



International
Labour
Organization

DECENT WORK

DIAGNOSTIC REPORT

MYANMAR'S PROGRESS AND CHALLENGES

"As rights should be balanced by responsibilities, opportunities should be linked to probity if we are to avoid the dangers of exploitation. What I would like to see for our country is democracy-friendly development growth. I would like to call for aid and investment that would strengthen the democratization process by promoting social and economic progress that is beneficial to political reform."

-Nobel Laureate Daw Aung San Suu Kyi's address to the International Labour Conference, 2012, Geneva

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ACRONYMS

ABND	Assessment Based National Dialogue
ADB	Asian Development Bank
AFFM-IUF	Agricultural and Farmers Federation of Myanmar-Union Federation
BDS	Business development services
BLO	Basic Labour Organization
CESR	Comprehensive Education Sector Review
CEDAW	(UN) Convention Against all Forms of Discrimination Against Women
CRPD	(UN) Convention on the Rights of Persons with Disabilities
CTFMR	United Nations Country Task Force on Monitoring and Reporting
CTUM	Confederation of Trade Unions of Myanmar
DWCP	Decent Work Country Programme
EAGs	Ethnic Armed Groups
FDI	Foreign Direct Investment
FESR	Framework for Economic and Social Reforms
FGLLID	The Factories and General Labour Laws Inspection Department
FTUM	Federation of Trade Unions Myanmar
GDP	Gross Domestic Product
IHLCA	Integrated Household Living Conditions Assessment
ILO	International Labour Organization
ILS	International Labour Standards
LFS	Labour Force Survey
MOE	Ministry of Education
MOHS	Ministry of Health and Sport
MOI	Ministry of Industry
MoLIP	Ministry of Labour, Immigration and Population
MoPF	Ministry of Planning and Finance
MSWRR	Ministry of Social Welfare, Relief and Resettlement
MTUF	Myanmar Trade Unions Federation
NAP	National Action Plan
NCDP	National Comprehensive Development Plan
NESP	National Education Strategic Plan
NLD	National League for Democracy
NSPAW	National Strategic Plan for the Advancement of Women
NSPSP	National Social Protection Strategic Plan
OEHD	Occupational and Environmental Health Division
OSH	Occupational safety and health
SDGs	Sustainable Development Goals
SMEs	Small and Medium Sized Enterprises
SSB	Social Security Board
TLO	Township Labour Organization
TVET	Technical and Vocational Education and Training
TWG	Technical Working Group
UMFCCI	Union of Myanmar Chamber of Commerce and Industry
UNDAF	United Nations Development Assistance Framework

UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
WCCs	Workplace Coordinating Committees
WFCL	Worst Forms of Child Labour

Preface

Ministry of Labour, Immigration and Population (MOLIP)

The economic policy of the Republic of the Union of Myanmar is people-centered, and aims to achieve inclusive and sustainable development. It also aims at creating employment opportunities for all Myanmar citizens including migrant workers and giving greater priority in the short term to economic enterprises that create many job opportunities.

The Government of the Republic of the Union of Myanmar has been implementing for ensuring labour rights by setting up objectives and policies. It is believed that implementing the Decent Work Country Programme (DWCP) in Myanmar will reinforce more employment opportunities for all working age population, skills development of workers, delivering more social security benefits, increasing productivity through better industrial relations, improving occupational safety and health etc.

In addition, it is a great pleasure that DWCP will specifically support to accomplish the Goal 8, (Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all) of SDGs of the United Nations.

It is welcomed and recognized conducting of this Diagnostic Study for implementing the DWCP in Myanmar by the ILO office, Yangon as an important step forward. As this study highlights the needs, it brings the information for the Ministries, the ILO and other related organizations as well. And it is also very useful as it could identify the priorities to be implemented.

Our special thanks will go to all responsible persons from the ILO Office, especially to the ILO Liaison Officer to Myanmar, Mr. Rory Mungoven for taking the leading role of conducting this comprehensive assessment with financial and technical contribution.

The Ministry of Labour, Immigration and Population (MOLIP) would like to express gratitude to all the ministries those are concerned with the labour affairs, workers federations, employer organizations and other related partner organizations for providing comments and inputs on the study and also recognizes the Director General and staff of the Department of Labour who take the role of focal point in this DWCP drafting process for their special efforts.

MOLIP is confident that the Myanmar DWCP (2018-2021) anchored on the diagnostic study could be implemented successfully and effectively with the participation and collaboration of all stakeholders.

Ministry of Labour, Immigration and Population

International Labour Organization (ILO)

The Decent Work Country Diagnostic, prepared during 2016-17, provides an overview of labour market trends and challenges in achieving the goal of Decent Work for All in Myanmar. It offers an evidence-based and comprehensive picture of the current decent work situation in the country. It reflects the progress Myanmar has made in economic development, labour market governance and tripartite social dialogue, and the challenges and opportunities that lie ahead.

Decent work reflects the aspirations of every working woman and man for a better life in conditions of freedom, equity, security, integrity and human dignity. It also contributes to the achievement of the Sustainable Development Goals (SDGs) in a way that leaves no one behind.

The key challenges in achieving decent work outlined in this report served as key inputs in the setting up of key priorities and outcomes for the 1st Myanmar Decent Work Country Programme (DWCP) for the period 2018 – 2021. The diagnostics will also provide information for the United Nations Development Assistance Framework (UNDAF) and into national development plans and strategies.

The ILO Liaison Office in Myanmar congratulates the tripartite constituents for their contribution to this assessment, in particular the members of the Decent Work Country Programme – Technical Working Group (DWCP-TWG) from the Ministry of Labor, Immigration and Population (MOLIP), Union of Myanmar Chamber of Commerce and Industry (UMFCCI), Confederation of Trade Unions of Myanmar, Agricultural and Farmers Federation of Myanmar-Union Federation (AFFM-IUF) and Myanmar Industries, Crafts and Services Trade Union Federation (MICS). This comprehensive assessment would not have been possible without their key inputs, comments and contributions, as well as from the Central Statistical Organization (CSO), Ministry of Industry (MOI), Ministry of Social Welfare, Relief and Resettlement (MSWRR) and other partner agencies.

