federation (MICS – TUsF)

MICS (formerly known as Myanmar Trade Union Federation, MTUF and Myanmar Industrial Trade Unions, MITU) covers the following sectors: commodity goods production; lead, steel & iron; food & beverage; services (hotels and restaurants); construction, fishery, loading, garment, textiles & leather, oil & gas; mining; and cement. As of March 2016, MICS had 70–75 affiliated unions with a combined membership of 10 150 members.<sup>66</sup> At township level, they had eight affiliated unions. In April 2016, MICS was officially recognised by the Myanmar government. MICS is not yet affiliated with any global union federation as their formal registration was only recently approved. MICS leaders operated underground from within Myanmar during the years of military dictatorship and many of its leaders spent years in prison.

### Solidarity for Trade Union Myanmar (STUM)

Recently set up by a former MICS leader, this union organisation covers various industrial sectors, including the garment industry.

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64 CTUM, overview of affiliates, 29 July 2016 (by email).

65 CTUM, overview of affiliates, 29 July 2016 (by email).

66 SOMO, interview with MICS, 1 March 2016, Yangon, Myanmar.

## LABOUR NGOS

### Action Labour Rights (ALR)

ALR was set up in 2002 and focuses on the promotion of freedom of association and the abolishment of forced and child labour. In May 2007, six ALR members and more than 80 workers from the Hlaing Thayar, Shwe Pyi Thar and Dagon industrial zones were arrested after taking part in Labour Day celebrations at the US embassy in Yangon. After their release from prison, ALR members continued their activities.

ALR provides trainings to workers about labour rights, labour laws and the formation of unions. ALR also provides trainings for factory-level trade unions about collective bargaining, negotiation skills, drawing up a constitution, etc. Furthermore, ALR conducts research on labour rights issues, mainly in the garment industry. ALR has worked with Oxfam, investigating labour rights in the garment industry<sup>67</sup> and has published its own research on 39 Korean-owned factories,<sup>68</sup> supported by the Myanmar Centre for Responsible Business and Korean Transnational Corporations Watch.

<http://www.actionlaborrights.org/>

### Association for Labour and Development

The Association for Labour and Development works together with the ILO's Migration Team, and is focused on migrant labour. It provides pre-departure training for migrant workers, and legal consultation.

### Burmese Women's Union (BWU)

BWU was established in 1995 by women leaders from the pro-democracy movement. The organisation was first established in the Thai-Burma border area. BWU focuses on participation of women in politics; equal justice in communities and women (migrant) workers. BWU offices and training centers are located in Chiang Mai, Thailand, Yangon and Loikaw in Myanmar and China/Myanmar border. BWU's work on labour rights is focused on the garment industry. It provides a series of trainings for female garment workers which focus on labour rights and gender issues. Additionally, BWU provides trainings on female leadership for trade unions. Although most garment workers are women, they do not have leadership positions in trade unions. Lastly, BWU conducts research on labour rights and gender issues in the garment industry, focusing on the Yangon industrial zones.

<http://burmesewomensunion.org/>

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67 Oxfam, 'Made in Myanmar – Entrenched poverty or decent jobs for garment workers?', December 2015  
[https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf)

68 ALR, 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016  
[http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060)



## Cooperative Committee of Trade Unions (CCTU)

The Cooperative Committee of Trade Unions had its origins in the Workers Solidarity League of Burma (WSLB), a group of labour activists who participated in the 1988 movement for democracy. In 1996, WSLB began research into foreign investment but its members were arrested and imprisoned in 1997. In 2000, the group organised again inside Myingyan prison. Following their release in 2011, WSLB started training men and women workers on workers' legal rights and human trafficking issues. In early 2012, workers started protests and factory strikes to push for better wages and working conditions. More than 125 of these workers from 42 factories joined the WSLB group of activists and formed the CCTU in March 2012. CCTU trains workers on their rights, organises weekend computer and English classes to develop workers' skills, and carries out research and advocacy.<sup>69</sup> Since 2012, CCTU has supported the formation of trade unions. The organisation focuses on different sectors, and its current priority is to support the formation of women's trade unions in the garment and shoe industry. A focus on women's rights is vital, as women face specific and additional challenges in and outside the workplace.<sup>70</sup>

## Labour Rights Defenders & Promoters (LRDP)

Labour Rights Defenders & Promoters (LRDP) was formed in 2010 by Burmese human rights activists in exile in Mae Sot, Thailand. After the enactment of Myanmar's Labour Organisation Law in 2011, the group was able to formally establish itself in the country. The organisation aims to promote leadership among workers and promote the implementation of international standards to improve workers' living and employment conditions. LRDP shares information about new labour laws and principles with workplace unions and also trains workers on their rights, helping them to negotiate with factory managers where needed. LRDP also conducts research and advocacy on workers' rights. LRDP was one of the research partners in the Oxfam research report 'Made in Myanmar'.<sup>71</sup>

<http://lrdpmyanmar.blogspot.nl/>

## Let's Help Each Other (LHEO)

LHEO's main activities concern awareness-raising and education programmes for workers about labour rights and unionisation. They give trainings to workers and support factory-level unions. LHEO was involved in the research for the report 'Modern Slavery – A study of labour conditions in Yangon's industrial zones 2012-2013'.<sup>72</sup>

69 Oxfam, 'Made in Myanmar – Entrenched poverty or decent jobs for garment workers?', December 2015  
[https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf)

70 SOMO, interview with CCTU, 24 February 2016, Yangon, Myanmar.

71 See footnote 72

72 Various authors, 'Modern Slavery – A study of labour conditions in Yangon's industrial zones 2012-2013', no date  
<http://www.burmapartnership.org/wp-content/uploads/2013/11/Modern-Slavery-ENG.pdf>

## Thone Pan Hla

Thone Pan Hla focuses on the welfare of women garment workers. Its 'Sunday Cafe' and temporary dormitory provide a space for women to make friends, learn skills and share tips to help newly-arrived women ease into their new lives. Thone Pan Hla provides its members with practical and affordable services outside the factory and advocates for fair jobs inside the factory. More than 2 000 women have joined Thone Pan Hla.<sup>73</sup> Thone Pan Hla was set up with the help of BusinessKind, a non-profit organisation that establishes social businesses in poor and neglected Myanmar communities.<sup>74</sup>

## 88 Generation Peace & Open Society (Labour Department)

Its name comes from the 1988 uprising, when troops opened fire on student demonstrators, leading to the deaths of thousands of people. The group's key members were at the forefront of the protests, and have suffered harsh reprisals ever since. Many have been subject to lengthy prison terms, and human rights groups have catalogued a number of claims of torture. In 2012, most of the members of 88 Generation were pardoned by presidential amnesty. In 2012, 88 Generation began to provide support for workers on strike. It helped establish a dialogue between employers and workers, and now provides training to workers and engages with international and local organisations to conduct research. 88 Generation was one of the research partners in the Oxfam research report 'Made in Myanmar'.<sup>75</sup>

## Yaung Chi Oo Workers' Association (YCOWA)

YCOWA was founded in July 1999 by Burmese student activists and migrant workers, with the goal of improving working and living conditions for the Burmese migrant labourers in the Mae Sot area of Thailand. Since then, it has mainly focused on protecting worker rights, providing rights education, supporting health care and facilitating social activities.<sup>76</sup>

<http://ycowaeng.blogspot.nl/>

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73 BusinessKind website, 'BusinessKind-Thone Pan Pan Hla- Interviewed By Thomson Reuters', 1 December 2014 <http://www.businesskind.org/businesskind-thone-pan-pan-hla-interviewed-by-thomson-reuters/> and BusinessKind, 'Other social businesses', no date <http://www.businesskind.org/other-social-businesses/#thone-pan-hla>

74 BusinessKind website, 'homepage', no date <http://www.businesskind.org/>

75 Oxfam, 'Made in Myanmar – Entrenched poverty or decent jobs for garment workers?', December 2015 [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf)

76 YCOWA website, 'About us', no date [http://ycowaeng.blogspot.nl/search/label/About per cent20Us](http://ycowaeng.blogspot.nl/search/label/About+per+cent20Us)

## INTERNATIONAL (LABOUR RIGHTS) NGOS

### ActionAid

Within its 'safe public spaces' programme, ActionAid Myanmar focuses on female garment workers. ActionAid investigates how conditions inside the factories impact women's lives and also looks at how their work impacts women's life outside the factory. In collaboration with LRDP, ActionAid provides training for female workers on labour rights, trade union rights, and more broadly on gender issues. ActionAid also runs an anti-violence hotline focused on violence against women.

<http://www.actionaid.org/myanmar>

### Burma Partnership (BP)

The Burma Partnership is a networking organisation based in Mae Sot, Thailand. Their main focus is human rights and democracy advocacy. Activities include coordination of civil society organisations, capacity building and (rights-based) research. BP has been involved in the research for the report 'Modern Slavery – A study of labour conditions in Yangon's industrial zones 2012-2013'.<sup>77</sup>

<http://www.burmapartnership.org>

### Friedrich Ebert Stiftung (FES)

FES promotes the advancement of social democracy. Active in Myanmar since 2004, FES supports the process of trade union formation through capacity building and the promotion of social partnership dialogue.

<https://www.fes.de/international/asien/inhalt/burma.htm>

### Oxfam (Myanmar office)

In December 2015, Oxfam published the research report 'Made in Myanmar', about working conditions in the Myanmar garment industry. For the research, Oxfam collaborated with 88 Generation Peace and Open Society, ALR, CCTU and LRDP.

<http://www.oxfam.org.uk/what-we-do/countries-we-work-in/myanmar>

### Solidarity Center

The Solidarity Center (SC) provided assistance to exiled Burmese union leaders and continues to work with Myanmar's growing trade union movement. Solidarity Center provides a wide range of education, training, research, legal support and other resources to help build strong and effective trade unions and more just and equitable societies. SC's primary partners are trade unions, but SC also liaises with NGOs.

<http://www.solidaritycenter.org/where-we-work/asia/burma-myanmar/>

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<sup>77</sup> Various authors, "Modern Slavery – A study of labour conditions in Yangon's industrial zones 2012-2013", no date  
<http://www.burmapartnership.org/wp-content/uploads/2013/11/Modern-Slavery-ENG.pdf>

## OTHER INITIATIVES:

### International Labour Organization (ILO)

The International Labour Organization's Myanmar office is one of the largest ILO offices in the world. The ILO in Myanmar focuses on the promotion of fundamental principles and rights at work, with specific focus on the elimination of the systemic use of forced labour, sustained and deepened progress on freedom of association and improved policies and frameworks for reduction of child labour, particularly its worst forms; contributes to enhanced employment opportunities and social protection through strengthened labour market information systems, skills development systems, entrepreneurship development and extending social protection; and strengthening the capacity of representative employers' and workers' organisations to influence economic, social and governance policies.<sup>78</sup>

<http://www.ilo.org/yanmar/country/lang--en/index.htm>

## BRANDS AND FACTORIES

### H&M and IndustriALL Global Framework Agreement

In November 2015, H&M and IndustriALL Global Union signed a Global Framework Agreement. The agreement includes setting up national monitoring committees, including in Myanmar, to safeguard the implementation of the agreement from the factory floor upwards, and to facilitate a dialogue between the parties on the labour market.<sup>79</sup>

### Myanmar Centre for Responsible Business (MCRB)

Myanmar Centre for Responsible Business is an initiative to encourage responsible business activities throughout Myanmar. The Centre is a joint initiative of the Institute for Human Rights and Business (IHRB) and the Danish Institute for Human Rights (DIHR). It aims to provide a trusted, impartial forum for dialogue, seminars and briefings to relevant parties as well as access to international expertise and tools.

