

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

ACKNOWLEDGEMENTS

This report is a fruit of a one year's research work by a team of researchers, project staff and volunteers at Action Labor Rights (ALR), led by Thurein Aung (ALR), and with advice from Tin Maung Htwe (Data Analysis) and Carol Ransley.

Action Labor Rights (ALR) had its beginnings in 2002 when young members of the National League for Democracy were working with the ILO to advocate for freedom of association and to abolish forced and child labour. In May 2007, six ALR members and more than 80 workers from Hlaingthaya, Shwepyitha and Dagon industrial zones were arrested after taking part in Labour Day celebrations at the US Embassy in Yangon. After their release from prison in January 2012, the activists decided to continue their activities as an organization, and formally established ALR in February 2012. Its activities include training workers on their rights and on labour laws, monitoring the practices of international sourcing companies, research and advocacy, and focusing on the rights of women workers.

The research was made possible with support from the Myanmar Centre for Responsible Business (MCRB) as part of their commitment to build capacity of Myanmar civil society working on business and human rights issues and to create knowledge for raising public awareness. However, the report's findings and recommendations belong to ALR alone.

Contact information for Action Labor Rights:

Email: info@actionlaborrights.org
Facebook: www.fb.com/actionlaborrights
Web: www.actionlaborrights.org

Contact information for Myanmar Centre for Responsible Business:

Email: info@myanmar-responsiblebusiness.org
Address: 15 Shan Yeiktha St, near Sakura Hospital
Sanchaung Township, Yangon, Myanmar 01-510069
Web: www.myanmar-responsiblebusiness.org

DEDICATION

This report is dedicated to the many thousands of garment workers across Myanmar struggling in pursuit of decent working conditions and fair wages.



TABLE OF CONTENTS

Executive Summary	4
Introduction	6
Why Korean Factories?	7
The Current Situation of the Myanmar Garment Industry	8
The Myanmar Garment Industry and Labour Rights	10
Trade Unions, Employer Associations and Industry Associations	14
Study Methodology	16
Major Findings	18
Working Hours and Overtime	18
Scheduled Break	19
Calculation of wages	19
Extra Time	21
Salary Adequacy	21
Payslips	22
Employment contracts	22
Freedom of Association and Collective Bargaining Agreements	23
Workplace Coordinating Committees & Dispute Resolution	24
Medical Leave Entitlement	26
Women's employment rights issues	26
Child labour	27
Health and safety	28
Mandatory factory welfare measures	29
Discrimination	30
Case Studies	31
Conclusions	33
Recommendations	34
To the Myanmar Government	34
To Factory Owners	35
To International Buyers, Retailers and Importers	37
To Trade Unions & Labour Associations	38
To all Korean stakeholders	38
Appendices	40
Bibliography	48
References	49

EXECUTIVE SUMMARY

This report by Action Labor Rights (ALR) examines the labour conditions in a selection of garment factories in Myanmar which are either wholly Korean owned or joint-ventures with Korean companies. Most of the companies are in industrial zones in the Yangon region and Bago. It is based on qualitative and quantitative data gathered from 1200 employee interviews at 39 factory sites by a team of 10 field researchers in April-June 2015, as well as secondary data collected from other key informants, e.g. including managers and focus groups.

The survey compares conditions in factories to the requirements of the Myanmar legal framework. It reveals significant non-compliance on the part of many Korean factories, particularly with laws on working hours and overtime. In factories surveyed, excessive overtime appeared to be the major issue of concern, both from a legal compliance perspective, but also in terms of the key issue impacting on the health, well-being and safety of factory employees. Almost 30% of the factories surveyed failed to abide by the maximum 16 hours weekly overtime limit. Nearly two thirds of workers surveyed (62%) reported being unable to refuse working excessive hours. This is unsurprising given that almost two-third of workers (63%) said that their take home pay was not enough to live comfortably.

Beyond the elements of basic salary, overtime pay and attendance bonuses, found in most Myanmar garment factory payslips, around 18 different methods of calculation for a worker's salary have been observed, with 98% of workers reporting a range of special payments being paid for working excessive hours without absence. Some of these payments and deductions are illegal, such as 'gate pass' (a deduction for refusing to work overtime) and 'extra time' (unofficial overtime, reported by 15% of workers). A shocking 30% of workers said they were provided payslips only in English or Korean, another direct breach of Myanmar law which requires payslip information to be provided in Myanmar language. Only 40% of workers claimed that they have signed employment contracts; many of these did not have their own copy.

The survey also showed that trade union leaders and activists were discriminated against in terms of payment, promotion, overtime payment and termination of their contract. Some 70% of the respondents identified this as a problem. Despite a legal requirement under the 2012 Settlement of Labour Disputes Law for an employer with more than 30 employees to establish a Workplace Coordinating Committee, only 14% of Korean garment factories surveyed - all of which had more than 30 employees - have Workplace Coordinating Committees.

Only 22% of workers surveyed were able to access the 30 days medical leave they were legally entitled to. Another 39% reported that they were not permitted to take more than three days medical leave before the employers cut their salaries or they were fired. Awareness of maternity rights was low. On sexual harassment, 7% of female respondents reported that either they had such experiences or they heard their female co-workers had such experiences, and 10% of respondents reported verbal abuse and some physical assaults by supervisors during working hours.

Due to a reluctance on the part of both adult and child workers to respond to questions on child labour out of concern that the children would be fired, the study was unable to provide a clear indication of the prevalence of child labour at the factories surveyed. However, from the responses of those who answered, we believe it remains prevalent.

Over two thirds of employees surveyed reported working in temperatures that were uncomfortably hot and almost half of respondents say this affects their productivity and health. Only two-thirds (67%) said their factories have emergency exits in place, another legal requirement. Where they exist, 26% reported them inaccessible. Almost all the respondents said fire safety equipment was available at their factories, although 55% do not know how to use it, and only 30% of respondents reported their factories do regular fire drills. Further details are provided under Major Findings and in Case Studies.

Drawing on these findings, which are not unique to Korean factories, we make a number of recommendations intended to increase respect for Myanmar garment workers' basic labour rights and protect them from labour exploitation and abuse. There are recommendations not only to Korean-owned factories but to the sector as a whole. These include recommendations to increase compliance by factories through strengthening law, penalties, inspections and enforcement.

Other parts of the supply chain, such as international buyers and retailers, also need to take action on improving buying behaviour as well as investing in long-term win-win supply chain partnerships in Myanmar. This report is intended to be a useful source of data for their own human rights due diligence, and to enable them to support continuous improvement in factories through capacity building.

We hope that this report will also lead to greater awareness among international and Myanmar consumers, especially the younger generation, concerning the reality of labour conditions in Myanmar garment factories, which in turn can lead to more mindful garment purchases.

Finally, we call upon the Korean government, as a member of the Organisation for Economic Cooperation and Development (OECD) and a signatory to the OECD's Guidelines for Multinational Enterprises to ensure that their enterprises operate 'within the framework of applicable law, regulations and prevailing labour relations and employment practices, and applicable international labour standards'¹. We hope that the findings of this study will assist them in doing this.

INTRODUCTION

According to Myanmar Garment Manufacturers Association (MGMA), Myanmar exported US\$1.56 billion of garment products in 2014. This represents a near doubling of garment export revenue in just two years². MGMA report that brands and primary suppliers have indicated that a US\$8-10 billion Myanmar garment industry could be achieved by 2020³.

However the industry currently does not have systems and practices in place to adequately ensure human rights compliance in this period of rapid growth. This situation is compounded by the Myanmar garment industry being based on Cut-Make-Pack (CMP) system which is reliant on international agents and buyers, and that Myanmar lacks capacity to reform, implement and enforce the labour laws needed to safeguard basic labour rights and humane working conditions.

After 2012, Myanmar experienced a significant growth in labour protests across the country. The Research Department of the Ministry of Labour noted that from 2012-2014 there were 447 workers' demonstrations at garment factories⁴. Workers, tired of exploitative labour practices, unsafe working conditions and inadequate remuneration were for the first time in decades able to organise and speak out. They engaged in a range of industrial actions to seek better wages, an end to the use of forced overtime, improvements in health and safety and recognition of their rights to collective bargaining and freedom of association.

That these protests could take place at all was a consequence of reforms undertaken by the 2011 government of former General, President U Thein Sein. They are one aspect of wider activism about grievances with government, companies and the judiciary which has emerged as a consequence of greater freedom of expression and association. Labour rights groups, such as Action Labour Rights (ALR), have also been able to bring attention to poor labour practices across a variety of sectors.

Although labour protests have recently been less frequent, the causes of this are not clear. It might be attributable to improved working conditions - possibly brought about by the actions of labour groups - or an improved legal and policy framework, which has been developed with support from the International Labour Organisation (ILO) and other development partners. Another cause might be an increased number of buyers entering the market with a focus on ethical sourcing.

Against this backdrop, ALR identified a need to collect evidence on current conditions in the garment sector, from the perspective of workers. The study was undertaken to assess conditions in Korean garment factories in 2015, just before the introduction of the minimum wage.



WHY KOREAN FACTORIES?

There are a number of reasons why ALR chose to look at South Korean investment. Within the garment sector, it is highly significant, and was key in establishing Myanmar's garment export industry⁵. Since late 1988 Korea's investment in Myanmar amounted to \$3.36 billion as of March 2015 in 113 projects, accounting for nearly 7% per cent of Myanmar's total foreign investment (although the Daewoo Shwe Gas field is a major component of that), and in the manufacturing sector, second only to China⁶. According to MGMA's Myanmar Garment Industry 10 Years' Strategy, Korean-owned factories have the largest market share by employee numbers (36%) with an average size of nearly 1200 employees per factory.

Korean investment in the garment industry is almost exclusively Cut, Make, Pack (CMP) (see below). With little oversight of FDI to Myanmar from Korea itself, the situation is ripe for exploitation of workers. While there has been increased attention to labour standards in parts of the Myanmar garment industry that export to the United States of America (USA) and the European Union (EU) (some of which comes from Korean-owned factories)⁷, there is less focus on conditions in factories owned by, and in some cases exporting to, Korea (or Japan).

The Republic of Korea is a member of the Organisation of Economic Cooperation and Development (OECD). The Korean government therefore adheres to the OECD Guidelines on Multinational Enterprises⁸ which constitutes a commitment to 'encourage the positive contributions multinational enterprises [headquartered in Korea] can make to sustainable development and to minimise the difficulties to which their various operations may give rise'. These guidelines state that enterprises should operate 'within the framework of applicable law, regulations and prevailing labour relations and employment practices, and applicable international labour standards'.⁹

Like all governments, Korea needs to produce a National Action Plan (NAP)¹⁰ on Business and Human Rights to set out how it is implementing the 2011 UN Guiding Principles on Business and Human Rights¹¹. This NAP should identify the role that the Korean government, and its embassies, should play in ensuring its companies investing overseas respect human rights.

Action Labour Rights therefore conducted this study in the hope that its findings will assist the Korean government in identifying where it needs to take action to ensure Korea companies are compliant with Myanmar laws, and international labour and human rights standards.



THE CURRENT SITUATION OF THE

Myanmar experienced a first wave of investment into the sector in the 1990s, following the adoption of a market economy in 1989. It is now seeing a significant second wave of interest following government reforms and the lifting of sanctions. Its large, relatively well educated and cheap labour force is a source of competitive advantage compared to neighbouring countries with labour intensive industries where salaries are significantly higher, although there are other factors which make it less competitive such as energy costs and infrastructure¹².

The Myanmar Garment Manufacturers Association (MGMA) notes that prior to 2003, garment exports comprised up to 85% of the country's total exports¹³. At the time, 25% of these exports were sent to the United States. A combination of consumer boycotts and the introduction of US sanctions against Myanmar imports in 2003, led MGMA and others to claim that this resulted in losses of up to 85,000 jobs¹⁴. This led to a decline in the sector until 2012 although factories sought alternative markets in Asia. Between 2005 and 2010, the 130 or so surviving garment factories started to explore new markets, particularly in Asia, and Japan & Korea quickly became the largest foreign buyers of Myanmar's garment products. In 2010, Myanmar accepted 37.5% of Japan's CMP orders and 25.3% of Korea's¹⁵.

In 2013 the Myanmar garment sector was understood to comprise over 200 factories employing 20,000 people. This figure has grown significantly over the last two years. As of mid-2014, approximately two new garment factories were opening for business in Myanmar every week^{16 17}. A garment industry focussed market analysis and strategy report released in 2014 expects that the garment industry could increase to 1500 factories over the next decade if current rates of investment growth are maintained¹⁸. In 2015, the sector was estimated to be employing 300,000 workers.

Myanmar Garment Manufacturing Association (MGMA) reports that their mainly foreign invested garment manufacturing membership grew by 65 companies in 2014, and that as of October 2015, MGMA membership included 335 companies operating more than 300 garment factories (less than half of the Korean-owned ventures initially approached for this study were members of MGMA).

This rapid growth has not been accompanied by adequate labour rights protections. Business for Social Responsibility (BSR) contends that "labour, health, safety and environment standards do not yet consistently meet the levels expected by responsible buyers, local and international civil society, and an increasingly sustainability- conscious global consumer base"¹⁹. MGMA and other industry based initiatives²⁰ are working to establish benchmarks and standards designed to improve the conditions of workers, apparently recognising that good labour standards and health and safety practice will prove key in ultimately building a garment industry in Myanmar able to compete well on the global stage.

However, a number of industry dynamics works to undermine progress towards real improvement on the ground for workers. One of these dynamics is the dominance of the Cut, Make, Pack (CMP) system in the Myanmar garment industry. This system is a form of production on consignment in which the main raw materials such as fabrics and trims are provided by the overseas buyer and imported free of charge, then cut, sewn and packed in domestic factories that can offer free-on-board (FOB) production²¹. It is estimated that 90%

MYANMAR GARMENT INDUSTRY

of Myanmar's garment industry operates in this way, making them dependent on agents or buyers, both foreign and local to establish contracts and negotiate terms. The pressure for quick and cheap turnaround is great, and there are almost no incentives for these agents to support factory improvements.