International Labour Organization
Liaison Office, Myanmar

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This Decent Work Diagnostic report was written by Sriani Ameratunga Kring, at the request of the Myanmar National Tripartite Forum, under the direct supervision of Ms Lourdes Kathleen Santos Macasil, Head of Programme/Programme Officer and overall guidance of Mr Rory Mungoven, Liaison officer, ILO Liaison Office in Myanmar.

The author would like to thank the tripartite constituents of Myanmar for their generous and unstinting help and valuable inputs into drafting and reviewing this report. The list of interviewed organizations in the Annex.

Please note the information presented in this report was first collected during 2016-17 so may not be fully up-to-date at time of publication.

A very great appreciation too, to the project and management teams of the ILO Liaison Office in Myanmar who provided detailed technical information for the report and rigorous review.

The report also benefited significantly from inputs from ILO specialists from Bangkok and Geneva.

INTRODUCTION

This Decent Work Diagnostic report has been developed to provide background information to the tripartite constituents of Myanmar on the main decent work trends and issues in the country as the basis for consultations on the first Decent Work Country Program for Myanmar.

The National Tripartite Dialogue Forum (NTDF) in September 2016 endorsed a Framework of Engagement for ILO's work in Myanmar and initiated the DWCP process, including establishing a tripartite Technical Working Group for this purpose.

The Framework of Engagement, subsequently endorsed by the ILO Governing Body, centres around four pillars:

1. Strong commitment to the elimination of forced labour in support of peace and development.
2. Strengthening freedom of association and improved labour market governance in support of democratization and the rule of law.
3. Enhanced decent employment opportunities through a comprehensive set of initiatives in support of the Government's economic and social priorities and the SDG's.
4. Targeted interventions to address workplace discrimination and realize decent work for specific groups.

The ILO Governing Body in March 2017 requested the Director-General to pursue discussions on the development of a Decent Work Country Programme in which the elimination of forced labour was included as a core component. The process therefore signals an important shift towards a more normalized engagement between the ILO and Myanmar.

The ILO has a well-established and unique presence in the country since it was mandated under international resolutions to support Myanmar's efforts to eliminate forced labour. Its role has been pivotal in enabling Myanmar to emerge from decades of isolation, and the ILO has also been contributing to wider processes of democratization by supporting freedom of association and good governance in the labour market. Furthermore, the ILO has been playing an important role in supporting ongoing peace efforts through developing employment initiatives in conflict affected areas, which are essential for national reconciliation, poverty alleviation and social stability.

DECENT WORK COUNTRY PROGRAMMES

Decent Work Country Programmes (DWCPs) are designed and implemented by national constituents and signal areas which relevant stakeholders have prioritized for ILO technical support. DWCPs are designed to fit within national development frameworks and are a vehicle for collaboration with United Nations country programmes as defined in the United Nations Development Assistant Framework (UNDAF). Furthermore, it will play a key role in assisting Myanmar to meet its commitments to the Sustainable Development Goals before 2030.

THE SUSTAINABLE DEVELOPMENT GOALS (SDGS)

The SDGs are the internationally agreed set of aims endorsed by the global community in 2015 to support a vision of a future which protects the planet, ends poverty and ensures all people to enjoy peace and prosperity. They build upon the progress made by the previous Millennium Development Goals. (See Annex for the full list of SDG goals). Like all countries Myanmar has committed to working towards these goals and is currently in the process of generating baseline information and developing strategies for meeting its

commitments.

ILO has an important role to play in assisting with the implementation of several SDGs: most notably Goal 8 (Decent Work and Economic Growth) but also Goal 1 (No poverty), Goal 5 (gender equality), Goal 10 (reduced inequalities) and Goal 16 (Peace, Justice and Strong Institutions). With its tripartite structure and its technical capacity in areas related to the labour market, job creation for poverty reduction and peace and its long-standing commitment to gender equality, the ILO is well placed to support Myanmar's work under the SDGs. It is envisaged that the future DWCP should be squarely aligned with the SDGs and will play a key role in this effort.

THE UNITED NATIONS DEVELOPMENT ASSISTANCE PROCESS (UNDAF)

The UNDAF is the strategic direction and results expected from cooperation between the Government of Myanmar and the United Nations country team. It details the way in which the United Nations will support Myanmar in implementing its national development priorities. The first UNDAF for Myanmar is currently being developed in partnership with the Government and will focus on four key priorities that are linked to the SDGs: People, Prosperity, Planet and Peace.

The ILO is participating fully in the development of the UNDAF and ensuring its alignment with the future DWCP. The UNDAF will focus, inter alia, on generating sustainable and inclusive economic policies to provide decent work. Within that ambit ILO's work will entail supporting forecasting future labour market needs; supporting employment creation; improving productivity; labour law reform; promoting entrepreneurship, financial inclusion and formalization of the informal economy; eliminating forced labour and child labour; addressing workplace discrimination; and capacity building for a rights-based approach for managing migration.

Within the framework of the SDGs and the UNDAF, the development of a DWCP will be a major input into the process of enabling Myanmar to realize many of its inclusive economic and employment objectives in the next five years.

METHODOLOGY FOR THIS REPORT

This report is based on review of secondary literature including ILO project documents and evaluation reports, Article 22 reports and Governing Body documents. A number of focused group discussions were held with ILO specialists and technical experts and round table discussions were held with the Ministry of Labour, Immigration and Population (MoLIP), the Social Security Board, the Ministries of Education, Industry, Planning and Social Welfare and representatives of social partner organizations. (See Annex for list of interviewed Ministries/Department and organizations). Comments were also received on the report from MoLIP and other ministries.

SECTION I: THE OVERALL SETTING

Myanmar is emerging from a long period of isolation, authoritarian rule and economic sanctions. It has been undergoing profound socio-economic and democratic transformations in a relatively short period of time.

Rapid transformation has encompassed a multiple reform agenda. This has focused on establishing democratic governance and the rule of law, fostering national unity and peace and reconciliation, market-oriented economic adjustments and a commitment to decentralization, poverty alleviation and inclusive growth.