<http://www.myanmar-responsiblebusiness.org>

### SMART Myanmar

SMART (SMEs for Environmental Accountability, Responsibility and Transparency) Myanmar is a four-year project funded by the European Union. SMART assists garment manufacturers in the areas of productivity, social compliance and energy reduction. MGMA, ADFIAP (the Association of Development Financing Institutions in Asia and the Pacific), AVE (Foreign Trade Association of German Retail Trade) and Made-by are partners in the SMART project.

<http://www.smartmyanmar.org>

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<sup>78</sup> ILO Myanmar website, 'Areas of Work', no date <http://www.ilo.org/yanmar/areas/lang--en/index.htm>

<sup>79</sup> IndustriALL website, 'IndustriALL Global Union and H&M sign global framework agreement', 3 November 2015 <http://www.industriall-union.org/industriall-global-union-and-hm-sign-global-framework-agreement>

## Pyoe Pin

The Pyoe Pin programme promotes inclusive, accountable and fair governance in Myanmar to underpin a more open, prosperous and peaceful country. Pyoe Pin supports processes that enable locally-led coalitions of civil society, private sector and government to coalesce around tangible real-life issues and create sustainable change.<sup>80</sup> Pyoe Pin is currently working with 12 Myanmar-owned factories to support them in their development from CMP to FOB manufacturing.

<https://www.britishcouncil.org/partner/track-record/pyoe-pin>

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80 British Council website, 'Pyoe Pin', no date <https://www.britishcouncil.org/partner/track-record/pyoe-pin>

## 4. GARMENT INDUSTRY

Myanmar has a long history with the textile and garment industry. The first textile factories were built between 1824 and 1948, during British colonial rule. Since 1988, when the military junta, which ruled Myanmar since 1962 and still exercises considerable power, first allowed foreign investment, the industry has grown considerably. During the peak period in the early 2000s, the Myanmar garment industry numbered around 400 factories with 300 000 employees, generating an export volume of US\$ 600 million.<sup>81</sup> Growth halted during the 2000s when trade and investment sanctions were imposed on the military government by the United States and the European Union, among others. The garment industry was hard hit, and hundreds of factories had to close their doors; only some 130 factories survived, mainly supplying Korean, Japanese, Taiwanese and Chinese companies during the sanctions period.<sup>82</sup> Most of the sanctions were suspended and later lifted when the military government stepped aside in 2011 and a quasi-civilian government was installed. Since then, foreign investment has grown sharply. The garment industry is one of the beneficiaries of these investments and has grown exponentially over the past few years. Since 2011, the Myanmar government has been attracting foreign investors by offering zero-tax policies and building new economic zones. In 2014, Myanmar garment industry export revenues were estimated to have reached US\$ 1.5 billion; a US\$ 300 growth in one year and a doubling after less than three years.<sup>83</sup>

The Myanmar garment industry is dominated by foreign companies (mostly Korean, Japanese, Taiwanese and Chinese manufacturers). In various cases, brands have urged their Chinese and Korean suppliers to set up factories in Myanmar in order to benefit from the favourable conditions, most notably low labour costs.<sup>84</sup> It is not possible for foreign companies to own land, although foreign manufacturers setting up production facilities in Myanmar may lease land from the state or from private individuals.

There are different types of foreign companies. These include foreign companies that rent local facilities which are renovated more or less thoroughly and often located in the industrial zones that were set up in the late 1990s and early 2000s – like East Dagon, Hlaing Tharyar and Shwe Pyi Thar; foreign companies that build new facilities for instance in the newly build Special Economic Zones like the Thilawa SEZ, and foreign companies (mostly Korean) that were established in Myanmar in the ‘murky 90s’, with support of the then-dictatorship. These were never properly registered and are now shifting their investment into formerly state-owned Myanmar enterprises.

Currently, there are around 350 garment factories in Myanmar, employing approximately 350 000 workers. The industry is consistently growing; thus numbers of factories and workers are expected to continue to increase. Women constitute over 90% of the workforce in Myanmar’s

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81 Fukunishi ed., ‘Dynamics of the Garment Industry in Low-Income Countries: Experience of Asia and Africa (Interim Report)’, Chousakenkyu Houkokusho, IDE-JETRO, 2012

[http://www.ide.go.jp/English/Publish/Download/Report/2011/pdf/410\\_ch8.pdf](http://www.ide.go.jp/English/Publish/Download/Report/2011/pdf/410_ch8.pdf)

82 MGMA, ‘The History of the Garment & Textile Industry in Myanmar’, no date

<http://www.myanmargarments.org/about/about-myanmar/2/>

83 MGMA, ‘export data’, no date <http://www.myanmargarments.org/events-news/export-data/>

84 SOMO, interviews with factory managers, February – May 2016, Yangon, Myanmar.

garment industry,<sup>85</sup> and most are between 16 and 26 years old. A considerable number of workers in the Myanmar garment industry are internal migrants coming from rural areas where employment opportunities are scarce. Generally speaking, these women are not yet married and have no children. After five or ten years, most will stop working at the factory and have children. Employers have a preference for young women as they are supposedly faster than women above 30 and have better eyesight. When young women get pregnant they often lose their jobs.

The vast majority of Myanmar's garment factories operate under the 'Cut-Make-Pack' (CMP) system. This is a form of contract work where the garment manufacturer carries out the labour-intensive task of cutting the textile fabric, sewing garments together according to design specifications and then packing the garment for export to international markets. Under this model the buying company (clothing brand, retailer or buying house) is responsible for supplying the factory with the necessary input, including threads, buttons, zips, labels, linings and most of the packaging, and for shipping the goods to their final destination.

During the sanction period manufacturers were engaged in FOB manufacturing, sourcing fabrics from local suppliers.<sup>86</sup> FOB means 'free-on-board' or sometimes 'freight-on-board'. Under this approach, retailers simply place orders at highly-capable and well-financed factories in overseas markets. The factories are responsible for producing the garments in their entirety and arranging shipments. The buyer is not involved in the production process in this type of manufacturing. CMP manufacturing is less profitable.

According to SMART, most Myanmar-produced garments are exported to Japan (38% in 2013), followed by Korea (31%). Europe (18%) is rising as an important market. In 2014, EU imports of Myanmar-produced textile and textile products equalled €235 million and constituted 60% of the EU's total imports from Myanmar.<sup>87</sup> The EU reported that imports of Myanmar garments grew by 79% in 2014.<sup>88</sup>

## Land and ownership issues

The vast majority of garment factories are located in industrial zones in and around Yangon; Bago, located 80 kilometres north-east of Yangon, is home to a dozen garment factories. In Patheingyi, 190 kilometres west of Yangon, a new industrial complex housing a small number of garment factories was recently built.

In addition to garment factories located in industrial zones, garment production takes place, or will soon take place, in Special Economic Zones (SEZ). One of these Special Economic Zones is located in Thilawa, 25 kilometres south of Yangon. The list of approved investors features six garment factories.<sup>89</sup> Another Special Economic Zone is being developed in Kyaukpadaung in Rakhine state. Different types of manufacturing plants are planned to settle in the Kyaukpadaung SEZ, including textile and garment factories.

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85 Oxfam, 'Made in Myanmar – Entrenched poverty or decent jobs for garment workers?', December 2015 [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf)

86 Based on conversations with SMART and MGMA.

87 SMART Myanmar, 'Responsible sourcing in a frontier market', 2015.

88 [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113423.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113423.pdf)

89 Thilawa SEZ Management Committee website, 'List of Approved Investors', no date, <http://www.myanmarthilawa.gov.mm/list-investors> (accessed on 1 June 2016).



Furthermore, since 2011 a SEZ is being developed in Dawei, the capital of the Tanintharyi Region. The project, a cooperation between the governments of Myanmar, Thailand and Japan, aims to transform Dawei into Myanmar's and Southeast Asia's largest industrial and trade zone. The Special Economic Zone has been criticized extensively for its human rights abuses of local villagers. There is significant opposition from local NGOs, due to alleged land seizures, forced evictions, insufficient compensation for confiscated farmland, and denial of their right to sufficient food, and adequate housing.<sup>90</sup>

When the military junta ran the country, industrial zones and Special Economic Zones were generally created in farmlands. Therefore, the land that factories occupy may not have been acquired in line with international practices, nor can its acquisition be viewed as past history, particularly as post-1988 land seizures are a focus of a Myanmar parliamentary committee.<sup>91</sup>

Additionally, current ownership may be questionable, as army and crony involvement is rife in key economic sectors. The military has a stake in nearly all profitable businesses in Myanmar.

#### *Kyaukpyu SEZ*

*CITIC Group from China, together with four other Chinese companies and one company from Thailand, will build an industrial park and deep-sea port in the Kyaukpyu Special Economic Zone. Textile and garment factories are foreseen in the plans for the Kyaukpyu SEZ.<sup>92</sup> In January 2016, Rakhine State local residents lodged a complaint with the Kyaukpyu Special Economic Zone Committee. They are concerned about a renewable 70-year lease on the which was granted to the consortium led by CITIC Group. A month earlier, a coalition of 107 Rakhine State civil society groups demanded that the project be suspended. They raised objections regarding a lack of transparency in the tender selection process and demanded more consideration for the welfare of local people, particularly for farmers, who often lose out as a result of such large-scale, land-heavy developments.<sup>93</sup>*

90 Burma Partnership website: <http://www.burmapartnership.org/2014/10/local-communities-from-dawei-call-for-human-rights-violations-to-be-addressed-in-special-economic-zone/>

91 BSR, 'Shaping a Sustainable Garment Sector in Myanmar - Key Opportunities Built on Local Context', June 2014 [http://www.bsr.org/reports/BSR\\_Shaping\\_Sustainable\\_Garment\\_Sector\\_Myanmar.pdf](http://www.bsr.org/reports/BSR_Shaping_Sustainable_Garment_Sector_Myanmar.pdf)

92 China Daily Asia, 'Hopes high for potential of China-led investment', 1 April 2016 [http://www.chinadailyasia.com/asiaweekly/2016-04/01/content\\_15409599.html](http://www.chinadailyasia.com/asiaweekly/2016-04/01/content_15409599.html)

93 The Irrawaddy, 'NGOs Seek Kyaukpyu SEZ Delay as President Pushes Implementation', 22 December 2015 <http://www.irrawaddy.com/business/ngos-seek-kyaukpyu-sez-delay-as-president-pushes-implementation.html>

### *Thilawa SEZ*

*The Thilawa Special Economic Zone, some 25 km southeast of Yangon, will cover an area of 2 400 hectares and will include three zones along the Thilawa port. The Thilawa SEZ will proceed in two development stages: a smaller Phase I on 400 hectares of land from which residents have already been evicted, and a larger Phase II on 2000 hectares of land from which residents had yet to be evicted at the time of writing.*

*In 2015 the first companies started their operations in the Thilawa SEZ, including the Lu Thai garment factory. The relocation and resettlement of the first-phase area was conducted by the Yangon Regional Government in coordination with the Thilawa SEZ Management Committee. The Yangon Regional Government failed to properly notify affected communities or provide adequate compensation for relocation. Displaced residents complain of unfair relocation agreements and a cramped, flood-prone resettlement site with substandard housing and basic infrastructure. Relocated residents say they have lost access to farmland and other livelihood opportunities, as well as access to clean water and educational opportunities for their children.<sup>94</sup> In June 2014, displaced villagers from the Thilawa Special Economic Zone did something exceptional in Myanmar: they complained to the Japanese International Cooperation Agency in Tokyo, Japan, about the compensation they had received.<sup>95</sup>*

94 Business & Human Rights Resource Centre, 'Myanmar: Thilawa Special Economic Zone – summary of impacts, company responses and updates', no date

<http://business-humanrights.org/en/myanmar-thilawa-special-economic-zone- per centE2 per cent80 per cent93-summary-of-impacts-company-responses-and-updates-0> (accessed on 1 June 2016).