There have been other economic and social pressures on Myanmar workers, especially in the garment sector. Significant rural to urban migration has taken place to Yangon. Poor quality housing stock, and high rental costs, have made it hard for workers and their families to have access to safe and affordable housing.

Many garment sector workers live in and around industrial zones. To encourage increased investment in manufacturing, in 2005 the Myanmar government introduced a scheme of industrial zones. In 2012, there were over 20 designated industrial zones around the country. In the Yangon region there are four main zones, many of which house garment factories²²:

- East Yangon industrial zone (comprising South Dagon Industrial Zones 1, 2 and 3, Shwepaukkan Industrial Zone, North Okkalapa Industrial Zone, South Okkalapa Industrial Zone, Dagon Seikkan Industrial Zone, Thaketa Industrial Zone and East Dagon Industrial Zone);
- West Yangon Industrial Zone
- South Yangon Industrial Zone,
- North Yangon Industrial zone (Hlaingthaya Industrial Zone, Shwepyitha Industrial Zone and Mingaladon Industrial Zone).

Most Yangon industrial zones provide for agro-based industries, wood-based industry, textiles and garment industry, food production industry, machine tools and spare parts industry, and porcelain and chemical industries²³. These zones contain a mixture of domestic and foreign investment; sometimes the source of the investment is unclear. From initial site visits as part of scoping for this research study, it was evident that 11 garment factories in Hlaingthaya Industrial Zone and several factories in a number of other industrial zones surveyed are registered as local enterprises, despite having foreign ownership.

The 2008 Constitution of Union of Myanmar guarantees in Section 24 that 'The Union shall enact necessary laws to protect the rights of workers'. Further, Section 349 (b) of the Constitution sets out that 'Citizens shall enjoy equal opportunity in carrying out occupation'. Section 359 specifically prohibits forced labour except 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.

Workers' rights to freedom of association and collective bargaining were significantly curtailed between 1990 and 2011. All labour laws in force during the period dated from earlier eras, and there were no amendments or new labour laws enacted during this period.

All forms of freedom of association were regarded as an 'anti-government activity' for which heavy penalties were exacted. During this time, when workers' unions or associations were effectively prohibited, it was very difficult for outsiders to monitor what was happening inside the industrial zones. Often factory security personnel were trained or instructed to report to the management anyone taking photos inside the factories or organising union activities among workers. Media were denied access to cover labour disputes and industrial action to prevent simple disputes between factory workers and owners from escalating into political movements. The basic *modus operandi* during this period of military rule was to deny that any problems were occurring between workers and factory owners. This approach was carried over into 2010 during the first General Elections to be held under the 2008 constitution where all political organization activities were banned inside the industrial zones.

More information about conditions in the Zones began to emerge after 2011, including from government. Min & Kudo (2012) found that only Mingaladon Industrial Park and Thilawa Industrial Zone were meeting standards, while the others were under-performing on basic human rights and health and safety requirements.²⁴

As orders picked up, Myanmar labour unions and activists drew attention to the systemic use of excessive working hours in the sector. Reports began to be published about increasingly poor labour rights practices²⁵. Workers report 7:30 a.m. starts and being required to finish work at 2:00 or 3:00 a.m. the following morning. In such cases, if the individual worker was unable to return to commence work again by 7.30am, basic wages could be docked. In the worst cases, workers reported this happening up to 15 days in a month.

In addition, these reports indicated that many women workers were often forced to resign from work as soon as becoming pregnant. Priority in recruitment was often given to single girls or non-pregnant women. Some women reported being required to prove that they weren't pregnant. On return from maternity leave, they were treated as new recruits.

Workers were often not given any opportunity to refuse overtime at a factory. The penalty rates imposed for refusing to work overtime was higher than the basic wage earned. Other penalties, such as restricting the payment of Sunday bonuses were also common tactics used to pressure workers into performing excessive hours. In such circumstances, a worker would forfeit their right to any Sunday bonus if they took medical leave during the pay period. Across Myanmar's industrial zones, workers under 18 years of age were thought to comprise up

INDUSTRY AND LABOUR RIGHTS

to 50% of the workforce at some factories, where children would be taken on as apprentices at around 12 years of age²⁶. Children were illegally required to perform the same duties and workloads as adults. On occasions when government inspectors arrived for inspections, these children were hidden inside cardboard cartons, toilets or closed rooms to avoid detection²⁷.

Workers were also unaware of their rights to apply for and take leave, including maternity leave. Women workers also were not always able to access maternity assistance through the Social Security Department. Some workers did not even know of their right to any form of maternity leave.

Despite garment industry advocates rationalising the exploitative working as the impact of economic sanctions, in reality, these practices existed in Myanmar's garment industry long before 2003. Some labour advocates contend that factory owners benefited from the media blackout and clampdown on freedom of association during this time, increasing their profit margins through labour exploitation.

Some working conditions in garment factories improved a little after the promulgation of the 2011 Labour Organisation Law and the 2012 Settlement of Labour Disputes Law allowed for greater trade union involvement in promoting labour rights.

In April 2013, prompted by an appeal from the Labour Rights Defenders and Promoters Network, the Myanmar Parliament established a Joint Commission to Study the Rights of Owners and Workers, comprising 26 parliamentarians. The Commission visited 36 factories in Yangon and Bago regions to compile their findings. The Commission submitted its Final Report to the Pyithu Hluttaw on 13 August 2013 where it outlined that the average worker labours 13 hours a day and spends on average 12 hours on their feet. The Commission report also outlined that a large number of Myanmar factory workers are in poor health and are also psychologically impacted by exploitation.

In addition, the Commission also found that despite legal requirements, no first aid kits for the workers were provided on factory sites and that medical personnel provided on site were not Registered Nurses as required under the law. The Commission was also concerned with workers' lack of access to clean drinking water which should be provided by the factory, as well as transport buses lacking adequate safety and carrying loads above permitted levels. The Commission commented that basic pay was generally set at extremely low levels which has resulted in low overtime pay based on the same basic rates. Consequently, factory workers could only earn 47,000 MMK per month even if they attended work every day without fail.

U Khin Aung Myint, Speaker of Amyotha Hluttaw spoke on August 22 regarding the submission of the Final Report by the said Commission declared, "If we look at the situation of our factory workers we will see that their situation is not much different from the situation prevalent in the 19th century".

Responding to the report, the Deputy Minister for Labour, Employment and Social Security told the Pyithu Hluttaw on 27 August 2013 that all factory owners who were found to force workers to complete overtime would in the first instance be cautioned, escalating to a prosecution for

a third instance²⁸. Despite this, excessive overtime practices, often exacted under pressure or threat of termination, continue to be reported including in this study. Behind such practices appears to exist a fundamental belief of some factory owners that workers are their property and can be exploited to their essential human limits.

In 2014, fifty factories were cautioned and made to sign undertakings not to engage in illegal overtime work after unannounced inspections by the Factories and General Labour Laws Inspection Department (FGLLID). Of these fifty, twenty factories were prosecuted by the Ministry because they continued illegal overtime practices, despite signing an undertaking. Most of the prosecuted factories were garment factories²⁹. However despite successful prosecution, punishment was merely 3 months' imprisonment - never pursued - and a fine which at its highest was just 50,000 MMK (around \$50). Effectively, the system facilitates continued labour exploitation.

As work-related injury and fatality cases were growing with the growth of factory numbers (including in garment factories) in 2014, the Labour Department took actions to inform factory owners of their responsibilities under the laws and regulations of the Yangon Regional Government. These efforts, while to a large degree falling on deaf ears, are welcome, but must continue to be strengthened alongside wider legal and policy reform and enforcement measures.

As the findings of our study show, exploitative practices continue to flourish. During February 2014, around 2,000 workers from Chinese and Korean-owned factories again went on strike demanding a monthly take home pay of just 80,000 MMK (around \$78 USD)³⁰. From 15 February until the end of July 2015, further labour strikes took place at ten garment factories. Workers again raised concerns over continuing labour exploitation and non-compliance with local labour laws, including the right to a decent wage.

A contributing factor to these protests included the slow implementation and enforcement by the Ministry of Labour of existing laws, including the setting of the level of a minimum wage, which had been established in principle in 2013. Many labour advocates felt that government inaction encouraged continued violations from the side of the factory owners. Additionally, workers' groups felt that the punishment provisions of the 2012 Settlement of Labour Disputes Law were too weak and poorly enforced.³¹

In June 2015, the government proposed and in August 2015 finalised, the long overdue minimum wage at 3,600 MMK per day following a year of consultations between unions, government and employers. Both unions and employers have criticised the proposal. Local unions called for it to be set at 4,000 MMK. Employers said that the proposed minimum wage was unsustainable and that they could not afford more than 2,500 MMK per day. At least 90 Chinese and South Korean garment manufactures threatened to close down their factories³². Consequential changes to pay packets following the introduction of the minimum wage continue to be an ongoing source of local labour disputes.



TRADE UNIONS, EMPLOYER ASSOCIATIONS

The 2011 Labour Organisation Law regulates collective industrial relations in Myanmar as well as trade unions, employers' associations, and collective actions. This law sets out a number of lawful categories of organisation. These include basic labour organisations at company level in same trade or activities; township labour organisations; and regional or state labour organisations at township and regional level in same trade or activities; labour federations of unions in same trade or activities; and a Myanmar labour confederation at the national level³³. Many garment factory workers' unions were formed after the Trade Union Law was promulgated in October 2011. Among the first twelve trade unions to be officially recognized were six trade unions representing garment workers. Two township level – HlaingTharyar and Shwe Pyithar garment workers' unions were also formed. Myanmar trade unions receive assistance from international trade union organizations such as The Solidarity Center.³⁴

The situation for workers has much improved as a result of these developments. Groups of employees can now legally meet, discuss issues and negotiate solutions. However, despite these new freedoms, some employers, particularly in the garment sector, continue to persecute workers for demanding their rights, including the right to form trade unions. This persecution of trade union members undermines efforts undertaken by industry bodies such as the MGMA who in their 2015 membership Code of Conduct³⁵ committed themselves to be compliant with national laws and regulations. Specifically

“The Companies observe all applicable national laws, rules and regulations in force. In areas not or only weakly regulated by national law, the Companies strive to act according to the values and principles laid down in this Code

and,

...Regarding their business activities, the Companies endeavour to exercise due diligence to detect, assess and mitigate risks to human rights. In case of human rights infringements caused directly by the Companies, they shall take necessary and reasonable steps for their remediation....

In Myanmar, in addition to trade unions and workers organisations, the law permits organisations representing factory owners. Currently, there are eight township level factory owners' trade unions representing around 352 individual factories.

Despite their establishment being provided for in Section 2 of the Trade Union Law, they play an unclear role in labour relations³⁶. Aside from being members of the Arbitration Council, representatives of these factory owners' trade unions have no other clear function. The Association of Korean Garment Manufacturers is organized as a Korean community association. However, their activities are secretive and have little contact with outsiders or local trade unions.

The main industry bodies that represent the economic and business interests of the garment sector are the Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) and its member organisation, the Myanmar Garment Manufacturers Association (MGMA), both formed during the 1988-2011 period of military rule.

TIONS AND INDUSTRY ASSOCIATIONS

These bodies lead all major discussions around policy and legal issues facing the sector.

There are variety of initiatives working with MGMA underway to improve social compliance in Myanmar garment sector. To name a few, SMART Myanmar is an EU funded programme that promotes social dialogue and workplace development in the garment sector³⁷. Additionally, there is DFID's Business Innovation Facility.

In 2015, a National Tripartite Dialogue Forum was formed with representatives from government (9); trade union (3 each from CTUM, MTUF and AFFM-IUF); and employers (UMFCCI), and technical support from the ILO to be the focal consultative forum for all matters concerning labour law.



STUDY METHODOLOGY

The research was conducted in two phases using a mixed methodology comprising interviews with workers and management/supervisors and “workplace surveys” with employees providing a mix of qualitative and quantitative data, as well as a review of secondary data.

Phase 1 of the research (Nov 2014-Jan 2015) comprised a literature review to gather relevant background information on state of the garment industry in Myanmar, with a particular focus on Korean investment, as well as research into relevant laws, policies and standards. A preliminary “workplace survey” (interviews at management level) was completed to identify Korean garment factories, the type of investment arrangement, and the size of their current workforce. As part of this process 73 garment factories were identified and management were approached for initial data gathering on the type of investment, number of employees and details of managers and contact persons.

Out of the 73 factories that were approached, only 26 initially responded (see Appendix 1). Myanmar Glogon, Yangon Pan Pacific, Jewoo, Doringa and Green Garment factories refused requests for information outright, whereas others did not immediately reply. ALR also approached eight Township Labour Offices at Hlaingthaya, Insein, Mingaladon, South Dagon, Shwepyitha, Thanlyin, Thaketa and Bago for information. Only five Township Labour Offices - Mingaladon, Thanlyin, Shwepyitha, Insein and South Dagon - responded with relevant data. Data gathered in Phase 1 assisted the team in identifying an adequate representative sample to follow up with individual worker surveys. Detailed questionnaires and research tools were developed for both factory interviews and an 82-question worker survey developed (see Appendix 5).

Phase 2 of the research took place from April to June 2015 (i.e. before introduction of the minimum wage in September 2016). A team of 10 field researchers conducted 1,200 individual surveys from 39 factories (see appendix 2, and 3). The targets for workers to be surveyed were set based on information gathered from the factories that responded during Phase 1 (Factories >2,000 workers = 70 interviews; 1,000-2,000 workers = 40 interviews; 500-1,000 workers = 20 interviews; < 500 employees = 10-15 interviews).

The same field researcher who conducted initial surveys with factories returned to conduct Phase 2 individual worker surveys. Field researchers were first given 2 days training on methodology, question design and research ethics. A follow up day of training was conducted in May on the survey questions and the data it was designed to collect.