Among the unprecedented changes in the recent period are the establishment of a new Constitution (2008), a general election which ushered a new Government, the release of political prisoners, political and legal reforms, establishing institutions to guarantee fundamental human rights, establishing a pluralistic media, bilateral and national ceasefire agreements with the majority of ethnic armed groups (EAGs), increased private sector investment, and foreign direct investment (FDI). (ADB, 2016)

Such far reaching and rapid changes are not without their challenges however. Building the capacity of duty bearers to respect and promote human rights, as well as to foster a culture of democratic governance and awareness of rights amongst the population takes time. This is in turn hampered by a sometimes contradictory, outdated and vague legal environment, though legal reform is one of the priorities of the Government.

As the country engages in the process of nation building it must also grapple with issues of recognizing diversity and addressing the aspirations of ethnic minorities. Reducing inequalities and institutionalization of non-discrimination principles are challenged by ongoing communal tensions and turbulence. Similarly, fostering harmonious industrial relations is not surprisingly fraught, given that democratic organization and trade union activity were suppressed for five decades and newly formed organizations are having to learn a new culture of rights, responsibilities, dialogue and negotiation.

Poverty is another ongoing challenge. The Integrated Household Living Conditions Assessment (IHLCA) Survey which was jointly organized by the Government and UNDP showed a poverty rate of 25.6 per cent in 2009/2010. The World Bank analyzed the IHLCA data by using a different methodology and the result came out at 37.5 per cent in 2009/2010. In the recently released 2017 Report 'Analysis of Poverty in Myanmar' by the Ministry of Planning and Finance and the World Bank, using 2015 data, the Government figure shows poverty has reduced to 19.4 per cent and the World Bank figures show a rate of 26.1 per cent.

This shows that despite robust economic growth, poverty remains high. Myanmar's Human Development Index Ranking is placed at 145 out of 188 in 2016. (See Table 1.2 further below). Poverty has been exacerbated by the 60 year ethnic conflict, economic mismanagement and stagnation under authoritarian rule as well as frequent natural disasters. Table 1.0 below reveals the stark regional disparities prevalent in the poverty rates. Yangon for example has a lower rate at 16.1 per cent while Rakhine State has a rate of 43.5 per cent and Chin State has a rate as high as 73.3 per cent. Such data reveals that development has been uneven and has focused on urban hubs.

Table 1.0 Poverty in Myanmar by State and Regions (2005-2010)

	Kachin	Kayah	Kayin	Chin	Sagaing	Tanintharyi	Bago	Magwe	Mandalay	Mon	Rakhine	Yangon	Shan	Ayeyarwaddy
2005	44.2	33.6	11.8	73.3	26.6	33.8	31.6	42.1	38.9	21.5	38.1	15.1	46.1	29.3
2010	28.6	11.4	17.4	73.3	15.1	32.6	18.3	27.0	26.6	16.3	43.5	16.1	33.1	32.2
Diff	-15.6	-22.2	5.6	0	-11.5	-1.2	-13.3	-15.1	-12.3	-5.2	5.4	1	-13	2.9

Source: UNDP Poverty Profile Integrated Household Living Conditions Survey in Myanmar (2009-2010).

Economic performance

Myanmar's economic performance in the immediate term shows a mixed picture. On the positive side the country is rich in natural resources and has immense agricultural potential. Its economic prospects are enhanced by its close proximity to Thailand, China and India which enhances Myanmar's trade potential. With increased national income over the recent period the country is positioning itself to graduate towards middle income status.

In addition to its transformation in terms of governance Myanmar has embarked on significant economic reforms since 2011. The focus has been on positioning the country to benefit from foreign investment and export markets which have catalyzed growth in the recent period. FDI and integration into the global economy has driven robust growth rates averaging over 7 per cent but dipping slightly in 2016 to 6.4 per cent as a result of a supply shock from heavy flooding, a slowdown in new investment, and a more challenging external environment including lower commodity prices affecting Myanmar's main exports. (World Bank 2016). As Table 1.1 shows, GDP is projected to grow at an average of 7.1 per cent from 2017 until 2020. More recent analysis however suggests that Myanmar will not be able to achieve these results. A World Bank report from October 2017 suggests that the growth rate for 2017/18 will be 6.4 per cent as investment demand has slowed. The report also notes that more revisions downwards may be possible as a result of continuing tensions in Rakhine State.¹

Table 1.1: GDP Growth in Myanmar

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Real GDP (% change)	8.4	8.0	7.3	6.5	6.9* revised to 6.4 ²	7.2*	7.3*

*Projected

Source: World Bank Myanmar Economic Monitor December 2016.

Inflation peaked at a high of 16 per cent in 2015 making for a difficult economic environment. These problems have been intensified by ongoing structural constraints, short-term exchange rate pressures and a

¹ Myanmar Times newspaper article 'World Bank cuts growth forecasts for Myanmar amid slowing investments,' 5 October 2017.

² Revised in accordance with footnote 1 above.

deceleration in new investment flows. The institutional capacity and policy responses to deal with these macroeconomic shocks and imbalances have faced some challenges including a sharp increase in monetary financing of the deficit, worsening inflationary pressures, and measures to contain the demand for foreign currency and imports. (World Bank 2016)

In the immediate term the economic outlook looks positive as the economy recovers and private investments pick up again, GDP is projected to increase to reach 6.4 per cent though this is lower than an earlier estimate of over 7 per cent in 2017. According to the World Bank the agricultural sector is expected to recover and investors' demand for services, and infrastructure construction are expected to be the main drivers of growth and over the medium term. The manufacturing and processing sectors are also potentially important drivers of growth. (World Bank 2016).

However, areas for concern in economic performance suggest deep rooted structural issues which must be addressed in the medium and long term. For example, while FDI has been impressive, the economy continues to base its industrial competitiveness on low wages, and Myanmar's modestly sized manufacturing sector is hindered by poor infrastructure, lack of access to finance and the high costs of starting and running a business.

Similarly, while growth is high it tends to be based on capital intensive extractive industries (such as minerals, precious metals, off-shore gas, plantation crops and oil), and performance on job creation has been weak. The limited diversification of the economy leaves it vulnerable due to its narrow production base and a volatile and competitive global market (ADB 2016). There is still only weak investment in infrastructure and other high value-added sectors.

Much FDI has flowed into sectors such as resources and telecommunications which are less labour intensive. Nevertheless, the Government has recognized the importance of generating inclusive growth to reduce inequalities and poverty and enable the poor to both participate in and benefit from growth. Some of the recent key policy measures are highlighted in Box 1 below.