95 Earth Rights, 'Resettled Farmers from Thilawa SEZ Travel to Tokyo to Demand Right to Land Compensation', 11 June 2014, <http://www.earthrights.org/campaigns/resettled-farmers-thilawa-sez-travel-tokyo-demand-right-land-compensation>.

## 5. INDUSTRIAL RELATIONS

For several decades, trade union activities in Myanmar were impossible. Until 2012, when they became legal, trade unions had functioned from abroad or underground, on a marginal scale. In December 2014, the Industrial Workers Federation of Myanmar (IWFM) and the Mining Workers Federation of Myanmar (MWFM) joined IndustriALL Global Union. Both trade unions are affiliated with the Confederation of Trade Unions of Myanmar (CTUM). According to a 2015 IndustriALL publication, there are some 1,400 basic trade unions in Myanmar.<sup>96</sup>

Most garment factories are not (yet) unionised. For example, no trade unions are active in the Thilawa Industrial Zone. CSOs and trade unions report that there is a problem with 'yellow unions', a common name to refer to unions that are set up and controlled by the employer to prevent the establishment of genuine worker representation. Trade union representatives also mentioned that the high turnover of workers is a huge problem. Workers often leave and try their luck elsewhere for higher wages. This makes organising much more difficult.<sup>97</sup>

ITUC's Global Rights Index 2015, which ranks 141 countries on a scale from 1-5 (1 being the best and 5 being the worst) on 97 internationally recognised indicators to assess where workers' rights are best protected in law and practice, ranked Myanmar in the 4th category, which means there are 'systematic violation of rights'. In countries with rating 4, the government and companies are engaged in serious efforts to crush the collective voice of workers, putting fundamental rights under threat.<sup>98</sup>

### COLLECTIVE BARGAINING AGREEMENT (CBA) COVERAGE IN COUNTRY

In Myanmar there are currently some 70 CBAs, although no figures could be found with regard to the number of CBAs in the garment industry. Most of the CBAs in the country concern wages.<sup>99</sup> In Myanmar, CBAs are usually negotiated and signed after disputes have taken place, which means the agreement only addresses the issue which the dispute was about. In Myanmar, a CBA can be signed at the township level between employers and workers. If an employer violates any terms of the CBA or conditions in the contract, the Ministry of Labour is considered the plaintiff in dispute resolution, not the individual worker. According to ALR, due to lack of legal enforcement, the terms and conditions agreed in CBAs are often not included in individual contracts, leaving Myanmar CBAs toothless.<sup>100</sup>

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96 IndustriALL, 'Myanmar, the new frontier, 2015

<http://www.industriall-union.org/profile-myanmar-the-new-union-frontier>

97 SOMO interviews with trade union representatives, July 2015 and February – April 2016.

98 ITUC, 'The 2015 Global Rights Index – The world's worst countries for workers', 2015

<http://www.ituc-csi.org/ituc-global-rights-index-2015>

99 Panel discussion (Solidarity Center, ALR, MCRB), report launch 'Under Pressure - A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies (ALR)', 25 March 2016, Yangon, Myanmar.

100 ALR, 'Under Pressure - A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016

[http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060)

## LOCAL GRIEVANCE MECHANISMS FOR WORKERS

### Judicial system

Under previous governments, the legal system was mostly used as an instrument of social control. There is still a lack of trust in the legal system and there is a widespread notion that the justice system is affected by corruption and political interference. Many disputes are dealt with through informal justice mechanisms. In addition, there is a severe shortage of legally trained professionals in Myanmar.<sup>101</sup> Information on rulings is confidential and not published.<sup>102</sup>

The Danish Institute for Human Rights is part of a new programme devoted to furthering access to justice for the poor and marginalised across Myanmar. 'My Justice' is a four-year, € 20 million programme funded by the European Union and implemented by the British Council,<sup>103</sup> in which mobile paralegals and mediators will be trained and deployed directly into communities, where they will work to develop methods for addressing and resolving disputes and conflicts. New legal aid centres will provide access to free legal advice and representation, and will work to raise awareness of the rule of law to empower marginalised groups to exercise their rights and defend their interests.<sup>104</sup>

### Myanmar National Human Rights Commission

The Myanmar National Human Rights Commission (MNHRC) was established in September 2011 by the previous government of Myanmar and is currently dealing mainly with land rights issues, but they are also able to deal with labour rights issues. It is a non-judicial mechanism. The MNHRC has, however, been severely criticised because of its lack of independence, lack of effectiveness and lack of transparency – particularly considering that nine of the 11 members have previously held positions as civil servants and it includes officials with strong connections to the former military regime.<sup>105</sup>

<http://www.mnhrc.org.mm/en/>

### ILO forced labour complaint mechanism

Due to the widespread problem of forced labour in Myanmar, the ILO Yangon Office enacted a forced labour complaint mechanism in 2007. Alleged victims of forced labour in Myanmar can file complaints to the ILO Liaison Officer in Yangon. This complaints mechanism is designed to allow victims of forced labour, with the assistance of the ILO Liaison Officer, an opportunity to seek redress and remedies from the government authorities in full confidence that no retaliatory action will be taken against them. Upon receiving a complaint, the Liaison Officer will undertake an objective assessment of the facts, which may include a meeting with the

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<sup>101</sup> UNDP Myanmar, 'Bridges to justice: Rule of law centres for Myanmar', March 2014

[http://www.mm.undp.org/content/myanmar/en/home/library/democratic\\_governance/bridges-to-justice.html](http://www.mm.undp.org/content/myanmar/en/home/library/democratic_governance/bridges-to-justice.html)

<sup>102</sup> Various authors, 'Modern Slavery – A study of labour conditions in Yangon's industrial zones 2012-2013', no date <http://www.burmapartnership.org/wp-content/uploads/2013/11/Modern-Slavery-ENG.pdf>

<sup>103</sup> Danish Institute for Human Rights, 'New programme works to enhance access to justice in Myanmar', 2 November 2015 <http://www.humanrights.dk/news/new-programme-works-enhance-access-justice-myanmar>

<sup>104</sup> British Council, 'A new future for access to justice and legal aid in Burma', October 2015

<https://www.britishcouncil.org/partner/international-development/news-and-events/new-future-access-justice-legal-aid-burma>

<sup>105</sup> Asian NGO Network on National Human Rights Institutions, '2015 ANNI Report on the Performance and Establishment of National Human Rights Institutions in Asia', 2015 <https://www.forum-asia.org/?>

complainant or a mission to the location of the alleged offence. Upon reviewing the allegation, the Liaison Officer will submit the facts together with an opinion and, if available, suggestion to the Government Ministerial Working Group for the elimination of forced labour. Then, the Working Group will order an enquiry to take place with that enquiry team being responsible for verifying the facts and recommending appropriate action to achieve justice for the victim and punishment for the perpetrator. The Liaison Officer maintains close contact with the Government throughout all steps of the process so as to be satisfied that the enquiry tactics are appropriate and that resultant decisions are commensurate with the crime.

The objective of the mechanism is the elimination of the use of forced labour and child soldiers. In addition, if the complaint is deemed genuine, the complainant can expect some form of justice, be that compensation, an apology, the knowledge that it will not happen again or satisfaction that the perpetrator has been appropriately punished for his or her actions.<sup>106</sup>

### Civil society organisations

With regard to labour rights, several civil society organisations offer assistance to workers. In cases of complaints or grievances, workers can turn to these organisations for advice, explanation of procedures and referral. Organisations offering such support include ALR, CCTU, LRDP, LHEO and 88 Generation.

ActionAid Myanmar operates an anti-violence hotline, focused on violence against women. In five states, it also trains community members to be paralegals who can take on cases of harassment and violence against women.

## STATE ROLE IN INDUSTRIAL RELATIONS

### Conciliation and arbitration bodies

Myanmar's out-of-court labour dispute resolution system is structured as follows:

Individual disputes first can be brought to the Township Conciliation Body. A party – employer or worker – may bring individual complaints or grievances to the Township Conciliation Body. If the dispute cannot be settled, the parties may take the dispute to the competent court.

In cases of collective disputes, the route for employees or employers is to first go to the Township Conciliation Body. An agreement should be reached within three working days. If an agreement cannot be reached within this time, the dispute is handed over to the Regional or State-level Arbitration Body. The relevant Arbitration Body shall make a decision on the collective dispute within seven days.

If either party is not satisfied with the decision of the Arbitration Body, the following options may be exercised:

- (a) application by both parties to the Arbitration Council for its decision within seven days;*
- (b) carrying out a lock-out or strike in accordance with the relevant law.*

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<sup>106</sup> ILO website, 'Forced labour complaint mechanism', no date  
<http://www.ilo.org/yangon/complaints/lang--en/index.htm> (accessed on 17 November 2015).

## Workplace Coordination Committees

Under the 2012 Settlement of Labour Disputes Law, enterprises with more than 30 employees are required to establish a Workplace Coordinating Committee. These committees are mandated to play a central role in resolving workplace disputes. The Committee should comprise a minimum of two worker representatives, and an equal number of employer representative. If present, worker representatives should be nominated by the trade union(s). ALR's research into working conditions at 39 Korean-owned garment factories revealed that a Workplace Coordination Committee existed at only 14% of the investigated factories.<sup>107</sup>

## MECHANISMS FOR SOCIAL DIALOGUE (NATIONAL/SECTORAL)

In September 2013, a tripartite national minimum wage committee was set up under the Office of the President. The committee includes five representatives from workers' organisations (CTUM and MICS), five representatives from employer organisations, five government representatives and two individual experts. It is a forum for discussion and negotiation between different parties, and is the first time that a dialogue between the various parties (employers, labour unions, government and CSOs) has taken place.