All members of the field research team were trained in data collection, and supervised by experts. The research project was guided by a coordinating team which met regularly to ensure data collection and research standards were met.

Challenges in Phase 2 included difficulties arranging interviews with workers on-site at factories. While some workers were willing to participate openly, many preferred to participate off site. This required more time than planned to coordinate alternative access to workers. Interviews also took place in workers’ dormitories, hostels, teashops, the ALR office, near the factory and at nearby snack shops. In addition to factories, it was also challenging to organise interviews in factory-provided worker hostels. A minority of hostel owners prohibited interviews believing

them to be 'politically motivated'.

Other challenges included gaining initial access, finding suitable times in long working days, low availability of female field researchers, and building trust. For example, in Bago it took longer than expected to establish contact with garment factory workers due to unfamiliarity with the area (which is two hours' drive from Yangon), few contacts in the local community and initial mistrust. Interviews were only possible after dark, and women had initial concerns with meeting a male researcher at this time of day. At New Green Garment and A1 factories in Mingaladon Township and E-land Myanmar and Pan Pacific factories in Shwepyitha Townships, workers were able to complete surveys in writing.

Workers who were unwilling to participate in the survey indicated fear of retribution. Some actively encouraged others not to participate for this reason, even in some cases intimidating their colleagues. Workers from lower pay grades or mid-level staff were more willing to answer the questionnaire, compared to daily wage earners and the higher-level staff who were more reluctant.

Child labourers were particularly reluctant to answer the questionnaire. The survey results may therefore underestimate the prevalence of child labour in Korean garment factories; the research team believes it to be higher. Child labourers were afraid of losing their jobs or being sacked if the questionnaire revealed that child labour was being used at the factory. Adult workers also did not want to answer child labour related questions, as they feared the children could lose their jobs.

Some workers were also approached after the survey to provide follow up information to the research team in three focus group settings. More detailed information was obtained about individual workers' circumstances and experiences within the factory to provide more context. Two case studies interviewed after the introduction of the minimum wage in September 2015 are included in the report, one from a factory with significant non-compliance, the other is from a factory with better performance.

Respondent Profile

The research team conducted 1,200 individual interviews (see appendix 4) with individual workers from 39 Factories (see appendix 2). Interviewees had a variety of roles within the factories, but were mainly sewing machine operators. Other roles included ironing, packing, quality control, cleaning, general assistants and cutters. Out of the 1,200 respondents interviewed, 78% were women, 22% were men. On ethnicity, 86% of all respondents identified themselves as ethnic Bamar, 14% were Rakhine and Karen.

Respondents had worked in the factories for between 2 months and 2 years. No one interviewed had worked for longer than 2 years in a single factory. Over 87% of respondents had completed some kind of secondary schooling: 14.5% had completed primary education, 44% had completed middle school, while 28% had completed high school.

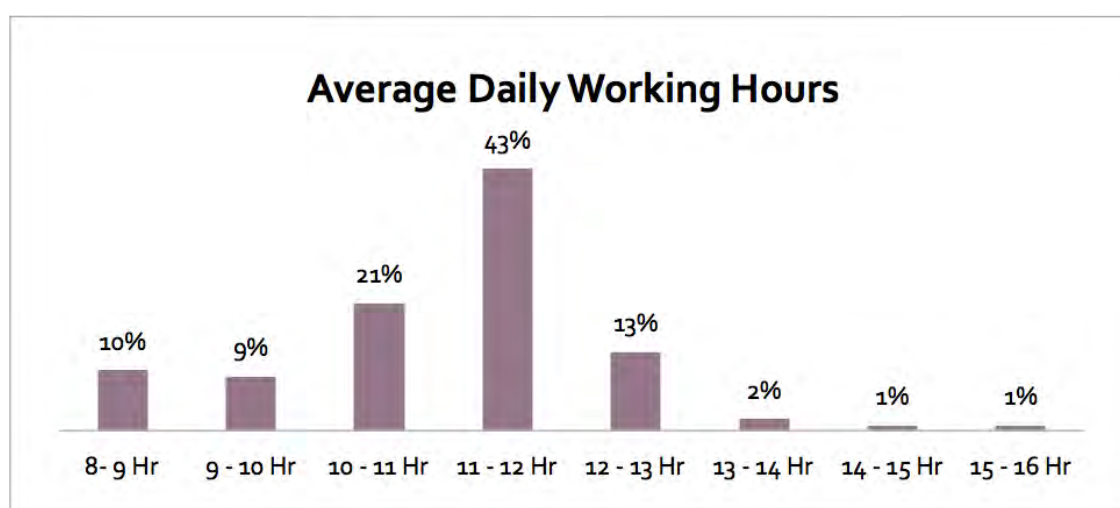
MAJOR FINDINGS

Working Hours and Overtime

There was a widespread problem of non-compliance with laws on working hours and overtime. Under Myanmar's Factory Act 1951 as amended on 20 January 2016 a normal working day comprises 8 hours, with a total of not more than 44 hours a week (with limited exceptions). Overtime in excess of these limits (currently paid at double the normal wages) must not exceed 16 hours a week. Fig 1 shows that 43% of workers surveyed work on average 11-12 hours per day. This amounts 55-60 hours for 5 working days per week. Another 17% have average working hours of 12-16 hours per day, far beyond the legal limit.

**FIG.
01**

Percentage of employees and average daily working hours



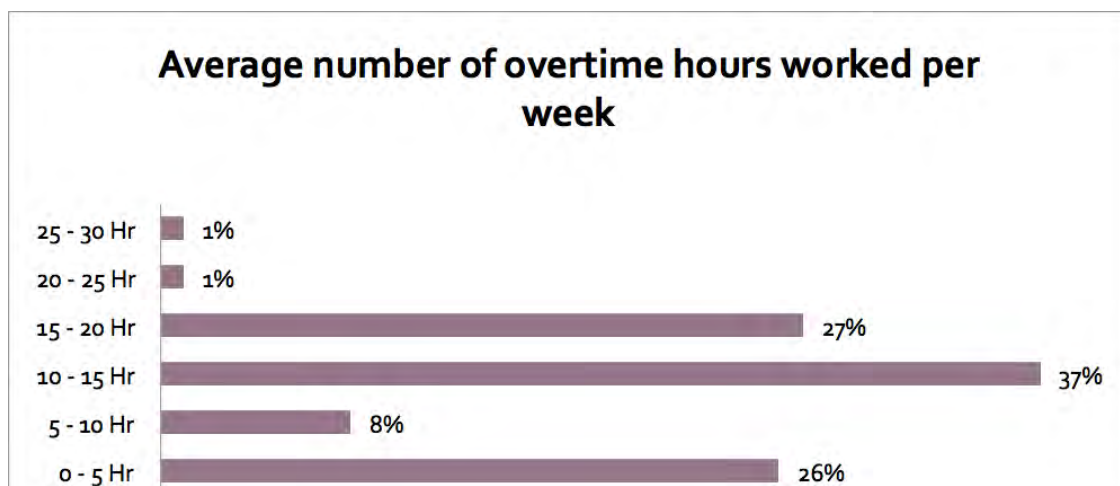
In factories surveyed, excessive overtime appeared to be the major issue of concern, both from a legal compliance perspective, but also in terms of the key issue impacting on the health, well-being and safety of factory employees. Almost 30% of the factories surveyed failed to abide by the maximum 16 hours weekly overtime limit.

Figure 2 overleaf shows that 27% of workers interviewed work between 15 to 20 hours overtime per week and 2% worked extremely long hours of overtime (20 -30 hours per week).

Where there were many orders to fulfil, workers had to work what is known as a “Full Night” until 12-1 a.m. or “Alin” (meaning ‘light’ i.e. up to dawn), i.e. until 3-4 a.m. next morning. An ‘Alin’ shift that starts at 8am and ends at 3 a.m. would total 19 working hours. Such shifts are normally only worked by packing departments, the last destination for finished goods, rather than the whole factory.

**FIG.
02**

Average overtime hours worked by employees per week



Nearly two thirds of workers surveyed (62%) reported being unable to refuse working excessive hours. They also reported a range of tactics used by employers to force working excessive overtime, such as being threatened with loss of promotion and being denied customary end of year bonuses. Some workers also reported being verbally criticized for refusing excessive overtime hours.

The other 38% of workers felt they could refuse overtime if they wished. However, they felt a range of other pressures compelled them to work excessive hours, mainly the inadequacy of basic wages to cover their basic costs of living, often less than the amount earned through overtime (see next section).

It should be noted that survey data were collected prior to the introduction of the 3,600 kyats minimum wage introduced in September, 2015. Since then, it has been reported that workers are no longer being told to work as much overtime because double pay at the minimum wage rate is unattractive for employers. (furthermore, since introduction of the minimum wage, in many factories other types of payment which were previously made such as transportation allowance, assistance fee and bonuses have been cut, leading workers to claim that their take home pay is now even lower than previously.

Scheduled Break

Almost all workers reported that they have 30-minute meal breaks. However, at a factory with over 1,000 workers, even if workers take breaks in shifts, the period of the break is not adequate. Workers are required to scan their time cards at the machine scanner that track when they start and finish their break. They have to queue to use the scanner, and have some additional long queues to use (the generally inadequate number of) toilets and to get water etc.

Calculation of wages

The basic calculation method for worker salaries differed widely from factory to factory. Only the categories of basic salary overtime pay and attendance fees were similar across factories. A workers' representative from the Arbitration Council reported to ALR that around 18 different

methods of calculation for a worker's salary have been observed. 98% of respondents also reported a range of special payments being paid for working excessive hours without absence.

Factory 1 (Cutter)

Basic Salary	Over-time	Attendance bonus	Scarcity Bonus	Meals	Overtime Bonus	Sunday Bonus	Transportation Allowance	Deductions			Total
								Social Welfare	Hostel Fee	Gate pass	
33,750 25 days	40,132 109 hrs	7500	4808	5700	4200	6750 (4 days)	5000	675	0	0	107,165

Daily wages: 1350 MMK; Overtime rate: 368.18 MMK

Factory 2 (Sewer)

Basic Salary	Over-time	Attendance Bonus	Assistance Bonus	Bread Allowance	Sunday Bonus	Special Bonus	Bus Allowance	Deduction	Total
								Social Welfare	
29,400 28 days	35,509 124 hrs	6000	37600	5700	3150 3 days	0	2800	651	114,400

Daily wages: 1050 MMK; Overtime rate: 286.38 MMK

Sample payslips provided to workers from two different factories.

'Attendance Bonus' is used to ensure workers attend work every day. Workers reported being paid between 6,000 to 20,000 MMK per month under this practice if they commit to attend work without absence. If they take leave for only one day or are a bit late for work on a particular day, they lose their 'attendance fee'.

"Overtime Bonus" is paid to workers who always work overtime when instructed.

"Special Bonus" is paid to workers who produce more than required quotas and on the recommendation of supervisors.

"Sunday Bonus" is paid to those workers who work on Sundays (a paid leave day under Myanmar Law).

"Scarcity Bonus" started to appear following demands for basic salary increase by workers, as an alternative to actually raising basic salary that would have had a knock-on effect on overtime for employers. "Scarcity Bonus" and other additional allowances e.g. for transportation, meals and 'assistance' were instead provided.

The 1951 Factory Act and its 2016 amendment states that if workers are required to work on Sundays, employers have to provide an additional day of leave. Furthermore, employers have to provide this information together with the replacement holiday and obtain approval from the Factories and General Labour Laws Inspection Department (FGLLID). Some Korean factories surveyed were breaching this legal requirement and requiring workers to work on Sundays without replacement holidays.

The 'Gate Pass' shown in the payslip for Factory 1 under the category of 'Deductions' is illegal

under the Payment of Wages Act, 1936 and newly drafted Payment of Wages Act 2015 that was recently approved at Amyothar Hluttaw. This “Gate Pass” deduction was designed to force workers to work overtime by cutting wages if a particular worker passed the factory gate without accepting overtime.

Extra Time

Some Korean factories expect two types of overtime. There is overtime which is announced in advance, and paid at the double rate. There is also what workers call ‘extra-time’, which is unplanned additional hours of work used to complete daily orders, which allows employers to avoid paying legal overtime rates. The use of ‘extra’ time is not permitted by law. Unpaid ‘extra-time’ work was reported by 15% of workers. Workers indicate that extra time is rarely over an hour per day in total, but over the course of a month, this amounts to a significant time for which workers are legally entitled to be paid overtime rates and those factories which use the practice are engaging in wage theft. Many workers also reported discrepancies in working hours between the records kept by workers themselves and the office, making review of such practices difficult.

Following the introduction of the minimum wage, while official overtime hours have been reduced, some factories including some Korean factories in survey are reportedly using ‘extra time’ instead.

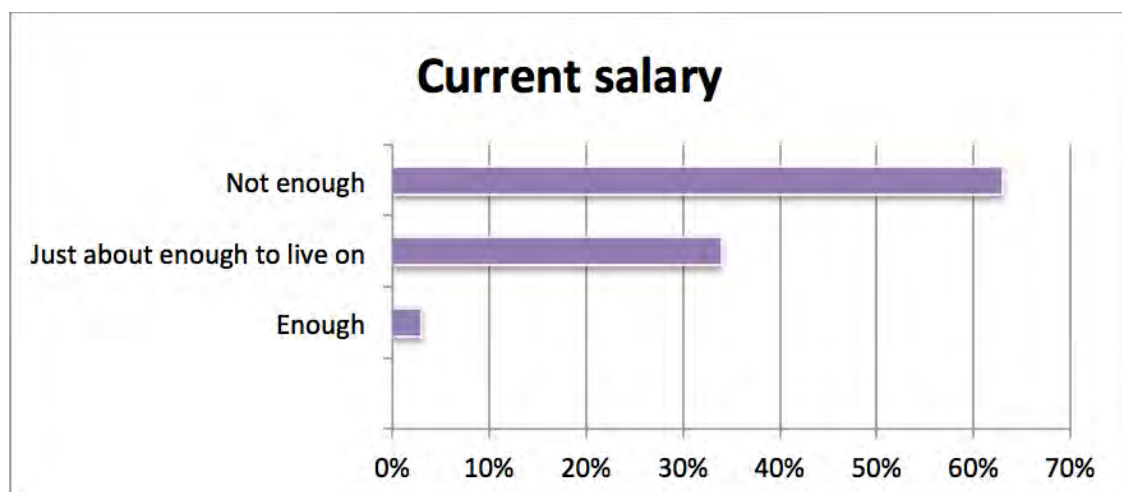
Salary Adequacy

When workers were asked if their salary was adequate to cover basic living cost, 63% claimed that their current salary was not enough for covering basic living cost while 34% of employees said that they could make it stretch if they found other ways of cutting living expenses (see Figure 3).