Box 1: National development frameworks for promoting inclusive growth

Myanmar has emphasized its commitment to inclusive growth to reduce inequalities and poverty through an overarching inclusive growth strategy. Among key elements of the strategy are the following:

- The Economic Policy of the Union of Myanmar (2016)
- The Myanmar Industrial Policy (2016)
- The National Export Strategy (2015)
- Framework for Economic and Social Reforms 2012-2015
- Rural Development and Poverty Alleviation Initiative 2011-2015
- National Comprehensive Development Plan 2011 -2030
- National Social Protection Strategy Plan
- National Education Strategic Plan 2016-2021
- National Strategic Plan for the Advancement of Women 2013-2022
- Healthcare initiatives to foster universal access

The Economic Policy of the Union of Myanmar

This policy document was unveiled in July 2016 to support the following objectives: national reconciliation

and the emergence of a united federal democratic union; achieve balanced economic development across states and regions; create opportunities for the emergence of capable and skilled new generations; and to establish an economic system that can achieve and maintain positive development outcomes through participation, innovation and efforts of all citizens.

The 12 points cover:

1. Expanding financial resources through transparent and effective public financial management;
2. Improving the operations of state-owned enterprises and privatizing those state-owned enterprises that have the potential to be reformed while promoting small and medium enterprises as generators of employment and growth.
3. Fostering human capital that will be needed for the emergence of a modern developed economy, and improving and expanding vocational education and training.
4. Prioritizing the rapid development of fundamental economic infrastructure such as electricity generation, roads and ports, and establishing ID card system, a digital government strategy and an e-government system.
5. Creating employment opportunities for all citizens including those returning from abroad and giving greater priority in the short term to economic enterprises that create many job opportunities.
6. Establishing an economic model that balances agriculture and industry, and supports the holistic development of agriculture, livestock and industrial sectors so as to enable rounded development, food security and increased exports.
7. Asserting the rights of individuals to freely pursue the economic opportunities they choose, so as to enable private sector growth in line with a market system; formulating specific policies to increase foreign investment; and strengthening property rights and the rule of law.
8. Achieving financial stability through a finance system that can support the sustainable long-term development of households, farmers and businesses.
9. Building environmentally sustainable cities, upgrading public services and utilities, expanding public spaces and making greater efforts to protect and conserve cultural heritage.
10. Establishing a fair and efficient tax system in order to increase government revenues, and protecting individual rights and property rights through enacting laws and regulations.
11. Establishing technical systems and procedures to support intellectual property rights that can encourage innovation and the development of advanced technology.
12. Identifying the changing and developing business environment both in ASEAN and beyond, so as to enable businesses to situate themselves to take advantage of potential opportunities.

The Government has now established ten Sector Coordination Groups to further elaborate more detailed sectoral plans, including on job creation, social protection, and is preparing a new Myanmar Sustainable Development Plan. The future DWCP could thus be a vital input into realizing this development vision.

In the longer-term Myanmar will need to diversify its economy to reduce its vulnerability to shocks and volatility. Moreover, with economic growth centered around capital intensive growth it is vital that Myanmar develops more employment-focused patterns of growth. The weak capacity for job creation is illustrated by the fact that despite several years of robust growth rates, more than a quarter of the population lives below the poverty line. Generating a policy mix to support employment creation and build human resources capacities will enable Myanmar to develop the dynamism and innovation required for its rapidly changing economy and the shift to higher value-added production.

Table 1.2 below details Myanmar's rankings in a selected number of global surveys, revealing that while much progress has been made there is significant work ahead to improve its position in a number of areas.

Table 1.2: Selected International Rankings for Myanmar

International Ranking (2016)	Survey	Ranking
Institute for Economics and Peace	Global Peace Index	115 out of 163
United Nations Development Programme	Human Development Index	145 out of 188*
Transparency International	Corruption Perception Index	136 out of 176
World Bank Group	Doing Business Index	171 out of 190**
Economist Intelligence Unit	Democracy Index	114 out of 167*
UNU EHS	World Risk Index	42 out of 171
Reporters without Borders	Press Freedom Index	143 out of 180

*2015 Data

**2017 Data

Democratic transformation

The Constitution of Myanmar was adopted by referendum in 2008. In 2010 the first elections in 29 years were held and a new Parliament convened in 2011. The then opposition National League for Democracy (NLD) entered parliament in 2012 after winning seats in by-elections, and it subsequently won national elections in November 2015 to form a new Government from April 2016.

The Constitution sets the legal framework for democratic governance including provisions for fundamental rights and the rule of law, separation of powers between various arms of State, multiparty democracy, the independence of the judiciary, and establishment of judicial mechanisms for constitutional review, creation of legal mechanisms to give effect to legislation and rights. It also elaborates procedures and responsibilities related to legislative processes, provision of powers of central government to conclude international treaties and decentralization and devolution of power between the central government and the fourteen formally equal regions and states. (ADB 2016)

However, the Constitution also provides an important ongoing role for the national defense services. A quarter of the two Parliament chambers, a quarter of region and state parliament members and three key ministries are appointed by the defense forces.

The pathway to democratic transition has seen a number of positive developments, among them the release of political prisoners, free and fair parliamentary elections, an increasingly confident legislature and plethora of laws enacted or reformed, greater openness to human rights, establishment of bodies and institutions including a National Human Rights Commission to protect constitutionally guaranteed fundamental human rights, a more pluralistic media, abolition of prepublication and most internet censorship. (ADB 2016)

Good governance principles are included in the framework for reform, focusing on public administration reforms, information access and transparency, control of corruption, the rule of law, participation and consultation. A framework for devolution and decentralization of powers has been established. Anti-corruption is also high on the reform agenda with a law on corruption which details a strategy to investigate and prosecute those involved in corruption in both the public and private sectors. An Anti-Corruption

Commission was established in 2013 to enforce the law. (ADB 2016).

Nonetheless the country still faces many challenges in democratic transition and must navigate the difficult terrain of nation building after decades of conflict and authoritarian rule.

Legislative reform and ensuring that laws align with international human rights and labour standards and with economic and policy changes is a lengthy and difficult process. It is made more complex by the current pluralistic legal framework which encompasses statutory laws, the common law system that dates back to the colonial era, customary law and multiple religious laws. Previously certain ethnic minority regions were also administered separately, allowing a degree of local autonomy and a continuation of some degree of customary laws and practices. The new Government has attached high importance to efforts to strengthen the rule of law and the functioning of an independent judiciary.