In 2015, a National Tripartite Dialogue Forum was formed with representatives from government, trade unions (from CTUM, MTUF [now MICS] and AFFM-IUF) and employers (UMFCCI), with technical support from the ILO. The National Tripartite Dialogue Forum is the focal consultative forum for all matters concerning labour law.<sup>108</sup>

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<sup>107</sup> ALR, 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016

[http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060)

<sup>108</sup> Myanmar Centre for Responsible Business, 'Recent and upcoming Myanmar laws related to responsibleBusiness', October 2015 <http://myanmar-responsiblebusiness.org/pdf/New-and-Upcoming-Laws.pdf>

## 6. IMPLEMENTATION OF THE FWF CODE OF LABOUR PRACTICES

*In this chapter the implementation of every part of the FWF Code of Labour Practices<sup>109</sup> is examined by looking at official statistics on compliance (where available), laws and regulations, as well as different stakeholders' opinion and analysis on implementation. Each section starts with quoting the FWF Code of Labour Practices. Text in italics is quoted from relevant laws.*

As there is a lack of information available on the labour rights situation in the Myanmar garment industry, this chapter relies heavily on a few publicly available reports. These reports are:

- 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean-owned or in a Joint Venture with Korean Companies',  
March 2016, ALR
- Made in Myanmar – Entrenched poverty or decent jobs for garment workers?,  
December 2015, Oxfam
- Foreign Direct Investment in Myanmar – What impact on human rights?,  
October 2015, ITUC
- Modern Slavery – A study of labour conditions in Yangon's industrial zones 2012-2013, Labour Rights Clinic, Cooperation Programme of Independent Labourers, Construction-based Labour Union, Workers Support Group and other labour unions and labour support groups

Likewise, there is a lack of publicly official statistics on compliance. Where available, such statistics have been used. In other cases, information from UN agencies and civil society organisations has been used.

### Labour rights – in law

The current legal framework in Myanmar is the product of its colonial past, post-independence military rule and reforms undertaken since 2011. While the previous Myanmar Government started bringing its labour regulations more in line with international laws – by adopting new laws and adapting old ones – these laws still have many shortcomings. In addition, the laws were introduced without a process of social consensus or open discussion. Civil society cannot access the contents of the laws until the government officially releases them.<sup>110</sup>

For roughly 50 years, independent trade unions were prohibited, strikes were banned and employment protections limited. Since 2010, Myanmar has been updating its labour laws. In 2012, the Labour Organisation Law and the Labour Dispute Settlement Law came into force,

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<sup>109</sup> Fair Wear Foundation website, "Labour standards, no date

<http://www.fairwear.org/488/labour-standards/1.-employment-is-freely-chosen/>

<sup>110</sup> AMRC, 'Labour Laws in Myanmar', May 2014

[http://www.amrc.org.hk/sites/default/files/field/alu-article/files/ALU per cent202014 per cent20 per cent20383 per cent20- per cent20Labour per cent20Laws per cent20in per cent20Myanmar.pdf](http://www.amrc.org.hk/sites/default/files/field/alu-article/files/ALU%20per%20cent202014%20per%20cent20%20per%20cent20%20per%20cent20Labour%20per%20cent20Laws%20in%20per%20cent20Myanmar.pdf)



allowing workers to organise and form trade unions, and to undertake lawful industrial action. However, poor implementation of these laws means that, in practice, employers who choose to discriminate against workers who seek to exercise their rights can do so with impunity. Workers and labour activists are threatened, intimidated or dismissed by employers.<sup>111</sup>

### **ILO fundamental conventions**

Myanmar has ratified three out of eight ILO fundamental Conventions, including the Forced Labour Convention (No.29), the Convention on Freedom of Association and Protection of the Right to Organise (No. 87), and the Worst Forms of Child Labour Convention (No. 182).

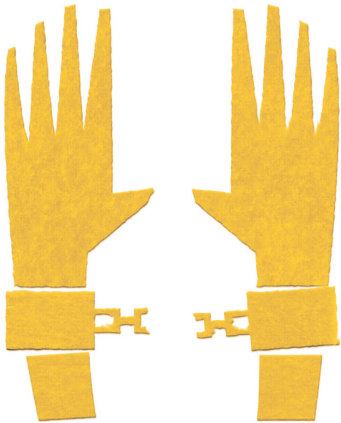
However, the country has not ratified Convention No. 98 on the Right to Organise and Collective Bargaining, the Equal Remuneration Convention (No. 100), the Abolition of Forced Labour Convention (No. 105), and the Discrimination Convention (No. 111).

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111 ITUC, 'Foreign Direct Investment in Myanmar – What impact on human rights?', October 2015  
<http://www.ituc-csi.org/foreign-direct-investment-in>

## 6.1 Employment is freely chosen

*"There shall be no use of forced, including bonded or prison, labour"*  
(ILO Conventions 29 and 105)"



### OFFICIAL STATISTICS ON COMPLIANCE

According to the Walk Free Foundation's 2016 Global Slavery Index, Myanmar is among the countries with the highest proportion of the population in modern slavery. Out of 161 countries surveyed, Myanmar is ranked number 9 (number 1 being the country with the highest proportion of people in modern slavery). The Walk Free Foundation estimates that over 500 000 people live in conditions of modern slavery in Myanmar.<sup>112</sup>

### LAWS AND REGULATIONS

Myanmar has ratified the ILO Forced Labour Convention (No. 29) but not the Abolition of Forced Labour Convention (No. 105).

Section 358 of the Myanmar Constitution (2008) prohibits enslaving and trafficking in persons. Section 359 prohibits forced labour except as 'hard labour as a punishment for crime duly convicted and duties assigned by the Union in accord with the law in the interest of the public'.<sup>113</sup>

### STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

With regard to the garment industry, forced overtime is an issue of great concern. Labour rights organisations report that workers in the garment industry cannot refuse overtime. A 2015 Oxfam report describes that almost a quarter of workers interviewed reported doing forced, and in several cases unpaid, overtime. Workers spoke of the pressure to work overtime and work through lunch breaks and into the night to meet high production targets.<sup>114</sup> Workers also report that they are threatened with dismissal if they refuse to work overtime.<sup>115</sup> In a 2016 report, Action Labour Rights describes that workers at packing departments regularly have to work full night or 'Alin' (meaning 'light', or until dawn) shifts. Shifts may amount to 19 consecutive hours of work. Nearly two-thirds of workers surveyed for the ALR report said they are unable to refuse working excessive hours.

<sup>112</sup> Walk Free Foundation, 'The Global Slavery Index 2016'

<https://s3-ap-southeast-2.amazonaws.com/globalslaveryindex.org-assets/downloads/Global+Slavery+Index+2016.pdf>

<sup>113</sup> Republic of the Union of Myanmar, 'Constitution of the Republic of the Union of Myanmar', 2008.

<sup>114</sup> Oxfam, 'Made in Myanmar – Entrenched poverty or decent jobs for garment workers?', December 2015

[https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf)

<sup>115</sup> SOMO, interviews with garment factory workers, February – April 2016, Yangon, Thilawa & Bago, Myanmar.

Besides being forced to work overtime under threat of dismissal, workers feel forced to work overtime so as not to lose any income, or to complement their meagre wages. It is often necessary to supplement workers' basic wages with various fees and bonuses. Workers reported bonuses for not taking leave, bonuses for reaching production targets and bonuses for working overtime hours. However, in order to be eligible for such bonuses, workers have to work extremely long hours and may not take any leave. This way, workers are effectively forced to work many overtime hours.<sup>116</sup>

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116 SOMO, interviews with garment factory workers, February – April 2016, Yangon, Thilawa & Bago, Myanmar.

## 6.2 There is no discrimination in employment



*"In recruitment, wage policy, admittance to training programs, employee promotion policy, policies of employment termination, retirement, and any other aspect of the employment relationship shall be based on the principle of equal opportunities, regardless of race, colour, sex, religion, political affiliation, union membership, nationality, social origin, deficiencies, or handicaps"*  
(ILO Conventions 100 and 111)

### OFFICIAL STATISTICS ON COMPLIANCE

According to the UNDP, the labour force participation is 82.3% for men while for women, it reaches 75.2%.<sup>117</sup> In the garment industry, women are overrepresented as more than 90% of workers in this industry are female.

The Global Gender Gap Index by the World Economic Forum does not include data for Myanmar but information from UNWomen shows there are disparities in wages for men and women. However, data may be outdated. The latest numbers, from UNWomen in 2007 revealed that, in that year, men earned an estimated income of US\$ 1043 while women earned only US\$ 640.<sup>118</sup>

### LAWS AND REGULATIONS

The Myanmar Government has not ratified the ILO Discrimination Convention (No. 111). Article 348 of the Constitution guarantees that discrimination by the Union against any citizen on grounds of race, birth, religion, official position, status, culture, sex or wealth is prohibited, but the internationally recognised grounds of discrimination based on colour, language, political or other opinion and national origin are not prohibited by the Constitution, leaving significant gaps in protection against discrimination.

The Constitution cites that 'every citizen shall enjoy the right of equality' and that 'citizens shall enjoy equal opportunity in carrying out the following functions: a) public employment; b) occupation; c) trade; d) business; e) technical know-how and vocation; f) exploration of art, science and technology.' Further, the Constitution states that 'in appointing or assigning duties to civil service personnel, [the government may] not discriminate for or against any citizen of the Republic of the Union of Myanmar, based on race, birth religion, and sex. However, nothing in this Section shall prevent appointment of men to the positions that are suitable for men only'. This last sentence suggests that there are certain job types that are considered unsuitable for women.

The Constitution further stipulates that 'women shall be entitled to the same rights and salaries as that received by men in respect of similar work' and 'mothers, children and expect-

<sup>117</sup> UNDP, Human Development Report 2015 <http://hdr.undp.org/en/countries/profiles/MMR>

<sup>118</sup> UNWomen website, 'CEDAW and Women's Human Rights – Myanmar, no date <http://asiapacific.unwomen.org/en/focus-areas/cedaw-human-rights/myanmar> (accessed on 2 June 2016).

ant women shall enjoy equal rights as prescribed by law'. Myanmar ratified CEDAW (Convention on the Elimination of all Forms of Discrimination Against Women) in 1997.

Maternity leave is provided to women workers for six weeks before childbirth and a minimum of eight weeks after confinement, altogether a minimum of 14 weeks. Moreover, another four weeks is provided, after taking maternity leave, for child care in the case of twins and the right to take a maximum of six weeks as maternity leave in case of 'miscarriage, being not a criminal abortion'.<sup>119</sup> The Factories Act also stipulates that employers should provide crèches (if there are more than 50 female workers) for children under the age of six.

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

According to an ITUC report, discrimination and marginalisation of religious minorities, women, people with disabilities, and lesbian, gay, bisexual and transgender people is common in the workplace. Sexual minorities also face discrimination in employment, including denial of promotion, and dismissal.<sup>120</sup>

Female factory workers often are not paid during their maternity leave and they regularly are not reintegrated into the same position when they return to work after they have given birth.<sup>121</sup> This is partly due to factories' unwillingness to pay for maternity leave, but also caused by a lack of awareness among female workers that they have the legal right to request maternity leave and reinstatement following childbirth. Often workers simply resign from their job during pregnancy.