This inadequacy was exacerbated during 2015 as commodity prices rose significantly (the Central Statistics Organization reported inflation at 10% in July 2015, up from an average of 5.31% during the previous five years). Combined with the impacts on pay-packets of introduction of a minimum wage, workers purchasing power is declining, showing the pressing need for a genuine ‘living wage’ in the garment sector.

**FIG.
03**

Worker perceptions of adequacy of salary to cover basic living cost

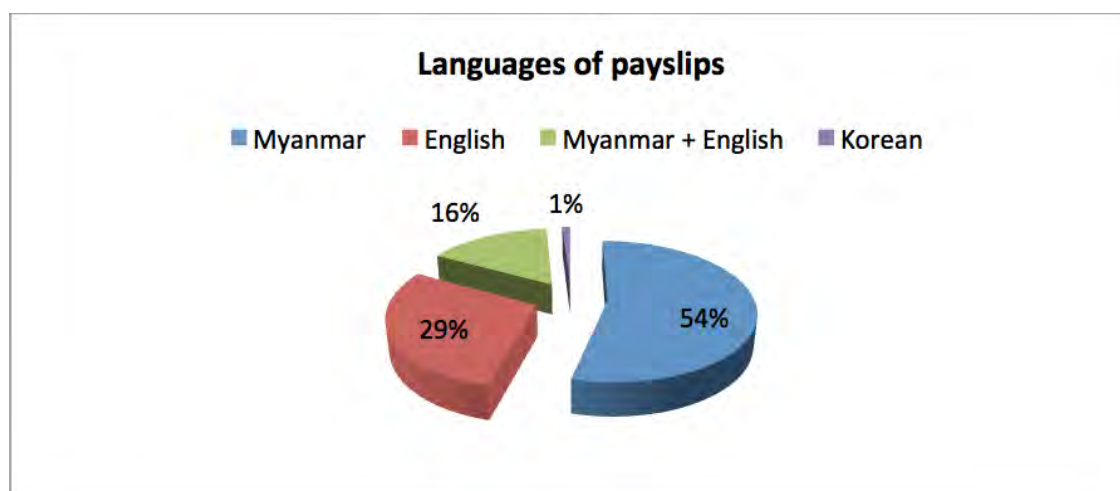


Payslips

Many workers reported receiving payslips that did not properly itemise pay and deductions in a way that was easily understandable. In addition, 30% of workers said they were provided payslips only in English or Korean that few could understand. This practice is in breach of the legal requirement for the payslip information to be provided in Myanmar language.

**FIG.
04**

Languages of payslips



Employment contracts

Under the 2013 Employment and Skill Development Law, Art.5, the business owner is required to enter into written employment contracts with all employees within 30 days of the commencement of work with the exception of workers on training and probation periods. If the employer fails to adhere to this requirement, Art. 37 said he/she shall be punished with imprisonment for not more than six months or with a fine or with both. According to labour rights groups, this law is not yet being enforced.

This study revealed that only 40% of workers claimed that they have signed employment contracts. Not all of those have access to them. A 19-year-old interviewee said: "I have worked for over 4 years and recently signed an employment contract. However, workers are not allowed to keep their contracts. The employer took it back after we signed. I do not even know what I have signed for in the contract."

Since Regulations under the Employment and Skill Development Law had not been enacted at the time of the survey, each factory had its own policy regarding the length of the contract term. Among the respondents who had a current employment contract, the majority stated their contracts were temporary or short term. Such a practice means that job insecurity is prevalent in the sector (See fig 5). On August 31st, 2015, the Labour Ministry introduced a compulsory standard employment contract for all workers in Myanmar. Due to lack of consultation with trade unions and business, this standard employment contract has been widely criticised.

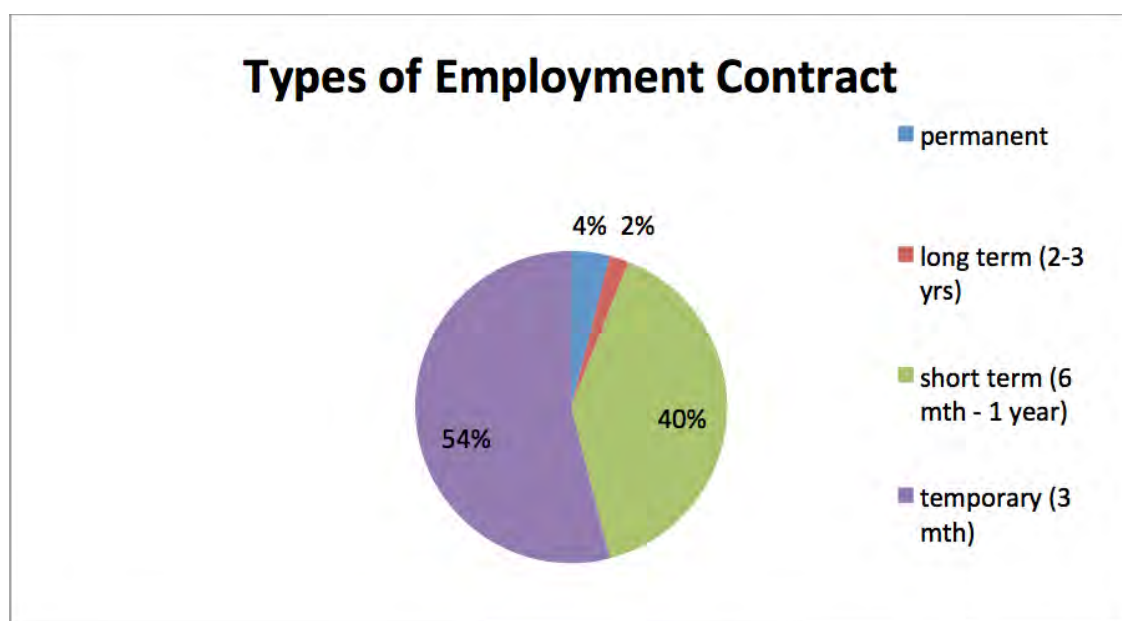
Regardless of the actual legal requirement, agreeing to a transparent and equal employment contract as soon as a qualifying worker is hired should be a fundamental element of the factory's human resources practice. It sets the tone for establishing trust in the employer-worker relationship. The employment contract needs to be in Myanmar language, the key

clauses and contract details need to be explained to the employee, who should be provided with a signed copy. This is good practice and prevents unnecessary misunderstanding in future. A review of the hiring process and contracts is also a commonly required process for third party social compliance audit.

The Labour Ministry's approach of imposing a lengthy, mandatory, time-limited and unsuitable 'Standard Employment Contract' on all employers will not, however, address these problems and could exacerbate them. What is needed is better human resources management in factories, with professionalization of the human resources function, including ensuring full awareness of employment law.

**FIG.
05**

Types of Employment Contract



According to the law, the employer should lodge the employment contract with the Township Labour Office for checking and approval purpose. The Labour Office will scrutinize the employment contract, and if there is a union at a factory, the contract is forwarded to the union for comments. If there are some issues with the contract, union members and the employer will meet at the Township Labour Office for negotiation to finalise it. Where such negotiations fail, it is often linked to restrictions on union activities including freedom of association or collective bargaining (see below).

Freedom of Association and Collective Bargaining Agreements

The 2011 Labour Organization Law permits employees to freely associate and organise unions. Although the survey indicated that 67% of factories had labour unions available to handle negotiations, discussions and disputes. In reality, union members' rights and their activities did not receive the respect and freedom provided by law. Seventy percent of the respondents said union members or leaders who have raised complaints with management are discriminated in terms of payment, promotion, overtime payment and often led to termination of their employment contracts.

Several cases in the study showed that union members had been dismissed when their contract term ended since the employer had not offered a contract extension. Although union members knew that they were being penalised due to their activities in the union, they were unable to lodge a complaint since termination of the contract was legal. One 19-year-old

union member said, “I am afraid that after the contract term is finished, the employer can fire us without compensation, so I did not sign a contract.”

According to the survey, the majority of the factories (96%) did not have a Collective Bargaining Agreement (CBA) in place. CBA is an international good practice for establishing an agreement between the employer and the union. Provisions agreed under the CBA should be legally binding clauses, which cover all the beneficiaries under the CBA in their individual contracts.

In Myanmar, 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 is considered the plaintiff in dispute resolution, not the individual worker.

According to Myanmar context as our survey revealed, CBA are normally signed as a result of negotiations between the employer and employee after labour protests. While in most of the countries, CBAs negotiated without protests in many cases between employers and experienced union leaders. However, due to lack of legal enforcement, the terms and conditions agreed in CBAs are not often included in individual contracts, leaving Myanmar CBAs toothless.

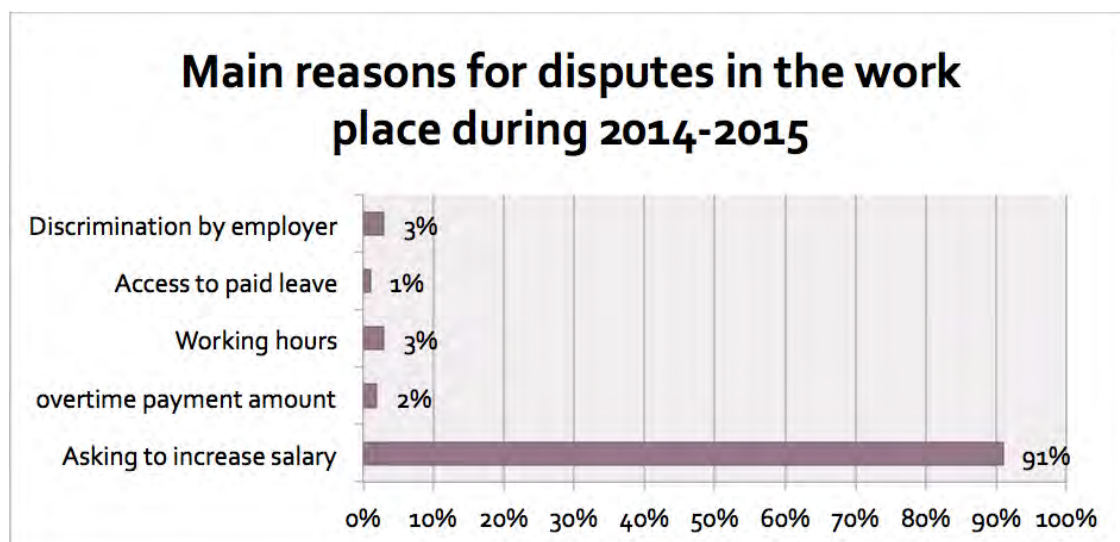
The survey also reveals that in some areas, such as Thanlyin and Bago, where there are few unions or labour activists, workers reported greater violation of their rights. Workers organisations provide practical protection of workers' rights in the Myanmar garment industry and their activities should be supported and strengthened wherever possible. They also provide a valuable and necessary channel for workers to express grievances and concerns in a structured way, which deserves greater recognition by factory owners.

Workplace Coordinating Committees & Dispute Resolution

Under the 2012 Settlement of Labour Disputes Law, an employer with more than 30 employees is legally 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 management representatives. The Committee should be renewed on an annual basis. Survey data revealed that only 14% of Korean garment factories surveyed - all of which had more than 30 employees - have Workplace Coordinating Committees.

Worker representatives are required to have at least 6 months of service, be over 21 years of age and be engaged as permanent employees. This is problematic for selecting representative workers as only a small percentage of workers are appointed as permanent workers.

Respondents also outlined a number of causes of workplace disputes occurring in factories during the year 2014 to 2015. The vast majority (91%) of disputes were related to payment of salary including underpayment and unfair deductions. (See Fig.6)

**FIG.
06****Main reasons for labour disputes within 2014-2015**

When asked how satisfied they were with complaint resolution processes, 72% expressed dissatisfaction. In particular, they said that because employers do not pay serious attention to minor issues, these could escalate into protests and hunger strikes. In such cases, many reported that employees who organised such activities including through involvement in unions had been threatened with termination of employment, assault or arbitrary arrest and detention.

Under the 2012 Settlement of Labour Disputes Law, disputes and complaints brought to the Committee should be resolved within 5 days. Committees are required to inform the Township Labour Office in an official letter signed by all parties on the status of the issue (regardless of whether it is resolved or not) at the end of the stipulated period. If negotiations fail at Workplace Coordinating Committee level, a dispute can be referred to the Township Conciliation Body where the matter must be resolved within 3 working days.

Where there is a failure to resolve, matters can then be referred to an Arbitration Body. The Arbitration body is required to resolve disputes within 7 working days. If the worker/workers is/are not satisfied with the outcomes, he/she/they has/have the right(s) to appeal to the Arbitration Council by individual or by the Union. In some other countries, 15 workdays is a more common practice, which allows the Arbitration body to have enough time to conduct investigation, collect evidence and possibly give mediation.

In ALR's experience, disputes are rarely resolved in the stipulated period. The delay is mostly at the Township Conciliation Body level. There are two reasons for this: firstly, the sheer number of disputes being lodged at the Township level; and secondly, lack of human resources available for effective dispute resolution.