A further challenge is the limited experience of a federal government structure, and the need to reconcile shared political, administrative and financial power among different levels of government. Similarly, constitutional reform and federalism have emerged as important issues in the evolving peace and reconciliation process. (ADB 2016).

The media's role has expanded significantly, but journalists have still been sanctioned under defamation and other laws. And finally, the peace process and the continuation of conflict, communal tensions and related displacement present formidable challenges in consolidating democracy.

The socio-economic development of fragile and conflict-affected communities all vitally important areas that need to be addressed as Myanmar consolidates a strong democracy and lasting peace.

The Peace Process

Myanmar has 135 officially recognized ethnic races with non-Bamar ethnic nationalities representing 40 per cent of the population. Ethnic tensions date back to the colonial era when armed ethnic organizations called for stronger social, economic and cultural autonomy and the establishment of political rights under a federal democratic structure. For more than six decades armed conflicts have continued between ethnic armed groups and the state.

Between 1989 and 2010 more than 30 groups either surrendered or entered ceasefire agreements with the previous government while a further 21 did not. Since 2011 the Government has engaged in a peace process with ethnic armed organizations which has included ceasefires, economic development and regional political dialogue and national political dialogue.

Major breakthroughs have been achieved in the peace process including preliminary ceasefire agreements with 14 of the 21 remaining armed ethnic groups culminating in the Nationwide Ceasefire Agreement in 2015. Broader discussions are underway with the EAGs on the root causes of their respective conflicts. The convening of the first Twenty-first Century Panglong Conference in 2016 brought together nearly 20 EAGs to discuss their grievances. Fostering peace however, has proven to be complex and difficult, and building trust has been somewhat elusive. The second and third Twenty First Century Panglong Conferences took place in May 2017 and June 2018 respectively and political dialogues continue at various levels.

Despite these groundbreaking developments some clashes continue between various sides. The situation in Rakhine State is particularly challenging, where recent violence has led to unprecedented levels of

displacement and refugee movement. The Government has committed to facilitate the return of refugees and the displaced, and to implement the comprehensive recommendations of a special Advisory Commission on Rakhine State to promote longer-term peace and inclusive development.

Consolidating the peace process will be critical for the success of Myanmar's democratic transition. This will require building trust and strengthening capacity on all sides to negotiate a peace which is long lasting. The role of local development and job creation in fostering harmony, reconciliation and nation building will be of vital importance in ensuring sustainable development and stability. In this regard, the ILO's work in the recent period is unique in working with conflict-affected communities in Myanmar to generate jobs and catalyze economic development in fragile regions.

This overview sets the backdrop for the decent work challenges currently facing the country. These will be discussed, along with the progress made to date, in the following sections.

SECTION II: FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK AND IMPLEMENTATION OF INTERNATIONAL LABOUR STANDARDS (SDGS 1,4,5,8,10,16)

Ratifications of human rights instruments

Myanmar has ratified a number of international human rights treaties as shown in Table 2.0 below.

Table 2.0: Myanmar's Ratification of International Human Rights Treaties

CEDAW - Convention on the Elimination of All Forms of Discrimination against Women (Accession 27 July 1997)

CESCR - International Covenant on Economic, Social and Cultural Rights (Ratified 6 October 2017)

CRC - Convention on the Rights of the Child (Accession 15 July 1991)

CRC-OP-AC - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Signed 28 September 2015)

CRC-OP-SC - Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography (Accession 16 January 2012)

CRPD - Convention on the Rights of Persons with Disabilities (Accession 7 December 2011)

Source: United Nations Human Rights, Office of the High Commissioner website

Ratifications of ILO Conventions

This section provides a detailed assessment of the legal framework and effective implementation of the main areas under the fundamental principles and rights at work.

Myanmar has ratified three of the eight Fundamental Conventions :³

- The Forced Labour Convention 1930 (No.29);
- The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87); and
- The Worst Forms of Child Labour Convention 1999 (No.182).

It has not ratified any of the four Governance Conventions. Of the technical Conventions it has ratified, 17 are still in force including the recently ratified Maritime Labour Convention which will come into force in 2017.

Table 2.1 Ratification by Myanmar of international labour conventions

Fundamental Conventions

C029 - Forced Labour Convention, 1930 (No. 29). 11 Nov 1957. In Force.

C087 – Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87)

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182).10 Nov 2000. In Force.

Technical Conventions in Force

C001 –Hours of Work (Industry) Convention 1919 (No.1).

C002- Unemployment Convention, 1919 (No.2)

C006 – Night Work of Young Persons (Industry) Convention, 1919 (No.6).

C011 – Right of Association (Agriculture) Convention, 1921 (No.11).

³ The eight fundamental Conventions (see Annex for list) are those which all member states of the ILO are required to respect and move towards ratifying.

C014- Weekly Rest (Industry) Convention, 1921, No.14.
 C016-Medical Examinations of Young Persons (Sea) Convention, 1921 (No16).
 C017 – Workmen’s Compensation (Accidents) Convention, 1925, (No17)
 C018- Workmen’s Compensation (Occupational Diseases), 1925 (No.18).
 C019- Equality of Treatment (Accident Compensation) Convention, 1925 (No19),
 C021- Inspection of Emigrants Convention 1926 (No.21),
 C022- Seamen’s Articles of Agreement Convention, 1926 (No22).
 C026 – Minimum Wage Fixing Machinery Convention, 1928 (No26).
 C027 – Making of Weight (Packages transported by vessels) Convention, 1929 (No27)
 C042 – Workmen’s Compensation (Occupational Diseases), Convention (revised) 1934 (No.42)
 C052 – Holidays with Pay Convention, 1936 (No.52)
 C063 – Convention concerning Statistics of Wages and Hours of Work, 1938 (No.63)
 MLC – 2006 Maritime Labour Convention, 2006

Progress in ratifications of international standards

Stakeholder meetings conducted for this report suggest there is a caution about further ratifications. This may be a result of misconceptions relating to the flexibility that is inherent within labour standards to adapt them to national contexts, as well as misunderstandings about perceived onerous reporting requirements.