ALR's research into working and employment conditions at 39 Korean-owned factories in Myanmar reveals that discrimination of trade union members is an area of concern. Of the respondents, 70% said that union members and union leaders who raise complaints with management are discriminated in terms of payment, promotion and overtime payment. Often their union involvement has led to termination of their employment contracts.<sup>122</sup>

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119 Republic of the Union of Myanmar, 'The Social Security Law, 2012 (Draft)'

120 ITUC, 'Foreign Direct Investment in Myanmar – What impact on human rights?', October 2015  
<http://www.ituc-csi.org/foreign-direct-investment-in>

121 ITUC, 'Foreign Direct Investment in Myanmar – What impact on human rights?', October 2015  
<http://www.ituc-csi.org/foreign-direct-investment-in>

122 ALR, 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016  
[http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060)

## 6.3 No exploitation of child labour



*"There shall be no use of child labour. The age for admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years."* (ILO Convention 138) *"There shall be no forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour. [...] Children [under the age of 18] shall not perform work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals."* (ILO Convention 182)

### OFFICIAL STATISTICS ON COMPLIANCE

Child labour is widespread in Myanmar. Verisk Maplecroft's 2014 Child Labour Index ranked Myanmar third among countries where the problem of child labour is greatest. This index evaluates the frequency and severity of reported child labour incidents, as well as the performance of governments in preventing child labour and ensuring the accountability of perpetrators. It should be noted that in the six previous editions of the Index, Myanmar ranked number one, in other words, it was the worst performing country worldwide.<sup>123</sup> Myanmar has thus shown improvement in recent years. According to UNICEF, poverty is the main driver for children in Myanmar participating in work. Many families rely on the work of their children to support the household income. Often, working children are unpaid family helpers, carrying out small tasks in farms and agriculture, family businesses or domestic tasks at home.<sup>124</sup> In addition, many children leave school at a young age, as compulsory education only lasts five years; parents are asked to pay fees for building maintenance, school furniture and school books (despite the law stipulating that primary education should be free); and, for those outside cities, educating children often means not only paying school fees, but also paying for transport.<sup>125</sup>

According to the 2014 Myanmar Population and Housing Census data, 23.7% of children aged 10-17 participate in the workforce, which is indicative of the situation of children in the country.<sup>126</sup> Underage workers are found in tea shops, at construction sites, in agricultural fields, in private households and in factories.

<sup>123</sup> Verisk Maplecroft website, 'Child Labour Index 2014', 15 October 2013

<http://maplecroft.com/portfolio/new-analysis/2013/10/15/child-labour-risks-increase-china-and-russia-most-progress-shown-south-america-maplecroft-index/> (accessed on 16 November 2015).

<sup>124</sup> UNICEF website, 'World Day Against Child Labour, 12 June 2014', 12 June 2014

[http://www.unicef.org/myanmar/reallives\\_22662.html](http://www.unicef.org/myanmar/reallives_22662.html)

<sup>125</sup> Oxford Burma Alliance, 'Education in Burma', no date

<http://www.oxfordburmaalliance.org/education-in-burma.html>

<sup>126</sup> ILO, 'Knowledge, attitudes and practices (KAP) study on child labour in Yangon, Ayeyarwady Region and Mon State', 2015

[http://www.ilo.org/ipec/Informationresources/WCMS\\_IPEC\\_PUB\\_27675/lang--en/index.htm](http://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_27675/lang--en/index.htm)

## LAWS AND REGULATIONS

Myanmar has ratified the ILO Worst Forms of Child Labour Convention (No. 182), but not the Minimum Age Convention (No. 138).

The Factories Act (1951, amended in 2016) sets the minimum age for employment at 15 years (before the amendment, it was 13). Children between the ages of 13 and 15 may work for a maximum of four hours a day and are not permitted to work between 6pm and 6am.<sup>127</sup> The Child Law (1993, to be amended) classifies those up to the age of 16 as children and prohibits the employment of children in work which is 'hazardous to the life of the child or which may cause disease to the child or which is harmful to the child's moral character.'<sup>128</sup> However, there is no list that defines the types of hazardous jobs that children should not undertake<sup>129</sup>.

Young workers (under 18) may only work if they have a 'certificate of fitness'. This certificate of fitness can be granted after an examination by a doctor has demonstrated that 'the young person has completed his thirteenth year [or fifteenth year in case of work in a factory as an adult], that he has attained the prescribed physical standards and that he is fit for such work'. The certificate of fitness is valid for a period of 12 months. The costs of the examination should be paid by the employer and may not be claimed from the young worker, the parents or guardians. The certificate of fitness must be kept by the factory management. Non-adult workers who have been granted a certificate of fitness to work in a factory should carry a token referring to the certificate while working in a factory.<sup>130</sup>

In Myanmar, the first five years of primary education are compulsory, and enrolment drops off sharply after primary school when compulsory education ends. The gap between the age when children complete their five years of compulsory education (usually 11 or 12) and the legal minimum working age creates a significant pool of potential underage workers.<sup>131</sup>

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

With around one-third of Myanmar's households estimated to be living in poverty, poverty is the main cause of child labour. Because of the industry's preference for female workers, underage girls are particularly likely to be a part of the garment industry workforce.

Extreme poverty combined with the fact that many children leave school at the age of 11 creates a huge pool of potential underage workers. Due to the illegal nature of child labour, lack of enforcement mechanisms and the necessity of children contributing to the family's income, it is very difficult to assess the number of underage workers in the garment industry.

127 Republic of the Union of Myanmar, 'The Factories Act, 1951 (unofficial translation) [http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/88477/123120/F1558150740/MMR88477\\_per cent20Eng\\_per cent202016.pdf](http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/88477/123120/F1558150740/MMR88477_per cent20Eng_per cent202016.pdf)

128 The State Law and Order Restoration Council, 'The Child Law (The State Law and Order Restoration Council Law No. 9/93)', 14 July 1993.

129 ALR, 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016 [http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060)

130 Republic of the Union of Myanmar, 'The Factories Act, 1951 (unofficial translation) [http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/88477/123120/F1558150740/MMR88477\\_per cent20Eng\\_per cent202016.pdf](http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/88477/123120/F1558150740/MMR88477_per cent20Eng_per cent202016.pdf)

131 BSR, 'Child Labour in Myanmar's Garment Sector – Challenges and Recommendations', May 2016 <http://www.bsr.org/en/our-insights/report-view/child-labor-in-myanmar-garment-sector>



Many garment workers have migrated to the cities in search of work. Because they come from rural areas where official birth registration rates are low, many of these migrant workers do not have identification cards. An application for an ID card should be filed at the person's place of birth; this means migrant workers have to travel back to their hometown, a costly and time-consuming affair. In addition, to apply for an identification card, applicants have to show a house registration card and their parents' IDs, criteria which many people cannot meet. The use of fake and borrowed ID cards is therefore widespread.

Research by ALR revealed that both children and employers use fake ID cards and fake doctor's attestations to hide child labour. The same report describes that when labour inspections were conducted at the workplace, 'child workers ran away or hid in the toilet.'<sup>132</sup>

Both ALR and Oxfam reported that young workers are reluctant to participate in interviews or refuse to state their ages as they fear losing their jobs.<sup>133</sup> Their income is desperately needed; in fact, often the entire family depends on this income,<sup>134</sup> which makes it crucial they retain their job.

According to Business for Social Responsibility (BSR), young workers are primarily employed for lighter work such as packaging, sorting, cutting threads and as helpers. Even though there are restrictions regarding working hours and type of work for workers under the age of 18, young workers often work the same hours as adults, but have fewer benefits and are at more risk of abuse.<sup>135</sup> In addition, some factories employ underage workers as daily labourers. Daily labourers are not eligible for bonuses and other benefits, and experience extreme job insecurity.<sup>136</sup>

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132 ALR, 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016

[http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060)

133 ALR, 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016 [http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060) and Oxfam, 'Made in Myanmar – Entrenched poverty or decent jobs for garment workers?', December 2015 [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf)

134 SOMO, interviews with workers, February – April 2016, Yangon, Thilawa, Bago, Myanmar.

135 BSR, 'Child Labour in Myanmar's Garment Sector – Challenges and Recommendations', May 2016

<http://www.bsr.org/en/our-insights/report-view/child-labor-in-myanmar-garment-sector>

136 SOMO, interviews with workers, NGOs, trade unions, February – April 2016, Myanmar and BSR



## 6.4 Freedom of association and the right to collective bargaining

*“The right of all workers to form and join trade unions and bargain collectively shall be recognised.” (ILO Conventions 87 and 98) “Workers’ representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to carry out their representation functions.” (ILO Convention 135 and Recommendation 143)*

### OFFICIAL STATISTICS ON COMPLIANCE

It is difficult to give an accurate estimate of the number of unionised workers in the garment industry. Since 2011, workers have been allowed to organise themselves in trade unions and the unionisation process has been underway; factory-level unions have been set up but in many cases have also been dissolved again due to active obstruction by employers, lack of experience, high turnover rates of workers, among other factors. As the registration process takes a long time, many unions are not yet officially registered.

As of March 2016, there were more than 3 000 garment workers among MICS’ members. IFWM has some 9 600 members, of which the majority are garment workers. Added up, this is roughly 3% of the garment workforce, but these figures do not take into account trade unions that are not affiliated with CTUM or MICS.

### LAWS AND REGULATIONS

For more than fifty years, independent trade unions were prohibited and strikes were banned. In 2012, the Labour Organisation Law (2011)<sup>137</sup> and the Labour Dispute Settlement Law came into force; these allowed workers to organise and form trade unions and undertake lawful industrial action.

The government of Myanmar has ratified Convention 87 on Freedom of Association and Protection of the Right to Organise. It has not ratified the Right to Organise and Collective Bargaining Convention (No. 98), which is also part of the ILO’s fundamental conventions.

The Labour Organisation Law (2011) regulates collective industrial relations including trade unions, employers’ associations, collective actions and lockouts. Section 29 of the law stipulates that the employer shall recognise the labour organisations of its trade as the organisations representing the workers.