Another problem is that the Chairman of the Conciliation Body is also the Township Administrator who has many other duties. Wait for their availability for all dispute resolution meetings causes further delay. There is also a lack of human resource availability at overburdened Arbitration bodies. Furthermore, employers rarely obey the decisions from the Arbitration bodies since they can easily get away with paying insignificant fines without being sued at court or facing a jail sentence.

Medical Leave Entitlement

Under the Leave and Holiday Act, 1951 (amended July 2014), workers are entitled to 30 days of medical leave with full pay if 6 months service has been completed. Leave without pay can be provided to employees with less than 6 months of service.

Respondents claimed that requesting and receiving paid medical leave is not a straightforward process for many employees. Only 22% of workers surveyed were able to access the 30 days medical leave they were legally entitled to. Another 39% reported that they were not permitted to take more than three days medical leave before the employers cut their salaries or they were fired. This is in blatant disregard of current legal entitlements. The rest of the workers reported a range of limitations and restrictions in taking medical leave. For example, even after they worked for a year at a particular factory, they get limited days ranging from 6 days to 13 days for medical leave.

According to the law, workers only need to show a doctor's certificate. However in some factories, workers are required to show a certificate from a doctor from a hospital or clinics prescribed under the 2012 Social Welfare Law. This restriction may have been introduced by factories to restrict the taking of medical leave. One worker reported:

“One day, I woke up sick and wanted to take medical leave. But as I needed to see the doctor from a Social Welfare clinic and that is quite far away from my place, it would cost me to travel. I also do not have social welfare card and it will take at least half a day to go through those process in order to request one day medical leave. That's why I just stayed at home and got my salary cut.”

It was reported that unions had helped workers to take medical leave in advance in emergency cases without needing to show the medical certificate prior to taking leave. They had been able to show a certificate later on return to work.

Women's employment rights issues

Under the 2012 Social Security Law and its 2014 regulations, pregnant women are entitled to 6 weeks leave before birth and 8 weeks after birth. While workers are entitled to monetary assistance from the factory, an individual factory may refuse to pay if a worker is entitled to Social Security payments. For a worker to be entitled to Social Security payments they have to have paid social security contributions for a minimum of 6 months.

There is no reliable data on maternity leave in Korean (or other) garment factories in Myanmar. Most of the surveyed workers were young women who had little personal experience of maternity leave, and only 336 respondents replied. Of those, only 21% believed that they could access paid maternity leave with the right to return to work; 79% felt they would have to leave their job if they were pregnant and have no right to return to their normal position at work after giving birth. This indicates a significant lack of understanding of women's rights and entitlements. Factory management need to raise awareness of leave and entitlement of workers by putting them on the factory's notice board or by giving awareness raising talk.

On verbal or physical harassment, 7% of female respondents had experienced or witnessed sexual or verbal harassment at the – predominantly female – workplace, mostly on their way

back late to their home or dormitory. They had been harassed by unwanted hand-holding and name-calling committed by foreign or local male managers or ferry drivers. Another kind of harassment revealed in the survey were instances of factories installing CCTV in bathrooms and toilets, including in factory-provided hostels.

Concerning physical or verbal abuse, 10% of respondents reported verbal abuse and some physical assaults by supervisors during working hours. This included poking, pulling and twisting bellies and poking foreheads until bruises appeared). Ninety per cent of those answering had not experienced or witnessed such abuse.

When asked about their perceptions of whether there was equal pay for equal work, 59% of respondents thought that men would be generally paid more than women for the same work, and 41% thought they were paid on an equal basis with men for similar work. With a high percentage of employees in the factories surveyed being women, 78% of respondents said they noticed women participating in organizing and leading roles in the workplace.

Child labour

Our study did not provide a clear indication of the prevalence of child labour at the factories surveyed. Less than half of the respondents responded to questions related to child workers, many refusing to do so. This demonstrates the sensitivity of the issue. According to those who did respond, there were children aged from 12 to 17 years old at their respective factories but they were unable to say exactly how many. They noted that both children and employers use fake ID cards and doctors' recommendations to hide child labour. Respondents said that children usually work as full time helpers. In some cases, child workers had to work same working hours and overtime as adult workers. When labour inspections were conducted at the workplace, child workers ran away or hid in the toilet.

At the time of the survey, the 1951 Factory Act was in force, which permitted children aged 13–15 to work up to four hours a day with a certificate of fitness (in January 2016 this was amended to apply to 14 and 15 year olds). Similarly, at the time, a 15-year-old child could work as an adult as long as they are provided with a certificate of fitness (the 2016 Amendment raises this to 16). According to UNICEF there is currently no single comprehensive legislation in place to protect working children and ensure their occupational health and safety³⁸, although the Child Law (1993) provides the Ministry of Labour with the responsibility to ensure the safety of children in the workplace, there is very weak enforcement of the provisions concerning e.g. night work, and weak penalties for violation. There is an urgent need to implement Myanmar's ILO Convention 182 obligations and define a list of the types of hazardous jobs that children should not undertake and to stipulate relevant special health and safety protection regarding using juvenile workers in the work place. In 2012, the UN Committee on the Rights of the Child reported a lack of systematic labour inspections, and a limited number of inspectors that monitored child labour.³⁹

The Myanmar Garment Manufacturing Association (MGMA) acknowledges pervasive child labour in the industry, particularly amongst girls. The public MGMA position on the use of child labour in the garment industry focuses on the need for a “responsible transition period from employing workers who are under-age to ensuring that under-age labour is totally ended in the industry. Abolishing all under-age employment in the garment industry, even if it could be accomplished in one moment, could result in many under-age persons, 90% of the young women, seeking desperate alternatives to ensure their family's survival”⁴⁰, which probably

could be worst than working in the factories.

Health and safety

The 1951 Factory Act and its 2016 amendment provide that factories must be properly ventilated with adequate lighting and heating. Over two thirds of employees surveyed reported working in temperatures that were uncomfortably hot in workplaces especially in hot weather. This is mainly due to poor ventilation at those factories with low corrugated iron roofs and crowded space.

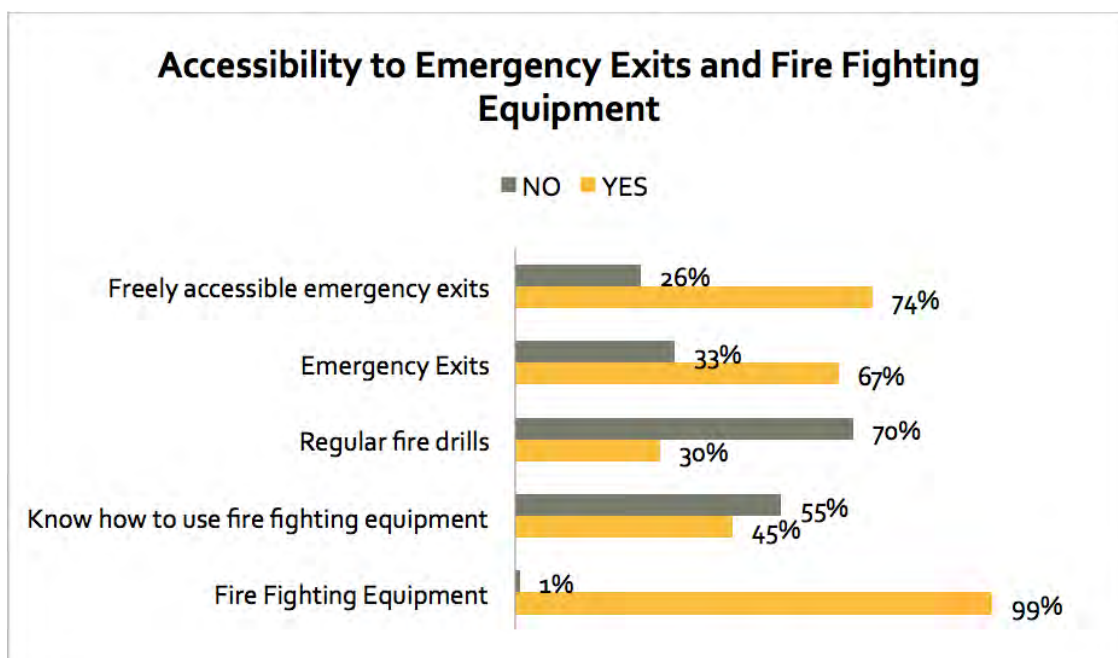
Almost half (45%) of respondents found their factories to be poorly ventilated and affect their productivity and health; while 19% thought it normal. Respondents reported that uncomfortably hot temperatures give them headaches, and make them sweat or even faint.

Only two-thirds (67%) of respondents said their factories have emergency exits in place. Out of respondents who said there are emergency fire exits at their factories, 74% indicated that they are freely accessible and unlocked, while 26% reported inaccessible emergency exits in their workplaces.



**FIG.
07**

Accessibility to Emergency Exits and Fire Fighting Equipment



In emergencies, emergency exits are essential to ensure the best chance of survival. The Factory Act also requires each factory to have emergency fire exits and functioning fire alarms in the event of an emergency and those exits must be visible and accessible.

Almost all the respondents (99%) said fire safety equipment was available at their factories, although more than half (55%) do not know how to use it (see Figure 7). Only 30% of respondents reported their factories do regular fire drills.



Regular fire drills ensure that every worker knows how to exit their workplace safely during an emergency. The 1951 Factory Act provides that training must be given to workers how to escape from fire; its 2016 amendment provides that the director general of the Factories and General Labour Laws Inspection Department (FGLLID) can regulate the fire exits, and type and number of fire extinguishers based on various types of factories.

The amendment to the law 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. A Workplace Health and Safety Law is currently being drafted.

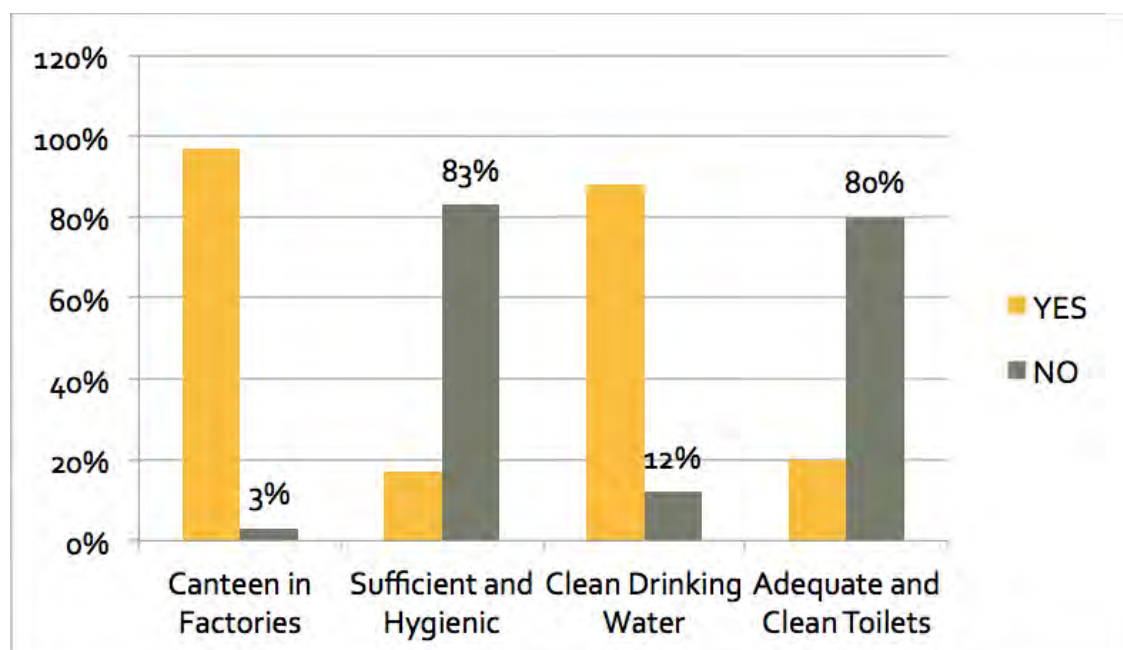
According to the respondents, 56% reported that they are exposed to dangerous machinery in their workplace such as at cutting and ironing sessions.

Less than half (43%) of employees are provided with personal protective equipment (PPE) such as masks, metal gloves, needle guards, eye guards, etc.

However even if PPE such as boots and masks were provided, due to heat at the workplace, workers said they rarely wore them all the time. Of respondents who answered the question, 14% had suffered workplace injuries while cutting, pinning and ironing (burns). Of these, only half were satisfied with the management response to their workplace accident or injury e.g. first aid provision and facilitation of access to timely medical treatment.

**FIG.
08**

Availability of mandated factory welfare facilities



The 1951 Factories Act requires that each factory must provide sufficient first aid equipment for employees, and that, in addition, factories with more than 250 employees must appoint a doctor and nurses in a clinic. However, only 5% of workers surveyed had knowledge of a factory-based clinic where they could access treatment. For those factories where there are no clinics, the majority reported that they had to see the doctor outside the factory, at their own expense. In emergencies, the employer generally takes the worker to the nearest hospital.

Mandatory factory welfare measures

Although 97% of respondents said their factories provide a canteen on their premises, 83% of respondents said their factories do not adhere to sufficient hygiene in their canteens. Eighty per cent said toilet facilities are not adequate and clean. (See fig. 8)

The Factory Act requires there to be clean drinking water freely available to employees in a factory and that in factories employing over 100 staff, recreation centres and canteens are to be provided.

In addition, the workplaces must be kept clean and situated away from drains, toilets and other unsanitary objects and substances. While the law requires that adequate and clean toilet facilities must be provided, it does not specify the number of toilets per employee.

Discrimination

The survey included information about racial and religious discrimination in workplaces. Across the board, respondents indicated very low rates of inequality in pay, condition and treatment between different ethnic and religious groups, although it should be noted that 86% of all respondents identified themselves as ethnic Bamar, 14% were Rakhine and Karen, so with the exception of some of the Karen, all were most probably Buddhist.