Awareness raising on international labour standards may help alleviate these concerns. The outcome of the diagnostic (see Section VIII) suggests that guidance contained in the Fundamental Conventions would have a profound impact in supporting further democratization of the labour market and good governance in general in Myanmar.

Fundamental Principles and Rights at Work

I. Forced Labour

In 1998, a Commission of Inquiry established under Article 26 of the ILO Constitution found widespread and systematic use of forced labour. The ILO’s engagement with Myanmar in the recent period thus began with this issue, since it was the only agency mandated to work with the Government under international sanctions to ensure forced labour was eliminated.

As reported to the ILO Governing Body, forced labour has taken a number of forms in Myanmar over the years, including underage recruitment into the military and armed ethnic groups, trafficking, portering (particularly in conflict zones) and forced labour for public and private works. The issue has been the focus of cooperation between the Government and ILO for more than a decade.

The Government of Myanmar and the ILO in 2007 signed the Supplementary Understanding (SU) on the Elimination of Forced Labour for a term of one year as a trial period to resolve forced labour complaints and have extended it annually. A Complaints Mechanism has been put in place which gives the ILO the mandate to investigate any complaints of forced labour and seek redress. In addition, in 2012 the ILO concluded a Memorandum of Understanding on a Joint Strategy for the Elimination of Forced Labour by 2015 that provided the basis for seven inter-related action plans. In order to implement an updated Action Plan for the elimination of forced labour, a Memorandum of Understanding (MoU) was signed on 22 January 2018 for the year 2018. This Action plan focuses on four priority areas:

- (i) Continued operation of the complaints mechanism;
- (ii) Training and awareness raising on forced labour including to Government officials;

- (iii) Capacity building to end forced labour at regional and state levels; and
- (iv) Mobilization of tripartite partners for prevention of forced labour in the private sector.

Despite progress complaints continue to be received, though this may be as a result of increased awareness of the issue. Between 16 February 2017 and 30 August 2017, the ILO received 214 complaints, of which 147 were within the Supplementary Understanding mandate. Of these 147 complaints, 131 related to under-age recruitment, eight to forced recruitment of adults, six to traditional forms of forced labour, one to trafficking for forced labour (56 persons) and one to forced labour in the fishing industry. (ILO 2017d)

Underage recruitment is also being dealt with through both the Complaints Mechanism and the Joint Action Plan on Underage Recruitment between the Government and the United Nations Country Task Force on Monitoring and Reporting (CTFMR). While there has been a significant decrease in the numbers of reported cases of forced recruitment for military purposes by both the security forces and armed groups, the ILO continues to receive cases through the Complaints Mechanism of young persons who were recruited while underage and have remained in service or have been deemed absent without leave by the Tatmadaw (Security Forces). Similarly, forced recruitment for public works appears to be on the decline, as a result of increased awareness on the part of local authorities.

Developments within the peace process are also likely to garner positive outcomes in terms of forced labour, since the National Ceasefire Agreement of 2015 includes commitments to prevent forced labour of civilians and recruitment of children. The issue of forced labour was also highlighted at the first Union Peace Conference in August 2016.

The ILO has been working with both the Government and with Ethnic Armed Groups (EAGs) to secure commitment to ending forced labour, resulting in at least two non-State armed groups committing to eliminate the practice. It is also consulting with government agencies on the development of action plans targeting elimination of forced labour in areas not directly under Government control.

The Government has re-established the high level and technical level working groups, comprising representatives of relevant ministries and the Tatmadaw to handle complaints and coordinate the programme. At the time of writing this report the working group last met in February 2017.

In the short-term there are still a number of outstanding areas that have not been implemented by the previous action plans in particular training of government personnel on the effective application of the law, and public awareness campaigns need to be intensified.

In the longer term the strategy will have to reconsider institutionalization of the Complaints Mechanism and other measures to prevent forced labour with national and local stakeholders. With intensified awareness raising and training of local stakeholders it is anticipated the issue will be addressed at the local level and with serious cases being addressed through the formal justice system. The Government has indicated a desire to adopt a more decentralized approach with greater responsibility being placed with regional and state governments in the implementation of action plans and ensuring compliance with the law for the elimination of forced labour. Both the labour inspectorate and social partners will also need to be capacitated to address the issue of forced labour in the private sector. (ILO 2016b)

II. Freedom of Association

As Myanmar moves towards deepening its democracy, one of the biggest changes that the country has undergone in the last five years is in establishing the principles of freedom of association in the labour market. While the road ahead is still clearly a long one, the transition in a relatively short period of time has been significant. An understanding and a culture of organization, dialogue and industrial relations is growing and evolving amongst all labour market partners, albeit slowly. A National Tripartite Dialogue Forum, involving representatives of Government, employers and workers, has been functioning since 2015.

a. Labour Organization Law

Until the Labour Organization Law was passed in 2011, trade unions in Myanmar had been illegal for the previous five decades. The law was one of the first passed by the new Government, and the numbers of unions have grown rapidly in that period (see Section VII for more details).

While the passing of the law was a major step forward for good governance and democracy, as well as enabling those in the labour market to have a voice, the amendment of the law is required to meet the guidance entailed in the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87). This has had the effect of creating some barriers to registering organizations.

The shortcomings of the law have been recognized by all tripartite partners and the law has been undergoing review. The Government and social partners have been working on the reform of three priority labour laws through a tripartite consultation process under the NTDF since 2015. Discussions are still ongoing but are expected to reach fruition this year.

Workers' organizations have highlighted some restrictions in forming trade unions including the difficulty of meeting the threshold criteria of a minimum of 30 workers and gaining 10 per cent approval for the union amongst the entire worksite. In some cases, there may be a lack of clarity about how many workers may be at a worksite, thus causing delays in the registration process.

In other cases, the documentation requirements for the registration process has caused problems, with some rural and migrant workers unable to show their national identification cards for the registration. Similarly, the geographical isolation of some worksites, particularly in rural areas hinders registration since offices are usually located in urban. A number of workers' organizations have also noted that the approval process can be lengthy and may be delayed at the Township level registration. Similarly, the requirement for inspection of the worksite by the registrar of unions also causes delays. While the registration process is supposed to take 60 days in effect it takes far longer and there is an existing backlog of organizations awaiting registration.