The law distinguishes basic labour organisations at company level; township labour organisations and regional or state labour organisations in same trade or activities; labour federations in same trade or activities; and a labour confederation at the national level. The law also

<sup>137</sup> Republic of the Union of Myanmar, ‘The Labour Organisation Law (The Pyidaungsu Hluttaw Law No. 7/2011)’, 11 October 2011.

allows for employers to organise in parallel structures. Labour organisations at all levels should be legally registered with the following requirements:

- *Basic labour organisations need a minimum number of members of 30 workers 'in the relevant trade or activity' (or 10% of workers in the case of workplaces with less than 30 employees);*
- *Township labour organisations need a minimum membership of 10% of all basic labour organisations in the relevant township, in the relevant trade or activity*
- *Regional or state level labour organisations need a minimum membership of 10% of all township labour organisations in the relevant region or state, in the relevant trade or activity*
- *Labour federations need a minimum membership of 10% of all regional or state labour organisations according to the category of trade or activity;*
- *'Myanmar Labour Confederation may be formed if it is recommended by not less than 20% of all Myanmar Labour Federations according to the category of trade or activity.'*

The law allows labour organisations to carry out strikes but requires permission of the relevant labour federation in advance. In addition, the employer and the relevant conciliation body must be notified at least 14 days in advance by 'mentioning the date, place, number of participants, manner and time of the strike.'<sup>138</sup>

The law also allows employers' lockout but with permission of the relevant conciliation body at least 14 days in advance. Strikes or lockouts are not allowed during the dispute settlement process. The dismissal of union members due to collective actions is prohibited.<sup>139</sup> Police officers are excluded from the right to join unions.<sup>140</sup>

Various clauses in the Labour Organisation Law have effectively put up barriers to join and form unions and engage in collective action. ITUC lists the following restrictions and barriers (among many others):<sup>141</sup>

To obtain permission for a strike the organisers must provide information such as the date, place, time, period, number of participants. Strikes not in conformity with the date, place, time, period, number of participants and manner for which advance permission was obtained may be declared illegal. Further, the law prescribes that trade unions cannot go on strike without permission of the relevant labour federation. This restricts workers and workers' organisations in their right to strike.

While the law prohibits dismissal of a worker for union membership and for the exercise of trade union activities or a strike, it does not clearly prohibit other forms of discrimination or retaliation, such as forced transfers, a common problem. Also, the law does not provide clear protection to workers seeking to form a trade union, nor does it prohibit discrimination in hiring, or blacklisting.

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138 The Republic of the Union of Myanmar, 'The Labour Organisation Law (The Pyidaungsu Hluttaw Law No. 7/ 2011), 11th October, 2011, unofficial translation.

139 AMRC, 'Labour Laws in Myanmar', May 2014

[http://www.amrc.org.hk/sites/default/files/field/alu-article/files/ALU per cent202014 per cent20 per cent2020 per cent20- per cent20Labour per cent20Laws per cent20in per cent20Myanmar.pdf](http://www.amrc.org.hk/sites/default/files/field/alu-article/files/ALU%20per%20cent202014%20per%20cent20%20per%20cent20%20per%20cent20Labour%20Laws%20in%20Myanmar.pdf) .

140 <http://survey.ituc-csi.org/+Burma+.html?lang#tabs-2>.

141 ITUC, 'Survey of violations of trade union rights', no date <http://survey.ituc-csi.org/+Burma+.html?lang#tabs-2> (accessed on 3 November 2015).

## COLLECTIVE BARGAINING

The Labour Organisation Law stipulates that 'labour organisations have the right to negotiate and settle with the employer if workers are unable to obtain and enjoy the rights of the workers contained in the labour laws, and to submit demands to the employer and claim in accordance with the relevant law if an agreement cannot be reached'. It further states that 'labour organisations have the right to participate in solving the collective bargains of the workers in agreement with labour laws'.<sup>142</sup> Although this clause is open to multiple interpretations, collective bargaining in Myanmar usually follows a labour dispute. CBAs thus often only cover the issue which the dispute was about and are therefore often limited in scope. In Myanmar it is not commonplace to start a process of negotiation between employers and employees about a whole range of labour issues without a conflict spurring negotiations.

In the country, a CBA can be signed at the township level between employers and workers. Workers can be parties to the CBA as a union member or as an individual. If an employer violates any terms of the CBA or conditions in the contract, the Ministry of Labour, and not the individual worker, is considered the plaintiff in dispute resolution. According to ALR, due to lack of legal enforcement, the terms and conditions agreed in CBAs are often not included in individual contracts, leaving Myanmar CBAs toothless.<sup>143</sup> Although the law states the rights of collective bargaining of the labour organisations, it does not mention the responsibility of employers on this matter.

The law does not contain provisions on the duty to bargain in good faith, period for bargaining, first contract arbitration, levels of negotiation, extension of collective agreements, registration of collective agreements, or enforcement of collective agreements.<sup>144</sup>

The Settlement of Labour Dispute Law was promulgated in 2012 and specifies that individual disputes may be dealt with by a Workplace Coordinating Committee, go to the township conciliation body, and end at the competent courts if conciliation is not successful. Collective dispute cases pass through an arbitration process in addition to negotiation and conciliation. Collective disputes may first be dealt with by the Workplace Coordinating Committee, and then are passed on to the township conciliation body. If settlement is not achieved, the case is handed over to the regional or state Arbitration Body, which makes a decision on the case. In regard to the decision, the parties in non-essential services have two choices: to go for strikes (workers) or lockout (employers), or to appeal to the Arbitration Council for a Tribunal to be set up and administrated by the central government.<sup>145</sup>

The Workplace Coordinating Committee (WCC) is composed of four members representing in equal numbers the employer and the trade union (or workers if there is no union). WCCs can be established in workplaces with more than 30 employees and should deal with 'negotiating and concluding a collective agreement and grievances at workplaces'.

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142 Republic of the Union of Myanmar, 'The Labour Organisation Law (The Pyidaungsu Hluttaw Law No. 7/2011)', 11 October 2011, unofficial translation.

143 ALR, 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016  
[http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060)

144 ITUC, 'Foreign Direct Investment in Myanmar – What impact on human rights?', October 2015  
<http://www.ituc-csi.org/foreign-direct-investment-in>

145 The Republic of the Union of Myanmar, 'The Settlement of Labour Dispute Law' (The Pyidaungsu Hluttaw Law No. 5/2012), 28 March 2012, unofficial translation.

The Township Conciliation Body is formed by regional or state authorities and should include three representatives elected by the employers or employers' organisations, three representatives elected by workers or labour organisations [trade unions], a departmental representative of the relevant township level and 'two distinguished persons trusted and accepted by the employer and the labour organisations'. In addition, the relevant state or regional government appoints a chairperson and the Ministry of Labour appoints a secretary.

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

The vast majority of garment factories in Myanmar are not unionised. On the one hand, there is lack of knowledge among workers about the role of trade unions.<sup>146</sup> Also, trade union representatives reported that the high turnover of workers impedes organising.<sup>147</sup> On the other hand, anti-union sentiments among employers and discrimination of union leaders and union members effectively hinder unionising efforts.

Research by ALR found that union members and union leaders who raise complaints with management face discrimination in terms of payment and promotion and, in various cases union involvement has led to the non-renewal of their employment contracts.<sup>148</sup>

Retaliation against workers who participate in actions to claim their rights is common, writes ITUC. In February 2015, over 3,000 garment workers from different factories in Yangon's industrial zones organised a strike to protest against the employers' refusal to recognise a trade union or negotiate with the workers. The leaders of the strike were arrested along with 50 striking workers.<sup>149</sup>

Since the implementation of the minimum wage in September 2015 hundreds of workers have been dismissed; in particular union leaders and union members.<sup>150</sup>

Yellow unions – unions set up or controlled by the employer to prevent the establishment of a genuine trade union – form another problem. The 'Modern Slavery' report compiled by a group of labour rights NGOs describes that in one of the research areas, 50% of those interviewed who knew that labour unions existed expressed that they did not want to join one as the unions were controlled by the employer.<sup>151</sup>

Although women form the vast majority of workers in the garment industry, they are under-represented in trade union leadership positions.<sup>152</sup>

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146 ITUC, 'Foreign Direct Investment in Myanmar – What impact on human rights?', October 2015

<http://www.ituc-csi.org/foreign-direct-investment-in>

147 SOMO, interviews with trade union representatives, July 2015, Yangon, Myanmar.

148 ALR, 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016

[http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060)

149 ITUC website, 'Authorities arrest striking workers', 4 March 2015 <http://survey.ituc-csi.org/Burma.html#tabs-3>

150 Apparel Resources website, 'Myanmar RMG factory owners overrule decision of rehiring fired employees', 6 January 2016 <http://news.apparelresources.com/trade-news/myanmar-rmg-factory-owners-overrule-decision-of-rehiring-fired-employees/>

151 Various authors, 'Modern Slavery – A study of labour conditions in Yangon's industrial zones 2012-2013', no date <http://www.burmapartnership.org/wp-content/uploads/2013/11/Modern-Slavery-ENG.pdf>

152 SOMO, interview with Burmese Women's Union, April 2016, Yangon, Myanmar.

## 6.5 Payment of a living wage



*“Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income” (ILO Conventions 26 and 131, the Universal Declaration of Human Rights, art 23(3) and art 25(1)). “Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted. Deductions shall never constitute an amount that will lead the employee to receive less than the minimum wage. Employees shall be adequately and clearly informed about the specifications of their wages including wage rates and pay period.”*

### OFFICIAL STATISTICS ON COMPLIANCE

At the time of writing no information, except for anecdotal data, was available regarding compliance with the new minimum wage regulation described below.

### LAWS AND REGULATIONS

A new law passed in March 2013 (the Minimum Wage Law <sup>153</sup>) replaced the 1949 Minimum Wage Act. The new law provides a framework for minimum wage determination: the presidential office, establishing a tripartite minimum wage committee, shall decide minimum wage with industrial variation based on a survey on living costs of workers, possibly every two years.

In June 2015, the country's first-ever minimum wage was set at 3 600 Kyat (€2.60) per day, based on an eight-hour working day. The minimum wage came into effect on 1 September. Unions had demanded 4 000 Kyat per day, while employers lobbied for 2 500 Kyat.

There are some exemptions to the minimum wage law:

- *Micro enterprises (fewer than 15 workers)*
- *Companies operating in Special Economic Zones. The SEZ management committees shall submit a proposed minimum wage rate to the national minimum wage committee, which then decides*
- *Newly hired employees (apprentices, first 3 months) get 50% of the minimum wage. During the probation period (3-6 months), workers get 75% of the minimum wage*

<sup>153</sup> Republic of the Union of Myanmar, 'The Minimum Wage Law, 2013 (The Pyidaungsu Hluttaw Law No. 7/2013)' March 2013 (unofficial translation).



The law stipulates that the employer should 'prepare and maintain the lists, schedules, documents and wages of the workers correctly' and 'not make false entries, deceitful recordings or false statements; shall not fail to report to the relevant department in accordance with the stipulations and shall not fail to produce when required by the inspection officer.'<sup>154</sup>

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

The minimum wage of 3 600 Kyat a day was met with fierce resistance from both employers' and workers' organisations. Employers claimed that the amount was too high and that it would force factories out of business – at least 90 Chinese and South Korean garment manufacturers threatened to close their factories – while trade unions stressed that the amount would not be enough to provide for a decent living.

In September 2015, local newspapers reported that more than 1 000 garment factory workers had lost their jobs in the wake of the new minimum wage.<sup>155</sup> Additionally, there are reports of employers avoiding paying the minimum wage by hiring workers as apprentices. The new minimum wage regulation stipulates that in the first 3 months workers are apprentices and will receive 1 800 Kyat (50% of the minimum wage) a day. From 3 to 6 months, workers are considered to be in their probation period, and earn 2 700 Kyat a day (75% of the minimum wage). Employers avoid paying the full minimum wage of 3 600 Kyat/day by dismissing workers after six months. The dismissed workers either find employment at other factories where they start from scratch, or in other cases, they are rehired at the same factories and start under apprentice wages once again.<sup>156</sup>

Another effect of the minimum wage implementation is that employers have been cutting bonuses and benefits and increasing daily targets. Some factories have stopped providing meals and transportation services.<sup>157</sup> Other factories have taken away bonuses or cut back paid overtime hours, and some employers have increased daily targets. As a result, in some factories workers have to work unpaid overtime to complete their daily targets. In general, workers report minor increases in the total-take home salary. They also report increases of basic living costs such as rent and food.<sup>158</sup>

Even with the minimum wage, Myanmar is one of the countries with the lowest labour costs in the world.