CASE STUDIES

Factory A (Name withheld)

“I have been in service for 2 years now. My rank is a quality control leader. I passed my matriculation exam and came to Yangon for work.

Around July and August (2015), the factory demanded we work excessive overtime quite frequently. Workers lodged a complaint at the Labour Office. The factory did not demand overtime on the day when the labour office did an investigation. However, the same routine was restarted again the next day. An all-night shift means working until midnight. Normal working hours are from 7:30 a.m. to 6:15 p.m. Time allowed for dinner is 45 minutes. Then work resumes at 7:00 pm to 12:00 midnight.

The factory gives us 1,500 MMK for an all-nighter but this is not recorded in the pay slips. We were required to work all-night two or three days each week.

Now that the minimum wage is 3,600 MMK/hour, we don't have overtime shifts because the factory has to pay more for overtime. Although there are no more overtime shifts, the factory is asking workers to work two tasks simultaneously. Previously a sewing machine operator only did sewing. Now she must also do ironing and it's very tiring.

The factory does not provide us with drinking water. We have to buy it from a drinking water factory nearby. The factory provides fire prevention training only to male workers. Female workers are only taught how to escape when fire breaks out. This training is held normally twice a year. But the factory is small and crowded and if an accident happens, all will rush out simultaneously. In addition, there is a boiler blocking the exit. If that blows, just imagine.

There are two toilet facilities with ten cubicles each. However, out of the twenty cubicles, ten have been out of order for the last two years. The toilets are very dirty in the rainy season. There are more than 750 persons using the toilets. There is always a long queue especially during lunch break and at the end of a shift assignment.

There is a clinic, medicines and a duty nurse at the factory. However, the problem is, if you are sick and go for treatment, the answer always is “you have no fever. It is just your imagination”.

Medical leave can be taken but pay is cut for a worker even he or she has more than 6 months' service. Maternity leave totals 90 days: 45 days before birth and 45 days after birth. Workers will get day rate for this period. There is a notice posted on the walls of the factory announcing this. The Labour Office came to the factory to explain this. Female workers can re-join the workforce after giving birth at previous pay rate and position. However, the majority do not. Expectant mothers do not need to do all-night shifts but they still have to work regular overtime shifts, including Sundays.

Children are given tasks like ironing and stretching using heavy weights. If they know how to sew, they are asked to do sewing. Sometimes they are physically abused by supervisors or shift leaders if they make some mistakes. But nobody interferes. Supervisors and shift leaders would not dare to do this if they were adults. Children make mistakes as they are not skilled.”

CASE STUDIES

Factory B (Name withheld)

“I have been in service as a helper for approximately a year. I started work when I was 20 years old. I am from Wakema in Ayeyarwady Region. I have six family members whom I help support. I send around MMK 50,000 monthly to my family. I need around MMK 40,000 for rent and food here. Actually, the current salary is not adequate so I have to be very careful how I spend my money.

At our factory, normal daily working hours are from 7 a.m. to 6 p.m. I work overtime for one and half hours each day from Monday to Friday and 3 hours on Saturdays. I get overtime payments. Sundays are mostly holidays. Occasionally we work on Sundays but receive double the daily overtime rate with payment on the following Mondays. An extra 1,000 MMK is also given to workers for overtime shifts on Sundays. However, overtime is optional.

The factory provides good quality and quantity of drinking water. There are fire drills at the factory practised twice a year. Male workers are trained how to extinguish fire and how to handle fire-fighting equipment. Unsafe electrical wirings are also replaced and warning signboards are posted at potentially dangerous areas.

There are electric fans installed to reduce heat but they are not adequate and it is a little hot in the rainy season. Some people faint during summer. Line supervisors take care of them and if necessary, they take the worker to an outside clinic. There is also a clinic and a nurse with some basic medication available at the factory. If you are sick, you can go to the clinic. If necessary the patient is taken to an outside clinic, for example workers who suffer heatstroke or serious injuries like broken bones etc. These people are granted medical leave on basic pay.

Leave can be taken if you request it from line supervisors. We can enjoy medical leave, earned leave and casual leave. All workers with minimum 6 months' service are entitled to these leave. Female workers enjoy 45 days maternity leave before giving birth and 45 days leave after giving birth. I understand that these female workers are reinstated in their previous position with previous pay on re-joining the workforce. Normally workers get leave entitlement information from leaders of workers' association.

There are child workers in our factory. They mostly work as helpers. Child workers work the same hours as adults. They are mostly 15-16-17 years old. Many of them are former schoolchildren and most of them intend to return to school after a period of working. The factory give them study leave without pay and when they re-join the factory after school, they have to start as new recruits. I would like them to be reinstated to their former position and pay.

CONCLUSIONS

The data gathered in this survey demonstrated that while some parts of the Korean garment industry in Myanmar are compliant with the majority of Myanmar labour laws, an alarming number are in regular breach particularly concerning excessive overtime, illegal deductions, and factory working conditions including health and safety, and harassment.

The survey, which was conducted before the introduction of the minimum wage, shows that low salaries are not providing a living wage to garment workers faced with rising commodity prices and living expenses. Urgent action is required by government and business to address these issues.

The focus of this report is on Korean owned and operated garment factories in Myanmar, which play a significant role in the Myanmar garment sector and have a long history in garment sourcing and manufacturing with well-known international brands and retailers.

However, these findings are not unique to Korean companies. Similar findings on wages and overtime were found in a 2015 survey conducted by Oxfam of 123 workers in factories that are owned by companies or individuals based in Korea, Hong Kong, the United Kingdom, Myanmar and Germany.⁴¹ Furthermore, Korean-owned companies in Myanmar were observed to vary in their compliance, and exhibit a wide range of performance from poor to good.

The reasons for non-compliance may in some cases happen because the law is genuinely difficult to implement or impractical. Certain labour laws need to be further modernised for the benefit of both workers and business. Some employers may claim a lack of awareness, understandable given the rapidly changing legislation, most of it only available in Myanmar language and difficult to track down.

MGMA has produced a useful Labour Law summary in English so that ignorance of the law cannot be considered an excuse, although one in need of update following the amendment to the Factories Act in January 2016⁴². But the violations ALR's researchers observed and recorded appear to also be deliberate, based on the knowledge that inspection and enforcement is lax, and penalties if caught will not be significant.

Based on the data gathered in this research, Action Labour Rights believes there is significant space for improvement in workers' welfare and working conditions in Korean-owned garment factories. ALR would like to see all Korean employers become responsible investors in the Myanmar garment industry, the employer of choice for Myanmar workers, and the supplier of choice for major brands. This report, which will be translated into Korean, and the recommendations below, are intended to support that aim.

RECOMMENDATIONS

To the Myanmar Government

- Strengthen labour inspections of both new and established factories with regular and unannounced inspections. These should cover but not be limited to contracts, wage and benefits, under aged workers, working hours, health and safety, harassment and abuse, grievance and freedom of association.
- Improve transparency around labour law infringements. Share information from labour inspections and labour disputes with labour rights organizations.
- Incentivise compliance by linking a factory's record of labour law compliance to business re-registration and receipt of export/customs licences. Continuous violations of labour law should automatically disqualify a factory from receiving export licence or other MGMA 'chop' as well as any tax favourable treatment.
- Pursue and accelerate labour law reform to create a comprehensive and overarching labour law framework in line with international labour standards, including around freedom of association and collective bargaining.
- Agree legal provisions and limits for overtime with the social partners which meet workers and employers needs
- Increase the penalties for labour law violations to make them genuinely deterrent, including penalising the breach of compulsory requirements to establish Workplace Coordinating Committees.
- Work with trade unions to raise awareness of existing labour laws and workers rights and to revise the standard employment contract to make it workable.
- Ratify remaining international labour conventions.
- Improve the dispute resolution process by cooperating more closely with labour organizations and civil society organizations to resolve labour disputes in a timely manner. Accelerate capacity building of labour rights inspectors, specialists and arbitrators in regional, township levels. In addition to better enforcing the provisions of the law relating to establishment of Workplace Coordinating Committees, take measures to ensure that labour disputes as well as other complaints are properly investigated and prosecuted in reasonable time-frame and that there is publication of decisions by relevant Tribunal or Councils and enforcement.
- Address illegal child labour by amending labour laws to permit children over 14 who are legally able to work in non-hazardous conditions to work a normal 8 hour day. Address problems with the provision of ID cards with false ages. Facilitate provision of accurate medical certificates by doctors to children under-18 and ensure that is cost-free for the child.
- Brand Myanmar's garment sector appropriately, by refraining from using phrases such as "cheap labour" or "low wages" when advertising Myanmar's competitiveness. Work instead towards promotion of an ethical and sustainable "Made in Myanmar" brand, with appropriate incentives/rewards and suspension mechanism for those participating.

To Factory Owners

Bring the factory into immediate compliance with Myanmar Law by inter alia:

- Paying all the workers at least the minimum wage, and additional applicable bonuses, on time and in full, and with an understandable breakdown in a monthly payslip in Myanmar language. Optional allowances, work-related transportation costs, food supply and dormitories costs and loans shall not be calculated as contributing towards the minimum wage
- Agreeing, signing and providing a copy of an understandable long-term or short-term employment contract with all workers, in Myanmar language. This should include clauses on wages, working hours, overtime premiums and calculations, mandatory and optional benefits, rights to freedom of association, rights to stay physically free and use the toilets, rights to voluntary overtimes and rights to rest on legal holidays and weekends
- Ensuring that all provisions of workplace agreements, including collective bargaining agreements and contracts, are abided by, in negotiation with workers and their representatives.
- Compensating all the working hours at the correct rate, including all overtime on regular days (through maintenance of log-in and log-out time records), weekends, national holidays and providing annual leave in accordance with Myanmar law and the employee's contract, and ensuring any illegal deduction of wages.
- Ending all forms of modern slavery and forced labour, including forced overtime
- Not charging deposits prior to employment or withholding worker's wages at any time.
- Providing free and clean drinking water throughout working hours including overtime.
- Providing adequate fire extinguishers and hydrants, and establishing evacuation in both factory premises and dormitories, and well as conducting all-factory and dormitory evacuation and fire drills every six months, documented by photos and with evacuation time recorded.
- Disclosing hazardous chemicals and employment where relevant, and providing free and adequate Personal Protective Equipment (PPE) to workers. Ensure workers with health relevant conditions are removed from any such posts.
- Ensuring workers understand their rights to freedom of association or choosing their own workers' representatives
- Ensuring the formation of a Workplace Coordination Committee in every workplace of more than 30 employees, and that the rules and procedures are adhered to. Committee formation should be based on democratic principles; workers representatives should not be management appointees. Names of candidates, poll-counting staff should be transparent. The Committee members should be elected in a free, fair and secret ballot.
- Providing paid public holiday entitlements to all workers consistent with the Leave & Public Holiday Act.
- Ensuring that female employees returning to work after maternity leave are reinstated to their former positions at previous rates of pay.
- Ensuring the legal provision of nurse and adequate medicines at factory sites
- Maintaining an accurate Register of Child Workers at the factory, and abiding by current

laws protecting child workers

- Preventing child workers from engaging in hazardous work, such as operating dangerous machinery, electric cutting devices, printing or using hazardous chemicals or carrying/lifting heavy boxes, etc.

Work to continuously improve working conditions and provide a humane workplace by:

- Moving towards payment of a living wage.
- Ending verbal or physical harassment. In particular, factory supervisors should be instructed and support to avoid the use of verbal abuse (pressure and intimidation) to work excessive hours and to respect the decisions of workers who wish to refuse excessive overtime.
- Posting notices explaining relevant Factory Rules & Regulations around the factory including notices reminding workers that they have a right to refuse excessive hours and be paid appropriately for any overtime worked.
- Ensuring employee grievance procedures which are compliant with the UN Guiding Principles on Business and Human Rights and have the confidence of workers, and providing suggestion boxes.
- Providing free pre-employment health check and annual health check to workers.
- Providing adequate chairs and rest places, clinic and lockers to all workers.
- Removing CCTV from female toilets which violate the privacy and dignity of female garment workers and replacing – if necessary by the use of female security personnel. Ensuring all toilet cubicles have an individual door.
- Forbidding male security guard to check female workers' bodies, toilets or their dormitories.
- Preventing discrimination among and to workers including by making public the criteria used for promotion and evaluations
- Calculating and negotiating order delivery dates so as to not impose heavy burdens on the workers contributing to forced overtime.
- Initiating workplace systems to promote the social welfare of child workers.
- Providing a degree of flexibility for new mothers on maternity leave to extend their leave, if required.
- Forming workplace Health and Safety Committee with workers representatives.
- Provide independent room for union representative or workers' representative to have meetings, conducting training or receiving workers complaint or suggestions. Union activities and time for collective bargaining shall be recognized by factory in workers' manual in written and the reasonable time spent shall be properly compensated.

Stay ahead of emerging Myanmar law on occupational health and safety by:

- Establishing and supporting Workplace Safety Committees to oversee progress on improvements to workplace health and safety issues, which include representatives of both management and workers (with equal ratio between male and female workers).
- Ensuring that there are adequate and clean toilet facilities provided, based on the number of workers employed in a factory, as well as installing more safe drinking water points around factories.