Workers organizations have also highlighted anti-union discrimination, in particular dismissals and blacklisting of union leaders and fears amongst ordinary workers about dismissal if they join a union. This inability to protect their members at some worksites is causing serious concerns for trade unions.

For employers' groups there is a lack of clarity within the Labour Organization Law which has resulted in very few employers' organizations being established, though Myanmar does have many business associations without mandate to conduct labour market functions, under other laws (see Section VII for details). The UMFCI has taken on the primary role as employers' representative and established an employer services department to support this area of its work.

b. The Disputes Settlement Process

The Settlement of Labour Dispute Law 2012 and its amendment law, 2014 were enacted to safeguard the rights of workers, have good relationship between employers and workers, make peaceful workplace and settle disputes of employers and workers fairly and quickly.

Within the framework of the law, four levels of mechanisms have been set up: a Workplace Coordinating Committee (WCC); a township Conciliation Body; a regional or state Arbitration Body and a national level Arbitration Council. Beyond these structures a dispute may be taken to general courts in the absence of a labour court. Table 2.1 below outlines the dispute resolution structure.

Table 2.2: The Disputes Resolution Structure

Mechanism	Types of Disputes	Issues and Roles	Duration
Workplace coordinating committee * Equal representation of workers and employer * 1-year term	Individual or collective dispute	* To obtain right to collective bargaining and conclusion of collective agreement * Negotiation and coordination on conditions of employment, terms and conditions and occupational safety, health, welfare and productivity.	5 days
Township Conciliation Body * Tripartite structure * 3 government representatives * 3 employers' representatives * 3 workers' representatives * 2 distinguished persons * 2-year term	Individual or collective dispute	* Determining the types of disputes (individual/collective) * Conciliating the issues * Making contract of agreement if the case settled	3 days
Competent court	Individual dispute	* If worker / employer not satisfied with the outcome of conciliation, they may apply to the competent court in person or by their legal representative.	
Regional / state dispute settlement Arbitration Body * Tripartite structure * 3 government representatives * 3 employers' representatives * 3 workers' representatives * 2 distinguished persons	Collective dispute	* Decision-making on the dispute case	7 days
Arbitration Council and tribunal * Tripartite structure * 5 government representatives * 5 employers' representatives * 5 workers' Representatives	Collective disputes	* Social justice, decent work and principles of equity in making decisions * Forming the tribunal in accord with the stipulations * Prescribing the working methods, procedures and programmes to be performed by the Arbitration Body and tribunal.	7 days (essential service sectors) 14 days for non-essential service sector

Source: ILO (forthcoming) *The Early Evolution of Industrial Relations in Myanmar: 2012-2015*

Disputes may be individual (between the employer and one or more workers) and often over rights which are enshrined in laws or employment contracts or collective agreements; or collective (between one or more employers or employers' organization and one or more labour organizations). These may be over working conditions, recognition of the union or relations between the employer and the workers. (ILO forthcoming)

While the spirit of the law is positive, a number of factors have held back its effectiveness including sometimes confusing and vague mechanisms, weak capacity as well as limited enforcement. Furthermore, both workers and employers and their organizations have limited understanding of their roles, rights and responsibilities under the dispute settlement bodies within the legal framework. As a consequence, industrial relations in Myanmar are often tense and volatile.

According to Chapter VI, Article 28(b) of the law, strikes are legal only when mediation efforts in an employer-employee dispute have been fully used. A strike is a last resort option and should only be used when a party is not satisfied with the decision of the Arbitration Body. However, in some cases strikes are used at the beginning of the negotiations based on the misconception that they are the fastest way of resolving issues. This has in turn led to a proliferation of strikes. Lack of legal knowledge on the part of some workers' organizations can thus hamper the building of good industrial relations. (ILO forthcoming)

The workplace disputes settlement mechanism tends to be one of the weakest, and very few conflicts are able to be resolved at this level. The Township level has been more effective and has seen the majority (80 per cent) of disputes settled at this level (ILO forthcoming).

The WCCs have untapped potential to be a major source of conflict resolution and be a platform for supporting collective bargaining. However, they currently are encumbered by several weaknesses. While worksites with over 30 employees are required to have a WCC under the law, as yet many have not been formed and there is a lack of awareness of their importance and mandate. Where they have been formed they are hindered by weak technical capacity to undertake dialogue and negotiations, or they may suffer from lack of trust or legitimacy by workers if they have been appointed by employers.

Workers organizations have commended the existence of the law but have highlighted some of its problematic areas. They have concerns for example that the process of dispute resolution is lengthy, including the existence of two Appeals mechanisms. They have also noted that the penalties tend to be weak. Although fines have recently increased, there are perceptions amongst workers' organizations that fines have not prevented or redressed violations of the law.

From the employers' organizations' perspective the arbitration system has structural flaws. They have noted that many of the cases going to the arbitration bodies are individual disputes, which they feel the arbitration body does not have the mandate to address. Increased fines, from the employers' perspective will not resolve the structural flaws. Furthermore, they have concerns over the impartiality of some of the appointees to the arbitration body.

A further limitation of the dispute resolution system is the confusion surrounding appointments to the arbitration bodies since the law is silent on the selection process. While the social partners can nominate representatives, it is the Government who appoints them, which in effect means that social partners do not have the independence to decide who their representatives will be on the board. Moreover, the selection process has evolved into an informal 'election' process with a lack of clarity over who receives invitations to participate and how the voting takes place. A clear, transparent selection process respecting the rights of

social partners to select their own representatives would serve to ensure the better functioning and greater trust in the arbitration boards.

Both social partners have also pointed out the need for strengthening the capacity of board members and judges including enabling them to have ready access to relevant research and jurisprudence to assist their decision making.

c. The Employment and Skill Development Law

The Employment and Skill Development Law was enacted in 2013 and repeals the Employment and Training Act (1950). The new law requires that an employment agreement has to be made within 30 days of the date of the appointment and provides the particulars to be included in the agreement. However, as the law allows for amending workplace terms, conditions and benefits by mutual agreement between the employers and the employees, there have been some disagreements and disputes. (ILO forthcoming)

III. Collective Bargaining

Collective bargaining is in its very incipient stages in Myanmar and the country has not yet ratified ILO Convention on Collective Bargaining, 1981 (No.154). While there is provision for it under the Settlement of Labour Dispute Labour Law, there is not yet a system of rules, services, processes and regulations to guide and support collective bargaining. As noted above the dispute settlement mechanisms tend to be weak and bipartite discussions can be fractious. Both social partners are also held back by weak capacity to engage in dialogue and negotiation and there is very limited awareness of roles and responsibilities, as well as the importance of collective bargaining.