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154 Republic of the Union of Myanmar, 'The Minimum Wage Law, 2013 (The Pyidaungsu Hluttaw Law No. 7/2013)' March 2013 (unofficial translation)

155 Myanmar Times, 'Thousands out of work as minimum wage kicks off', 4 September 2015 <http://www.mmtimes.com/index.php/national-news/yangon/16332-thousands-out-of-work-as-minimum-wage-kicks-off.html> and The Irrawaddy, 'Garment Factories Downsize in Response to Minimum Wage', 5 September 2015 <http://www.irrawaddy.org/burma/garment-factories-downsize-in-response-to-minimum-wage.html>

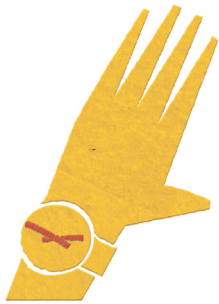
156 Conversations with Action Labour Rights and Labour Rights Defenders and Promoters in October 2015.

157 Irrawaddy, 'Garment Factories Downsize in Response to Minimum Wage', 5 September 2015 <http://www.irrawaddy.org/burma/garment-factories-downsize-in-response-to-minimum-wage.html>

158 SOMO, interviews with workers, NGOs and trade unions, February – April 2016, Yangon, Bago, Thilawa, Myanmar



## 6.6 No excessive working hours



*"Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7-day period. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate."*  
(ILO Convention 1)

### LAWS AND REGULATIONS

According to the Factories Act, standard working hours are eight hours per day and 44 hours per week. A 30-minute break should be given after five consecutive hours, which is counted as a part of working hours. The combined working hours and interval time should not exceed 10 hours a day. Working days should not exceed six days in a week. Workers should be granted one holiday each week (Sunday). If Sunday service is required, there must be a substitution for another day. Overtime (in excess of the 44 regular working hours) must not exceed 16 hours; working weeks may thus not exceed 60 hours.

However, in December 2012 the Ministry of Labour, Employment and Social Security issued a Directive which allows for working weeks of 64 hours (44 regular working hours + 20 overtime hours)<sup>159</sup>. This Directive is not in line with the Factories Act which limits the maximum hours of work to 60 hours per week and ILO Convention 1 which has been ratified by the Myanmar Government.

Overtime payment is two times the normal wage. For workers who earn the minimum wage of 3 600 Kyat a day this would be 900 Kyat per hour.<sup>160</sup>

According to the Leave and Holidays Act (1951, minor amendments in 2006) workers are granted 14 public holidays with full payment; 10 full-paid consecutive days of annual leave after 12 months of work with 20 working days in each month; six days of casual leave each year with full payment which shall be used for a maximum of three days at a time; and 30 days of sick leave upon medical certification, with full salary, after six months of service or without pay for workers employed for less than six months.<sup>161</sup>

Permission from the Factories and the General Labour Law Inspection Department must be obtained for approval of a constant overtime policy.

159 The Republic of the Union of Myanmar Ministry of Labour, Employment and Social Security, Factories and General Labour Laws Inspection Department, "Directive No. 615/2/FGLLID Law 2/12 (1584)", December 2012.

160 Republic of the Union of Myanmar, The Factories Act, 1951 (unofficial translation) [http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/88477/123120/F1558150740/MMR88477\\_per%20Eng\\_per%202016.pdf](http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/88477/123120/F1558150740/MMR88477_per%20Eng_per%202016.pdf)

161 AMRC, 'Labour Laws in Myanmar', May 2014  
[http://www.amrc.org.hk/sites/default/files/field/alu-article/files/ALU\\_per%202014\\_per%20per%20383\\_per%20- per%20Labour\\_per%20Laws\\_per%20in per%20Myanmar.pdf](http://www.amrc.org.hk/sites/default/files/field/alu-article/files/ALU_per%202014_per%20per%20383_per%20- per%20Labour_per%20Laws_per%20in per%20Myanmar.pdf)

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

Excessive and forced overtime is a major issue of concern. ALR's study on Korean-owned garment factories in Myanmar shows that, in 30% of the researched factories, workers work more than the legally set limit of 16 overtime hours a week, in addition to the regular working week of 44 hours. ALR also describes instances where workers have had to work full-night shifts; such shifts could add up to 19 hours of work.

ALR reports that nearly two-thirds of the interviewed workers were unable to refuse overtime work, while the Oxfam research study found that a quarter of the interviewed workers were forced to do overtime work.

It is important to note that both the ALR and Oxfam studies were carried out before the implementation of the minimum wage. Various organisations, experts as well as workers, have indicated that overtime hours decreased after the minimum wage implementation, as factories do not want to pay the legal double rate for overtime hours. It should be further added that some workers have since reported that daily targets have increased and that they are forced to continue working until they complete the targets without getting compensation for the extra time needed.<sup>162</sup>

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<sup>162</sup> SOMO, interviews with workers, NGOs, trade unions and company representatives, February – April 2016, Yangon, Bago, Thilawa, Myanmar.

## 6.7 Safe and healthy working conditions



*"A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Appropriate attention shall be paid to occupational hazards specific to this branch of the industry and assure that a safe and hygienic work environment is provided for. Effective regulations shall be implemented to prevent accidents and minimize health risks as much as possible (following ILO Convention 155). "Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer are strictly prohibited."*

### OFFICIAL STATISTICS ON COMPLIANCE

A report published by ITUC in October 2015 refers to data reported by the Myanmar Ministry of Labour regarding occupational accidents in various industries. According to the latest available data, 28 fatal and 36 serious occupational accidents were recorded from 2009 to 2010. ITUC notes, however, that these figures are out of date and not indicative of actual conditions as underreporting is widespread and the government labour inspectorate is severely understaffed.<sup>163</sup>

### LAWS AND REGULATIONS

Myanmar has not ratified ILO Convention 155 on Occupational Safety and Health.

The Factories Act and the Social Security Law are the most relevant regulations related to occupational health and safety. The information presented below is predominantly derived from a briefing paper by the International SOS Foundation<sup>164</sup> and information published by the Myanmar Centre for Responsible Business.<sup>165</sup>

The Factories Act stipulates that any accident inside or outside an industrial establishment with more than 10 workers must be reported to the Factories and General Labour Laws Inspection Department. In 2014, more than 17 000 factories fell under this reporting obligation.<sup>166</sup>

With respect to medical facilities and monitoring, the Factories Act provides that the following requirements shall be met: a first aid box must be available and an additional first aid box must be provided if there are more than 150 workers; factories with more than 250 workers

<sup>163</sup> ITUC, 'Foreign Direct Investment in Myanmar – What impact on human rights?', October 2015

<http://www.ituc-csi.org/foreign-direct-investment-in>

<sup>164</sup> SOS Foundation, 'Myanmar Occupational Health and Safety Framework for The Manufacturing Sector', no date  
<http://www.internationalsosfoundation.org/resources/browse-by-country/myanmar/> (accessed on 17 November 2015).

<sup>165</sup> Myanmar Centre for Responsible Business, 'Human rights and business country guide Myanmar', last update April 2015  
<http://hrbcountryguide.org/countries/myanmar/>

<sup>166</sup> <http://hrbcountryguide.org/countries/myanmar/labour-standards/occupational-health-safety/>

shall have a dispensary run by a certified nurse; and a qualified medical doctor recognised by the Social Security Board shall be appointed.

In terms of hygiene standards, the Factories Act sets out the following general requirements: the factory to be kept clean and free from unpleasant odours or fumes; effective arrangements to be made for the disposal of waste and effluences; latrines (separate male and female latrines and urinals should be provided), adequate washing facilities and spittoons to be provided; and a sufficient supply of clean drinking water must be available. Other health-related provisions provided by the Factories Act include adequate ventilation in workrooms, effective measures to prevent inhalation of dust and fumes, and use of sufficient and suitable lighting.

The law prescribes that factories may not be overcrowded: 'the amount of space allowed for every person employed in a room shall not be less than 500 cubic feet.'

Exit doors from any room within the factory may not be locked or fastened; they must be easily opened from the inside while any person is within the room. All doors – unless they are sliding doors – should be constructed to open outwards. Every window, door or other exit affording a means of escape in case of fire – other than the means of exit in ordinary use – should be marked in a language understood by the majority of workers. Every factory should have equipment installed which gives clearly audible warning in case of fire. Emergency exits should be kept clear. All workers should be informed about the means of escape in case of fire and must be adequately trained in the procedures to be followed in cases of fire.

The Factories Act also requires the employer to send their workers and responsible supervisors to workplace health and safety training conducted by the Ministry of Labour, Employment and Social Security.

According to the Social Security Law, the costs of medical care related to employment injury resulting from a criminal action or omission of the employer or from the employer's failure to meet occupational health and safety legal requirements shall be borne entirely by the employer.

Maternity leave is provided to women workers for six weeks before giving birth and a minimum of eight weeks after giving birth, altogether a minimum of 14 weeks. Maternity leave can be extended a further four weeks for child care if it concerns twin delivery, and workers have the right to take a maximum of six weeks as maternity leave in case of 'miscarriage, being not a criminal abortion'.<sup>167</sup> The Factories Act also stipulates that employers should provide crèches for children under the age of six if there are more than 50 female workers.

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

### Building and fire safety

Fire safety is an issue of concern. Bad wiring leads to fire risks. Lack of exits, poorly constructed and poorly expanded buildings, overcrowded factories, blocked and locked exits and the absence of proper fire drills exacerbate the risks.<sup>168</sup>

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<sup>167</sup> Republic of the Union of Myanmar, 'The Social Security Law, 2012 (Draft)'

<sup>168</sup> SOMO, interviews with SMART and MGMA, July 2015 and April 2016, Yangon, Myanmar.

In February 2016, a fire broke out at the Hong Kong-owned Supreme Asia garment factory in Shwe Pyi Thar industrial zone, Yangon, destroying parts of the building. Charges were filed against the factory manager.<sup>169</sup> Likewise, a factory fire, probably caused by bad wiring, raged at a Korean-owned garment factory, destroying the building. Luckily, there were no casualties as the fire happened at 5 am when there were no workers in the building.