- Taking action to prevent excessive overheating at work places. In particular, take necessary steps to lower the heat during the hot season.
- Ensuring that workers are safely ferried between their hostels or homes and the factory. Factories should be responsible for proper maintenance and the safety of buses used. Factories should also ensure that necessary transport arrangements are made for workers who do not wish to work overtime (bus fares, gate passes etc.).
- Providing free and adequate first aid kits in factory and in dormitories, and training sufficient staff from different departments for first aid and CPR.
- Keeping accident logs and assigning a responsible person/manager to report to the senior management team, including conducting root cause analyses and adopting preventive action plans
- Well maintaining and checking all electric wiring, fire-fighting equipment, machinery safety (accident prevention) devices, first-aid kits, lighting and exits, drinking water fountains or substitute, fans, toilets, eye wash stations, etc. on the regular basis with designated personnel and ensuring plant managers keep records.
- Ensuring that factory management is responsible for holding regular and ongoing training sessions regarding fire/electricity and other health and safety issues relevant to the local garment industry.
- Work to improve the overall performance of the sector by participating in relevant multi-stakeholder initiatives

To International Buyers, Retailers and Importers

- Pledge to source only from factories that are socially and legally compliant with Myanmar national law and international labour standards or have a credible plan to rapidly achieve this. Do not penalize suppliers for being transparent and reporting actual working hours and wages system; but work with them to reduce overtime hours, improve productivity and build long term sourcing partnerships.
- Fully disclose the list of their Myanmar suppliers on their corporate websites
- Regularly conduct independent third party assessments in accordance with their global sourcing codes of conducts.
- Support and work with local labour rights organisations, by conducting joint research, organizing regular face-to-face meetings, inviting them for labour dispute mediation or resolution, and raising concerns with government about intimidation of labour rights defenders.
- Improve buying practices, providing reasonable lead-time and unit costs that are adequate for factories to deliver products without requiring workers to work excessive overtime and allow them to pay workers on time with living wages.
- Stop buying products from factories that are engaged in life-threatening health and safety issues (including in workers' dormitories) especially as concerns building safety and fire safety, modern-day slavery, forced labour, child labour, or factories which are repeatedly violating laws concerning wages, working hours, freedom of association, and health and safety.
- Reward and recognise factories that successfully practise effective social dialogue, worker engagement and grievance mechanisms; and transparency as well as factories which are

gradually reducing overtime hours; increasing wages and other benefits, and promoting more Myanmar workers to become line leaders, supervisors, technicians and managers.

- Support middle level management of suppliers to participate necessary training in labour law, grievance mechanism and dispute resolution, human resources, environment protection, health and safety, ergonomics, lean manufacturing, management system.

To Trade Unions & Labour Associations

- More systematically report illegal overtime practices to the Township Labour Offices, especially in cases where workers are intimidated or threatened with job loss if they refuse.
- Undertake advocacy on working conditions including adequate numbers of toilets, clean drinking water and effective ventilation at work sites.
- Insist on formation of Workplace Safety Committees to engage with management and Ministry officials to improve health and safety practices in garment factories.
- Report and undertake advocacy to prevent bullying of young workers in garment factories and sexual harassment and verbal abuse by managers.
- Ensure full access to maternity leave and benefits by cooperating closely with other stakeholders including pregnant workers
- Lodge official protests against long working hours for child labourers.
- Respect the (1) year mandate of Workplace Coordinating Committees. Have in place democratic practices to elect a new Committee on a regular basis.

To all Korean stakeholders

- Monitor the compliance performance of Korean owned garment companies investing in and importing from Myanmar on the regular basis and share the findings and corrective action plan

Government/Embassy/Trade Section

- Pro-actively tell Korean companies in Myanmar that they should apply international standards including the UN Guiding Principles on Business and Human Rights, core UN/ ILO labour rights conventions, and the OECD Guidelines on Multinational Enterprises (including the requirement to comply with local law)
- Raise concerns with Korean companies about labour rights violations in which they are involved
- Engage with Myanmar labour activists and civil society organisations, and support the rights of human rights defenders
- Adopt a constructive approach to the raising of 'specific instances concerning Korean companies under the OECD Guidelines, and work towards an agreed and mediated solution
- Participate in multi-stakeholder initiatives intended to improve social compliance and ethical performance in the Myanmar garment sector
- Adopt a National Action Plan on Business and Human Rights

Korean Trade Unions

- Provide practical and financial support to Myanmar trade unions and labour rights groups seeking to defend workers' rights in the garment sector

Korean media

- Report on violations of labour rights by Korean companies doing business in Myanmar,

APPENDIX 1

Korean Garment Factories, No. of Employees and Type of Venture (Phase 1 Data)

Factory Name	Number of Employees	Type of Venture
1. Dae Sung Garment and Process *	1525	Foreign owned
2. World Jin Garment	630	Foreign owned
3. Yes 2 Crocodile *	1013	Joint Venture
4. Shin Sung Bago *	3000	Foreign owned
5. E Land Myanmar *	1076	Foreign owned
6. Coster International Co. *	1236	Foreign owned
7. Green Garment	480	Foreign owned
8. New Way	600	Foreign owned
9. Esquire (shoe factory)	650	Foreign owned
10. The Unity Myanmar *	850	Joint Venture
11. Ilteru Office Wear *	210	Foreign owned
12. Best Friend* (shoe laces factory)	100	Joint Venture
13. Apparel Sky Group	350	Joint Venture
14. Korean Shinwa	1650	Foreign owned
15. Lia International Garment Ltd* (Sock factory)	470	Foreign owned
16. Yes 1 *	1382	Foreign owned
17. Emerald Fashion Company Ltd (Oppal 2)	1400	Foreign owned
18. Oppal 1	2100	Foreign owned
19. Nadia Pacific Apparel Co Ltd *	2100	Foreign owned
20. Shin Saung YGN	2060	Foreign owned
21. Myanmar Hae Way	1700	Foreign owned
22. Dragon State	2500	Foreign owned

* Members of Myanmar Garment Manufacturers Association

APPENDIX 2

Garment Factories Surveyed by Township

No	Township	No of Factories visited
1	Shwepyitha	17
2	Insein	5
3	North Okkalarpa	5
4	Hlaingthaya	27
5	Bago	3
6	Hlegu	1
7	South Dagon	3
8	Dagon Seikkan	2
9	Mingaladon	5
10	South Okkalapa	1
11	Thanlyin	7
12	Thaketa	1
13	Thingangyun	1
TOTAL		78

APPENDIX 3

Surveyed Factories (Phase 2)

No	Name	Type of investment	Area
1	Crocodile (YES-2)	FC	Shwepyitha
2	Costec Int'l Co. Ltd.	FC	Shwepyitha
3	Garment & Process Co. Ltd (DAE SUNG)	FC	Shwepyitha
4	World Jin Garment	Unknown	Shwepyitha
5	Best Industrial Co. Ltd	JV	Shwepyitha
6	Korea Sin Hwa Garment Co. Ltd.	FC	Shwepyitha
7	E-land Myanmar Co. Ltd	FC	Shwepyitha
8	Pan-Pacific Int'l Co. Ltd	FC	Shwepyitha
9	Sky Apparel Group Co. Ltd.	JV	Insein
10	K-Won & MICC Co. Ltd.	FC	Insein
11	Shinsaung Tongsang Int'l Co. Ltd.	FC	North Okkalapa
12	Mega One Garment Co. Ltd.	JV	North Okkalapa
13	Opal Int'l Co. Ltd.	JV	Hlaingthaya
14	Myanmar Yes 1	FC	Hlaingthaya
15	Emerald Fashion Co. Ltd	FC	Hlaingthaya
16	Lia International Co. Ltd	JV	Hlaingthaya
17	Ilteru Office Wear (Kyoe Kyar Phyu)	JV	Hlaingthaya
18	Nadia Pacific Apparel Co. Ltd	FC	Hlaingthaya
19	Dowon Apparel Co. Ltd. (New way)	JV	Hlaingthaya
20	Myue & Su Garment Co. Ltd.	JV	Hlaingthaya
21	Midas Industry Co. Ltd	FC	Hlaingthaya
22	YJ (Moon Crab)	FC	Hlaingthaya
23	Universal Apparel Co. Ltd.	FC	Hlaingthaya
24	Hong Tex Co. Ltd	FC	Hlaingthaya
25	Ewha Knit Co, Ltd.	FC	Hlaingthaya
26	Sulat Htet Thar	Unknown	Hlaingthaya
27	Chamzon Apparel Mfg Ltd.	FC	Hlaingthaya
28	Kyarlay Apparel Co. Ltd.	JV	Hlaingthaya
29	ShinSaung Tongsang Int'l Co. Ltd.	FC	Bague
30	Myanstar Garment Co. Ltd.	FC	Bague
31	A1 Garment Co. Ltd.	JV	Mingaladon
32	New Green Land Garment Co. Ltd.	JV	Mingaladon
33	Dragon State Co. Ltd.	FC	Mingaladon
34	Miba Gon Yee Production Co. Ltd. (Doriga)	JV	Thanlyin
35	Su lat Yadanar Garment Co. Ltd.	JV	Thanlyin
36	Green Garment	JV	Thanlyin
37	Myanmar Hae Wae Co. Ltd	FC	South Okkalarpa
38	Myanmar Glogon Co. Ltd.	FC	Dagon Seikkan
39	Bright Juan Co. Ltd.	JV	South Dagon

APPENDIX 4

Sample size & location

Field Researcher 1

Township	Factory Name	Size	Start Date	End Date
Bago	Shin Saung Tongsang	40	26/4/2015	30/6/2015
Bago	Myanstar	40		
TOTAL		80	23 Days	

Field Researcher 2

Township	Factory Name	Size	Start Date	End Date
Mingaladon	A1	40	4-5-2015	26/5/2015
Mingaladon	New Green Land	40		
TOTAL		80	19 Days	

Field Researcher 3

Township	Factory Name	Size	Start Date	End Date
Hlaingthaya	Kyarlay	40	4-4-2015	8-6-2015
Thanlyin	Sulat Yadanar	20		
Thanlyin	Green Garment	20		
Thanlyin	Doriga	20		
TOTAL		100	25 Days	

Field Researcher 4

Township	Factory Name	Size	Start Date	End Date
Hlaingthaya	Iteru	10	18-4-2015	31-6-2015
Hlaingthaya	Chazon	20		
Hlaingthaya	Oppal-1	70		
Hlaingthaya	Yes -1	40		
TOTAL		140	23 Days	

Field Researcher 5

Township	Factory Name	Size	Start Date	End Date
Hlaingthaya	Sulat Htet Thar	20	5/4/2015	14/6/2015
Hlaingthaya	Dawon Apparel	20		
Hlaingthaya	Ewha Knit	10		
Hlaingthaya	Home Tex	20		
TOTAL		70	31 Days	

APPENDIX 4 (contd.)

Field Researcher 6

Township	Factory Name	Size	Start Date	End Date
Hlaingthaya	Universal Apparel	20	5/4/2015	20/6/2015
Hlaingthaya	YJ	20		
Hlaingthaya	Nadi	70		
Hlaingthaya	Midas	20		
TOTAL		130	28 Days	

Field Researcher 7

Township	Factory Name	Size	Start Date	End Date
Shwepyitha	Eland Myanmar	50	12/4/2015	14/6/2015
Shwepyitha	Yes 2	40		
Shwepyitha	Dae Sung	40		
Shwepyitha	Costec	40		
TOTAL		170	38 Days	

Field Researcher 8

Township	Factory Name	Size	Start Date	End Date
Mingaladon	Mega One	20	8/4/2015	15/6/2015
Dagon Seikkan	Myanmar Galongon	20		
South Dagon	Bright Joun	10		
Mingaladon	Shin Saung	20		
Mingaladon	Dragon State	70		
TOTAL		140	37 Days	

Field Researcher 9

Township	Factory Name	Size	Start Date	End Date
Shwepyitha	World Jin	20	22/4/2015	10/6/2015
Shwepyitha	Myanmar Best Friends	10		
Shwepyitha	Korea Shin Hwa	20		
Insein	Kwon & MiCC	40		
Insein	Sky Apparel	20		
TOTAL		110	21 Days	

Field Researcher 10

Township	Factory Name	Size	Start Date	End Date
South Okkalarpa	Myanmar Hae Wae	40	3/4/2015	15/6/2015
Thingyangkyun	Pan Pacific	38		
Hlaingthaya	Myun & Su	60		
Hlaingthaya	Lia International	20		
TOTAL		158	34 Days	

APPENDIX 5

Worker Survey Questionnaire

Respondent details

- ☐ Name
- ☐ Phone number
- ☐ How long have you been working at the company?
- ☐ Age
- ☐ Ethnicity
- ☐ Gender
- ☐ Schooling
 - ☐ Primary
 - ☐ Middle
 - ☐ High
 - ☐ Further
- ☐ What section do you currently work in?

Operator	Ironing	Cutting	Samples	Packing	Patterns	QC
Store	Button	Office	Cleaner	Security	Machinist	EP

Working hours

- ☐ When do you start your working day?
- ☐ When does the lunch break start and end?
- ☐ When does the working day finish?
- ☐ What time do you normally leave from work (include overtime)?
- ☐ What is the average overtime per day/week/month?
- ☐ Is it possible to refuse overtime? What happens if a worker refuses?
- ☐ Do you feel pressured into performing overtime? Please describe
- ☐ Can you refuse to perform overtime?
- ☐ How often do you receive a rest day?
- ☐ Do employees get extra pay for overtime? How much?

Wages

- ☐ What is your normal wage for ordinary working hours per week or month?
- ☐ Do you get any additional bonuses or incentives such as attendance bonuses, productivity bonuses, and incentives for reaching targets, etc.?
- ☐ Are there any additional allowances such as transport allowances, housing allowances, holiday allowances? And how much is each?
- ☐ What is your total wage per week or per month (including OT and bonuses)?
- ☐ Does the factory provide 13 months of salary per year (annual 1-month bonus)?
- ☐ Do you ever work during break times? Before punching in? After punching out? Do you ever work at other times for which you are not paid?
- ☐ Do workers get paid sick leave? How many days?
- ☐ Are workers paid on piece rate?
 - ☐ If there is a piece rate, can a typical worker on average speed earn the minimum wage in the company? Do they have to work overtime to make the target? Do they work during their breaks to be able to make the target?
- ☐ When possible ask for wage slips and write the details down (or take a photo of it). Do the workers understand their payslips? What happened if they ask questions about payslips or dispute calculations?
- ☐ What language are your payslips in?

APPENDIX 5 (contd.)

Child Labour

- ☐ What is the age of the youngest workers at the company?
- ☐ What jobs do these workers do?
- ☐ How many under 18 years old workers in the workplace?
- ☐ What documents do they need to apply for a job?

