



Sector-Wide Impact Assessment

Human Rights and Business Fact Sheet

Labour Rights



This factsheet was compiled for the use of the Myanmar Centre for Responsible Business (MCRB) sector-wide impact assessment (SWIA) research teams, but may be of wider use in understanding the human rights risks involved in particular business issues. For more information on MCRB's SWIAs, please see www.mcrb.org.mm.

Short Summary of the Human Rights Issue

All workers have human rights associated with working – referred to as labour rights or the human rights of workers. The International Labour Organisation (ILO) has introduced the concept of “decent work” – “work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men.” Having decent work is usually the most direct route out of poverty.

The term “workers” covers formal employees and other workers – temporary, casual, and migrant workers. In addition, companies should be aware of human rights of workers in companies that supply goods and services to them. For example, when Company A contracts with Company B to provide services or goods to them, Company A is “directly linked” to potential impacts of Company B on its workers, and should therefore be concerned about the rights of workers in Company B as well as its own workers. Company A can put requirements in its contracts with Company B that require Company B to treat its workers decently. Especially when Company B is providing services on Company A’s facilities, Company A will have more opportunities to check whether Company B is respecting its workers’ human rights. But even where Company B is working off site, Company A should still follow up with Company B on how it is treating its workers.

There are a number of different human rights issues involved:

- **Right to organise and bargain collectively** - All workers have the right to establish and to join organizations of their choice to promote and defend their interests, and to negotiate collectively with their employer. These organisations are usually referred to as trade unions. Workers should be able to organise freely, without interference by the employer, employers federations or the State. Myanmar has a new Labour Organisation Law 2011 and Labour Organisation Rules that provide the new legal framework for the formation of trade unions (labour organisations) in Myanmar.
- **Conditions of work & pay – contracts, wages, benefits, hours, rest, leave:** The working conditions provided should be enough for workers to support their families, have adequate rest and leisure time, obtain social security benefits in case the worker can no longer work (i.e. due to injury, retirement or death).
- **Health, safety and security for workers** – workers health and lives should not be put in danger at the workplace. Employers should provide a safe workplace, with a focus on preventing accidents (rather than just addressing accidents after they happen), provide training so workers know how to use equipment and avoid hazards, provide protective equipment as necessary.
- **Prohibitions on forced labour and child labour:**
 - Not all work done by children should be classified as “child labour” such as helping their parents around the home, assisting in a family business or earning money outside school hours and during school holidays. “Child labour” is work that: 1) is mentally, physically, socially or morally dangerous and harmful to children; and 2) interferes with their schooling. In its most extreme forms, child labour involves children being enslaved, exposed to serious hazards and illnesses, or used as child soldiers. The earliest age for children to legally work in Myanmar, doing light-work and of short duration, is 13 years old. 15 years old is the international standard.
 - Forced labour takes different forms, including debt bondage, trafficking and other forms of modern slavery. The victims are often the most vulnerable – women and girls forced into prostitution, migrants trapped in debt bondage, and sweatshop or farm workers kept there by

illegal means (such as by force or by taking their identification papers) and paid little or nothing.

- **Non-discrimination/harassment in the workplace:** Discrimination on the basis of sex, race, ethnic origin, religion, disability, and sexual orientation exists in all societies, including Myanmar. Societal discrimination often is reflected in the workplace. Human rights law has strong non-discrimination rights, especially with respect to work, recognising that everyone should have a fair chance to earn a decent living. There are numerous human rights laws that provide for non-discrimination, and where needed, special, additional steps to make sure everyone has the same opportunities to get a job, to equal payment for the same job, and to advance in the job. Harassment in the workplace is often the physical/mental manifestation of discrimination. It can include any unwanted attention, including inappropriate language, touching or violence. It can also include non-physical actions such as bullying, intimidation and emotional abuse.

Why this is Relevant to national and international companies

It is relevant to ask about working conditions in order to understand:

- Whether the labour rights and working conditions that all employees are entitled to under international and/or national law are being respected
- Whether and how the **right to organise & bargain collectively** is functioning or not at the local level. This right is considered crucial to improving working conditions because it provides a counterbalance to employer's power to set all working conditions. This right was denied in Myanmar for many years and has only recently been recognised. It will be important to understand whether workers are organising locally, whether employers are respecting this right or intimidating and/or retaliating against union leaders/members, and whether the local labour administration is functioning, and mediating disputes in an impartial way.
- The **composition of the workforce** (formal/informal; male/female; long-term/short-term/indeterminate) and the implications for whether workers have many of the rights highlighted or whether those rights seem to be a long-term, far away aspiration.
- What kind of back up or **social safety-net exists for** workers in case they fall seriously ill, have an accident, lose their job, etc. and cannot work – whether there are any organised government support systems in place or instead, people rely on their families, wider kin groups or communities

Human Rights References

- ILO Core Labour Standards (Freedom of association and the effective recognition of the right to collective bargaining, Elimination of all forms of forced or compulsory labour, Effective abolition of child labour, Elimination of discrimination in respect of employment and occupation).
- CESC, Right to Work (Article 6), Right to Just and Favourable Conditions of Work (Article 7), Right to Form and Join Trade Unions (Article 8), Right to Health (Article 12), Right to non-discrimination (Article 2.2).
- ICCPR, Right to Freedom of Association (Article 22)