The research reports by ALR, Oxfam and the collectively published 'Modern Slavery' report all point to the risk of fires breaking out at garment factories. Many workers reported that safety exits were blocked with boxes or locked, if they exist at all. The lack of fire safety training is also highlighted in the reports.<sup>170</sup>

## Work-related health impacts

Temperatures in factories can become extremely high, especially in the hot season, from March to May, when outside temperatures easily reach 40 degrees Celsius. Many factories have poor ventilation. Workers report that uncomfortably hot temperatures give them headaches, and make them sweat or even faint.<sup>171</sup>

ALR reports in their research that more than half of the interviewed workers are not provided with personal protective equipment (PPE) such as masks, metal gloves, needle guards, eye guards, etc. In cases where PPE is provided, many workers reported not using it as it made them feel uncomfortable due to the heat. Some workers said that they were only given PPE when inspection teams visited the factory.<sup>172</sup>

Workers also expressed concerns about constantly inhaling fabric dust and down feathers. Additionally, in some factories, insufficient or dirty drinking water is a major concern, especially during the hot season when workers sweat a lot and need to drink enough to stay hydrated.<sup>173</sup>

Inadequate toilet facilities are also reported, as well as restrictions to make use of the toilet. Consequently, workers do not drink any water in order to avoid having to go to the toilet.<sup>174</sup>

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169 The Global New Light of Myanmar, newspaper, 'Fire breaks out at garment factory in Shwepyitha industrial zone, 23 February 2016 [https://issuu.com/myanmarnewspaper/docs/23\\_feb\\_16\\_gnlm](https://issuu.com/myanmarnewspaper/docs/23_feb_16_gnlm)

170 ALR, 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016

[http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060) ;

Oxfam, 'Made in Myanmar – Entrenched poverty or decent jobs for garment workers?', December 2015

[https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf);

Various authors, 'Modern Slavery – A study of labour conditions in Yangon's industrial zones 2012-2013', no date

<http://www.burmapartnership.org/wp-content/uploads/2013/11/Modern-Slavery-ENG.pdf>

171 ALR, 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016

[http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060)

172 ALR, 'Under Pressure – A study of labour conditions in garment factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies', March 2016

[http://www.actionlaborrights.org/attachments/view/?attach\\_id=1060](http://www.actionlaborrights.org/attachments/view/?attach_id=1060)

173 SOMO, interviews with workers, Yangon, Thilawa, Bago, Myanmar, February – April 2016.

174 SOMO, interviews with workers, Yangon, Thilawa, Bago, Myanmar, February – April 2016; SOMO, interview with ActionAid Myanmar, 22 March 2016; Oxfam, 'Made in Myanmar – Entrenched poverty or decent jobs for garment workers?', December 2015 [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf);

Various authors, 'Modern Slavery – A study of labour conditions in Yangon's industrial zones 2012-2013', no date <http://www.burmapartnership.org/wp-content/uploads/2013/11/Modern-Slavery-ENG.pdf>

## Verbal abuse

In Oxfam's research, a third of the interviewed workers said they had experienced verbal or other abuse by supervisors or management. A number of workers talked about a repressive environment inside the factory, including pressure from supervisors and unfair treatment such as restrictions on being able to get water to drink during their shift.

## Safety outside the factory

Garment workers often have to work a lot of overtime hours. This means they may leave the factory at night, in the dark. Often there is no public transport available at those hours so workers have to walk home. ActionAid found that, on average, workers have to pass seven bars for every kilometre they walk. There have been many cases of sexual harassment and sexual violence against garment workers on their way back home after work. According to ActionAid, violence against women in Yangon has increased. Female migrant workers who are in the area on their own are particularly vulnerable.<sup>175</sup>

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<sup>175</sup> SOMO, interview with ActionAid Myanmar, Yangon, Myanmar, 22 March 2016.

## 6.8 Legally-binding employment relationship



*"Working relationships shall be legally binding, and all obligations to employees under labour or social security laws and regulations shall be respected."*

### OFFICIAL STATISTICS ON COMPLIANCE

There are currently some 300 000 workers in the Myanmar garment industry. It is not known how many of them have signed a formal employment contract with their employers.

In 2013, there were 33 462 companies and 706 750 workers registered with the Social Security Board, which is only a minor percentage of the formal workforce.<sup>176</sup>

## LAWS AND REGULATIONS

### Employment contracts

Under the Employment and Skill Development Law (2013)<sup>177</sup> all employees in Myanmar must be employed under a prescribed employment contract. The employer should enter into a written contract with the employee within 30 days after commencement of work, with the exception of workers on training and probation periods.

There is a standard format for employment contracts which must be used. This format contains 21 items that must be included in the contract. The contract must contain a start and end date, making open-ended contracts impossible. It is not clear what the maximum period of employment is under this law.

There must be three copies of the contract: one for the factory's administration, one for the employee and one to be sent to the township labour office.

The following terms must be included in the employment contract:

1. *Type of employment*
2. *Probation period*
3. *Wage, salary*
4. *Location of establishment*
5. *Term of agreement*
6. *Working hours*

<sup>176</sup> International Labour Organisation, 'Evaluation of the operations of the Social Security Board, Ministry of Labour, Employment and Social Security of Myanmar', 2015

[http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms\\_375631.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_375631.pdf)

<sup>177</sup> Employment and Skill Development Law (Pyidaungsu Hluttaw Law No. 29/2013), 30h August 2013, unofficial translation [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=906996p\\_country=MMR&p\\_count=86](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=906996p_country=MMR&p_count=86)



7. *Days-off, holidays and leave*
8. *Working overtime*
9. *Meal arrangements within working hours*
10. *Accommodation*
11. *Medical treatment*
12. *Travel arrangements to/from work*
13. *Regulations to be followed by the employee*
14. *If the employee is sent to attend training, limitation agreed by the employee to continue his/her duty after the training*
15. *Employee resignation and termination of establishment*
16. *Termination of agreement*
17. *Obligations under the conditions of agreement*
18. *Termination of employment agreement by the mutual understanding of employer and employee*
19. *Any other matters*
20. *Specifying, amending and adding to the conditions of agreement*
21. *Miscellaneous*

## Social security

Workers in the private sector are covered by a contributory social security scheme and given medical care and five types of cash benefits for sickness, maternity or paternity, death (funeral grant), and work injury.<sup>178</sup>

In 2012 a new Social Security Law was adopted, and is being implemented gradually. This law extends social security provisions for formal sector workers in several ways. It introduced additional branches of social security: family benefits, superannuation benefits (i.e. old-age savings scheme), disability and survivors' pensions, unemployment insurance, and housing benefits. In addition, it has increased the benefit levels of existing provisions (sickness, maternity or paternity, death, and work injury). It has also increased contributions for the various provisions and mandated the creation of three sub-funds for the different types of benefits. As of 1 April 2014, the following contributions are mandated by law: health and social care fund: 2% from employer, 2% from employee; injury fund: 1% from employer. In total the employer's contribution is 3% and the employee's contribution is 2%. The accepted maximum salary per month to qualify for participation in the social security fund is currently set at 300 000 Kyat.<sup>179</sup>

178 The World Bank Group, Building Resilience, Equity and Opportunity in Myanmar: The Role of Social Protection', September 2015 [http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2015/07/09/090224b082fe36a6/1\\_0/Rendered/PDF/Strengthening00provision0in0Myanmar.pdf](http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2015/07/09/090224b082fe36a6/1_0/Rendered/PDF/Strengthening00provision0in0Myanmar.pdf)

179 Ibid.

The Social Security Board administers Myanmar's social security programmes, including benefits and contributions. The SSB has 77 township offices covering 110 townships.<sup>180</sup>

Workers are entitled to 30 days of sick leave upon medical certification with full salary after six months of service or without pay for workers employed for less than six months.<sup>181</sup>

## STAKEHOLDERS' OPINION AND ANALYSIS ON IMPLEMENTATION

While the law prescribes that written employment contracts should be signed between employers and employees, research by CSOs shows that a considerable number of workers have not signed a contract. In Oxfam's research (2015), more than one-third of the surveyed workers said they had not signed a contract with the factory and nearly two-thirds of the interviewed workers did not know the length of their employment contract. ALR's research (2016) into employment and working conditions at Korean-owned factories reveals that 60% of the interviewed workers had not signed a contract with their employer.

Additionally, CSOs and workers signalled an increasing trend of garment workers being employed as daily labourers. At one factory, workers indicated that the factory stopped hiring on a contractual basis after the implementation of the new minimum wage, and that it only engages new workers as daily labourers. In some cases, daily labourers are underage workers.<sup>182</sup> Daily labourers do not sign contracts, they only receive the basic wage of 3 600 Kyat a day, are not eligible for bonuses and benefits and are not covered by the social security system.

### Sick leave

Despite being legally entitled to paid sick leave, many workers report that their wages are cut if they are sick and miss a day of work. This was confirmed by two-thirds of the workers interviewed for Oxfam's report as well as by workers interviewed by SOMO between February and April 2016. In some factories, workers miss out on the daily wage of 3 600 Kyat for each day they are sick; in other factories, besides the daily wage, the attendance bonus (usually between 10 000 and 20 000 Kyat per month) is withdrawn. In other factories, in addition to the daily wage and attendance bonus, the bonus for reaching production targets is withdrawn if workers miss one day of work due to sickness.

Wage cuts can add up to 30 000 Kyat for one day, which represents roughly 20% of the total monthly take-home salary.

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180 Ibid.

181 International Labour Organisation, 'Evaluation of the operations of the Social Security Board, Ministry of Labour, Employment and Social Security of Myanmar', 2015

[http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms\\_375631.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_375631.pdf)

182 AMRC, 'Labour Laws in Myanmar', May 2014

[http://www.amrc.org.hk/sites/default/files/field/alu-article/files/ALU per cent202014 per cent20 per cent2383 per cent20- per cent20Labour per cent20Laws per cent20in per cent20Myanmar.pdf](http://www.amrc.org.hk/sites/default/files/field/alu-article/files/ALU%20per%20cent202014%20per%20cent20383%20per%20cent20Labour%20per%20cent20Laws%20in%20per%20cent20Myanmar.pdf)

# SOURCES USED IN THIS COUNTRY STUDY

*The information has been gathered by Martje Theuvs, researcher at the Centre for Research on Multinational Corporations (SOMO). The study was prepared through gathering information about national laws and local stakeholders' views on labour issues in the garment industry in Myanmar. In addition to this, information has been gathered from internationally recognised sources on the economic, social, political and human rights situation in the country.*

*The following stakeholders representing public authorities, employers, trade unions and NGOs were consulted in writing this country study:*

## I. GOVERNMENT/PUBLIC AUTHORITIES

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## II. EMPLOYERS

Myanmar Garment Manufacturers Association (MGMA)

## III. TRADE UNIONS

Confederation of Trade Unions of Myanmar (CTUM)

Myanmar Industries Craft & Services Trade Union Federation (MICS)

Industrial Workers Federation of Myanmar (IWFM)

## IV. LABOUR-RELATED NGOS

88 Generation Peace & Open Society (Labour Department)

Action Labour Rights (ALR)

Burmese Women's Union (BWU)

Cooperative Committee of Trade (CCTU)

Labour Rights Defenders and Promoters (LRDP)

Let's Help Each Other (LHEO)

## V. INTERNATIONAL STAKEHOLDERS

ActionAid Myanmar

Burma Partnership

Business and Human Rights Resource Center

EarthRights International

Friedrich Ebert Stiftung (FES)

Oxfam Myanmar

Pyoe Pin

Solidarity Center

SMART Myanmar

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