Labour hire practices

- ☐ Are you employed by the company or through a labour contractor/ agent?
- ☐ What is the name of labour contractor / agent?
- ☐ What kind of contract are you working on?
 - Regular/long-term
 - Temporary/fixed duration contract
 - *If on a temporary/fixed duration contract, what is the duration?*
- ☐ What are the differences between the labour conditions of fixed and temporal workers?
- ☐ Do temporary workers get a fixed contract after they have been working for the company for a certain period of time?

Freedom of Association

- ☐ Is there any union at the factory? If yes, how many unions?
- ☐ Describe any problems between the management and workers /unions that occurred in the last year.
- ☐ How were the problems solved?
 - Letter writing
 - Petition
 - Meeting with Manager
 - Strike
 - Other
 - *If there was other kind of labour action, what was the outcome of the labour action?*
 - *Describe what kind of labour action workers are taking in the factory?*
- ☐ Does the company discourage union membership, e.g. by treating union members differently?
- ☐ Is there Collective Bargaining Agreement (CBA) in place?
- ☐ Do you know what is in the CBA? How do you know?
- ☐ Is there a Workplace Coordinating Committee in the factory?
- ☐ If no, how do you make a complaint to management?
- ☐ Have you ever made a formal complaint?
- ☐ Have you ever raised an informal complaint or issue with management?
- ☐ Are you satisfied with how management resolved your issue of complaint?

Bonded Labour

- ☐ Do you have a debt to your employer?
- ☐ How much?
- ☐ What kind of debt?
- ☐ Does the debt affect your ability to join (or) participate in labour actions?
- ☐ At the start of employment, do workers have to lodge deposits (money or other valuables) or identity papers with the employer?
- ☐ Do workers have to lodge deposits (money or other valuables) or identity papers with the employer during employment?

APPENDIX 5 (contd.)

- ☐ Do workers receive maternity leave without deduction of salary or loss of position?
- ☐ Do workers get paid maternity leave? How many days?
- ☐ Have you ever experienced or witnessed sexual harassment in the workplace?
- ☐ Are any workers ever hit or physically abused by supervisors?
- ☐ Are women and men workers paid equally for the same work?
- ☐ Do women workers participate as leaders in labour actions?

Health and Safety

- ☐ Do you know what temperature it is at work? How do you know?
- ☐ What is the quality of ventilation?
 - ☐ Good
 - ☐ Bad
 - ☐ Not sure
- ☐ Is there fire-fighting equipment in the factory, i.e. fire extinguishers, etc.?
- ☐ Do you know how to use it?
- ☐ Does the factory do the regular fire drills?
- ☐ Are there emergency exits in the factory? Are these freely accessible or are they locked/barred?
- ☐ Are there workers who use toxic substances in production? Which substances? Do they get protection? Do they have health problems?
- ☐ What happens if you injure yourself on the job?
- ☐ Have you ever injured yourself on the job?
- ☐ Were you happy with the response of the management?
- ☐ Is there a canteen? Is food provided free of charge? Is it sufficient and hygienic?
- ☐ Are the workers provided with clean drinking water?
- ☐ How many toilets are there available for use by workers?
- ☐ If you could change three things at your workplace, what would you like to change?

BIBLIOGRAPHY

- Bals, S, Künzli, A, Raps, L & Wichate, Y, Discovering Myanmar as a Manufacturing Country, Master's Thesis, Barcelona School of Management, Spain, 2012
- BSR, Principles of Responsible Sourcing in Myanmar's Garment Sector: Key Opportunities Built on Local Context, July 2014
- Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention- Concluding observations: Myanmar, 14 March 2012
- Fukunishi (ed), Dynamics of the Garment Industry in Low-Income Countries: Experiences of Asia and Africa (Interim Report), Chousakenkyu Houkokusho, IDE-JETRO, 2012
- Gap Inc., Responsible Sourcing in Myanmar: Update Report for the Period August 26, 2014-May 31, 2015, Submitted July 1, 2015
- Human Rights and Business Country Guide: Myanmar
- Insight Alpha, Industry Overview: Myanmar Garment & Textile Industry
- Institute for Human Rights & Business, Responsible Business in Myanmar's Garment Sector; Summary of Meeting, 22 March, 2013, ILO Geneva
- Jingyoung Park, 'Labour Laws in Myanmar', Asian Labour Update #83, Asia Monitor Resource Centre, May 2014.
- Kudo, Toshihiro; The Impact of United States sanctions on the Myanmar Garment Industry, Institute for Developing Economies, Discussion Paper no 42, December 2005
- Min, Dung and Kudo, T., 2012. "New Government's Initiatives for Industrial Development in Myanmar." In Economic Reforms in Myanmar: Pathways and Prospects, edited by Hank Lim and Yasuhiro Yamada, BRC Research Report No.10, Bangkok Research Center, IDE-JETRO, Bangkok, Thailand
- Myanmar Centre for Responsible Business, Myanmar Oil & Gas Sector Wide Impact Assessment, Part 4.4, September 2014
- Myanmar Garment Manufacturers Association, Code of Conduct, 2015
- Myanmar Garment Manufacturers Association, Ten Year Strategy, 2015
- Myanmar Garment Manufacturing Association, Industry Overview: Myanmar Garment and Textile Industry, 2014
- OECD (2011), OECD Guidelines on Multinational Enterprises, OECD Publishing
- Oxfam, Made in Myanmar, Entrenched poverty or decent jobs for garment workers?, December 2015
- Republic of the Union of Myanmar, DICA, Foreign Investment of Existing Enterprises as of 31/10/2015 (by Country)
- The Global New Light of Myanmar, Volume 1, Number 114, Thursday, 22 January, 2015
- UNICEF, Myanmar: Real Lives, World Day Against Child Labour, 12 June 2014
- Various, Modern Slavery: A Study of Labour Conditions in Yangon's Industrial Zones by Labour Rights Clinic, Cooperation Program of Independent Labourers, Construction-based Labour Union and Workers Support Group November 15, 2013

REFERENCES

1. OECD (2011), OECD Guidelines for Multinational Enterprises, Chapter V. OECD Publishing available from <http://www.oecd.org/corporate/mne/>
2. Myanmar Garment Manufacturer Association <http://www.myanmargarments.org/events-news/export-data/> accessed 14 February 2016
3. MGMA Ten Year Strategy page 6 <http://www.myanmargarments.org/wp-content/uploads/2015/09/Myanmar-garment-industry-10-year-strategy-Aug-2015.pdf>
4. Myanmar Garment Workers Threaten Further Strikes if Demands Are Not Met February 24, 2015 <http://www.rfa.org/english/news/myanmar/strikes-02242015130920.html> accessed 16 February 2016
5. In 1990, Korean companies Daewoo and Segye concluded a collaboration agreement with the Union of Myanmar Economic Holding Ltd.(UMEHL), Thanlyin Garment Factory No (1), (2) and (3) under the Ministry of Industry (1) which launched the Myanmar garment industry. The number of garment factories increased to 291 in 1990 in what many refer to as the Golden Era of Myanmar garment industry. Other major investors in the garment industry now include Japan, Taiwan, China, Malaysia, Turkey, Germany, the United Kingdom, among another 20 other countries.
6. Insight Alpha, Industry Overview: Myanmar Garment & Textile Industry available at http://insightalpha.com/news_details.php?cid=31&sid=75&nid=203
7. For an example see Gap Inc., Responsible Sourcing in Myanmar: Update Report for the Period August 26, 2014- May 31, 2015, Submitted July 1, 2015.
8. For more information see <http://mneguidelines.oecd.org/text/> and <http://mneguidelines.oecd.org/RBC-Matters-BURMESE.pdf>
9. OECD (2011), OECD Guidelines for Multinational Enterprises, OECD Publishing available from <http://www.oecd.org/corporate/mne/>
10. For more information see http://business-humanrights.org/sites/default/files/documents/UNWG_NAPGuidance_Version2%200_final_print_09112015.pdf
11. Institute for Human Rights and Business (IHRB), Responsible Investment in Myanmar's Garment Sector; Summary of Meeting, 22 March, 2013, ILO Geneva, p3.
12. For more information, see Kudo, Toshihiro, "Chapter 8: How has the Myanmar Garment Industry Evolved?" in Fukunishi ed, Dynamics of the Garment Industry in Low-Income Countries: Experiences 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
13. Myanmar Garment Manufacturing Association, Industry Overview: Myanmar Garment and Textile Industry, 2014.
14. Toshihiro Kudo, The Impact of United States sanctions on the Myanmar Garment Industry, Institute for Developing Economies, Discussion Paper no 42, December 2005.
15. MGMA <http://www.myanmargarments.org/about/about-myanmar/2/> accessed 14 February 2016
16. Ibid. MGMA <http://www.myanmargarments.org/about/about-myanmar/2/> accessed 14

February 2016

17. Oxfam Myanmar, Made in Myanmar, Oxfam Briefing Paper, December 2015, https://www.oxfam.org/sites/www.oxfam.org/files/file__attachments/bp209-made-in-myanmar-garment-workers-091215-en.pdf
18. Business Innovation Facility Burma (Myanmar), Garments: Market Analysis and Strategy, October 2014 <http://www.bifprogramme.org/countries/myanmar>
19. BSR, Principles of Responsible Sourcing in Myanmar's Garment Sector: Key Opportunities Built on Local Context, July 2014.
20. Myanmar Garment Manufacturing Association Code of Conduct, 2015, <http://www.myanmargarments.org/about/mgmas-code-of-conduct/>
21. "Free-on-board" (FOB) production is where retailers simply place orders to highly-capable and well-financed factories in overseas markets. The factories are responsible for producing the garments in their entirety and arranging for shipment. For more information on the impacts of CMP see Bals, S, Künzli, A, Raps, L & Wichate, Y, Discovering Myanmar as a Manufacturing Country, Master's Thesis, Barcelona School of Management, Spain, 2012.
22. MGMA website: Factory Zones <http://www.myanmargarments.org/events-news/factory-zones/>
23. Myanmar Investment Guide Chapter 3, DICA, 2014, <http://www.dica.gov.mm/includes/Investment%20Guide%20Book/MIG%20chapter%203.pdf>
24. Dung Min and Kudo, K., 2012. "New Government's Initiatives for Industrial Development in Myanmar." In Economic Reforms in Myanmar: Pathways and Prospects, edited by Hank Lim and Yasuhiro Yamada, BRC Research Report No.10, Bangkok Research Center, IDE-JETRO, Bangkok, Thailand.
25. A Modern form of Slavery: A Study of Labour Conditions in Yangon's Industrial Zones 2012-2013 <http://burmacampaign.org.uk/media/Modern-Slavery.pdf>
26. Long hours, meager wages: Child labor Continues in Myanmar by Roxana Saberi, 14 April, 2016: <http://america.aljazeera.com/articles/2015/4/14/child-labor-continues-in-myanmar.html>
27. A Modern Form of Slavery : A Study of Labour Conditions in Yangon's Industrial Zone 2012 -2013 <http://burmacampaign.org.uk/media/Modern-Slavery.pdf>
28. အလုပ်ချိန် ပိုခိုင်းသော အလုပ်ရှင်များကို အစိုးရက တရားစွဲမည်, Democracy Today, မင်းမင်း | ဗုဒ္ဓဟူးနေ့၊ ဩဂုတ်လ ၂၈ ရက် ၂၀၁၃ ခုနှစ် ၁၀ နာရီ ၃၀ မိနစ်
29. See Myanmar Business Today report translated and available at <http://consult-myanmar.com/2014/07/29/govt-sues-firms-for-violating-holiday-law-minister-pledges-better-protection-for-labourers/> accessed 17 February 2016.
30. 'Any Labor Dispute Will Only Be Resolved By the Parties Sitting Together' by <http://www.irrawaddy.org/interview/any-labor-dispute-will-only-be-resolved-by-the-parties-sitting-together.html> accessed 18 February, 2016
31. Factory workers weary of the Arbitration Council by Zaw Zaw Htwe and Laignee Barron, <http://www.mmtimes.com/index.php/national-news/16690-factory-workers-weary-of-the-arbitration-council.html> accessed 18 February, 2016
32. Human Rights and Business Country Guide: Myanmar <http://business-humanrights.org/en/myanmar-govt-proposes-daily-minimum-wage-of-3600-kyats-factories-call-for-lower->

pay-unions-workers-protest-includes-statements-by-intl-brands, accessed 18 February, 2016.

33. Jingyoung Park, 'Labour Laws in Myanmar', Asian Labour Update #83, Asia Monitor Resource Centre, May 2014.
34. Solidarity Center Website: <http://www.solidaritycenter.org/where-we-work/asia/burma-myanmar/>
35. Myanmar Garment Manufacturers Association, Code of Conduct, 2015 available at <http://www.myanmargarments.org/about/mgmas-code-of-conduct/>
36. "The owners have the right to form trade unions of their own" Trade Union Law Chapter 2, Section 8 Formation of trade unions.
37. See <http://www.smartmyanmar.org/wp-content/uploads/2015/11/SMART-Myanmar-Social-Compliance-Handbook-English.pdf>
38. World Day Against Child Labour, 12 June 2014: http://www.unicef.org/myanmar/reallives__22662.html
39. 59TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD : http://www.childrightsconnect.org/wp-content/uploads/2013/10/Myanmar_CRC-Report_FINAL-59.pdf
40. MGMA website: <http://www.myanmargarments.org/factory-information/working-conditions/ending-child-labour/>
41. Made in Myanmar : https://www.oxfam.org/sites/www.oxfam.org/files/file__attachments/bp209-made-in-myanmar-garment-workers-091215-en.pdf
42. Ibid. MGMA website: <http://www.myanmargarments.org/factory-information/laws-regulations/>



Action Labor Rights (ALR)
Room No-103 (first floor)
Building-6
Kyansitthar Housing
Hlaingtharyar township
Yangon
Myanmar

Phone: 09425306037
Email: info@actionlaborrights.org
Web: www.actionlaborrights.org