It is hard to determine the exact number of collective bargaining agreements as there is not a centralized registry for agreements, though it appears the majority are in the garments, textiles and footwear industries. (ILO forthcoming)

The vast majority of agreements tend to be a result of dispute settlement through the arbitration system rather than the result of bipartite negotiation. Without external intervention and support of either government or the conciliation systems these agreements would not have been developed. Agreements tend to be limited to the issue of settlement agreements and while a few cover broader issues, as yet, no comprehensive multi-issue collective bargaining agreements have emerged. (ILO forthcoming)

A continuing issue is that some employers have called into question some of these awards which they do not see as agreements and which they feel have been unfairly imposed on them through a flawed system.

A key problem is the lack of guidance on collective bargaining in the absence of effective laws. There is no formal system of collective bargaining by trade activities, so that trade unions or mediators have taken up matters on a case-by-case basis. Nor is there legislation that entitles negotiation parties at industrial or national level to sign agreements. Agreements remain limited to plant or firm level have not yet reached sector or industry level. (ILO forthcoming)

In the absence of legal guidance on collective bargaining there is potential within the mandatory (for worksites with more than 30 workers) Workplace Coordination Committees (WCCs) for dialogue and negotiation. It is the responsibility of employers to ensure these WCC are formed however, anecdotal evidence suggests that very few have been created and there is still a widespread lack of understanding of their role and function.

There is a concern about implementing the provisions of the WCC on the part of employers, in particular nominating representatives from both sides. Employers have expressed concern about being responsible for the whole WCC and would prefer to nominate only their own representatives, rather than be responsible for selecting worker representatives as well.

IV. Discrimination

The issue of discrimination in general is important in Myanmar not only in terms of the gender gaps and issues which affect all countries but also because of the complexities and nuances of the Peace Process and ongoing communal tensions.

Myanmar has not ratified any of the key equality conventions: The Equal Remuneration Convention 1951 (No. 100); The Discrimination (Employment and Occupation) Convention 1958 (No.111); Workers with Family Responsibilities Convention, 1981 (No. 156); The Maternity Protection Convention, 2000 (No.183).

The 2008 Constitution guarantees equal rights for citizens before the law and equal legal protection (Section 347). Article 348 of the Constitution prohibits discrimination on basis of race, birth, religion, official position, status, culture, sex and wealth but not on colour, language, political or other opinion and national origin.

Myanmar has adopted important new laws providing for non-discrimination against particular groups, including the Rights of Persons with Disabilities Law 2015 and the Ethnic Rights Protection Law 2015, however, concerns have been expressed by international bodies about other discriminatory legislation.

Maternity leave is governed by the Social Security Law (2012) for employees contributing to the Social Security Fund and by the Leave and Holidays Act (1951) for employees not covered by the law. Under the latter Act employees are entitled to a total of 4 weeks of paid maternity leave, while under the former they may take an additional four weeks in case of twins or up to six weeks in case of miscarriage. Male employees covered by the Social Security Law may enjoy 15 days of paternity leave after the confinement of their wife.

While Myanmar has ratified the UN Convention Against All Forms of Discrimination Against Women (CEDAW) and Convention on the Rights of Persons with Disabilities (CRPD), there is still a significant lacuna with regard to equality legislation and policy frameworks to support the principles of non-discrimination. There is a great need for widespread awareness raising to support principles of non-discrimination in the workplace as well as capacity building of all stakeholders in the issues.

The issues of discrimination are dealt with in more detail in Section VI.

V. Elimination of Child Labour

Like many developing countries child labour is endemic in Myanmar with over a million young people engaged in child labour, and of that, more than half are involved in hazardous work. (MoLIP and ILO 2015). This not only puts their education, emotional and physical wellbeing at risk, but is also likely to set them on a life time trajectory of poverty and low skilled informal work.

A number of factors drive the high incidence of child labour in Myanmar. First and foremost is poverty, and not only income poverty but vulnerability to economic shocks and natural disasters; secondly, the high levels of out-migration used by poor households as survival strategy, but which results in labour shortages in rural areas; and thirdly, limited access to schooling and poor quality education. (ILO, 2017a) The latter root cause should be highlighted since the returns on education are not readily apparent for parents in poor

communities. Thus the opportunity cost of foregoing schooling is weighted in favour of children working.

Until the Labour Force Survey (LFS) in 2015, reliable data on child labour was scarce. With ILO support MoLIP however, undertook a Child Labour Survey as a module of the LFS, thus providing fresh data and insights into the scale and scope of child labour in the country. The survey revealed that there are 1.1 million working children in Myanmar, aged 5 to 17 years, and of these around half are engaged in hazardous work. More than 75 per cent of working children are in the age group 15-17 years, and the vast majority of all working children (80 per cent) are in rural areas. The major sectors employing working children are agriculture, forestry and fishing (60.5 per cent) and manufacturing (12 per cent), trades (11 per cent) and other services (6.1 per cent).

There is a significant gender difference with 53 per cent of all working children being boys and 47 per cent girls, though girls tend to work longer hours than boys, especially in the over 60 hours per week category. It should be noted also that this higher prevalence of boys in the statistics may be a result of some girls being involved in highly clandestine work such as commercial sex work in which it is difficult to collect data.

a. Hazardous work

A total of 616,815 children are in hazardous work and they work an average of 51.9 hours per week. Rural boys and girls are more at risk of hazardous work than their urban counterparts and they also work considerably longer hours. The data shows that boys are more vulnerable to hazardous work than girls. The main hazards faced by children at work are: exposure to dust and fumes (40 per cent); dangerous tools (16.5 per cent); extreme heat or cold (11 per cent); pesticides; and chemicals (9.5 per cent). (MoLIP and ILO 2015)

Agriculture, mining, manufacturing and construction are the major industries responsible for exposing the maximum number of children to dangers from dust and fumes, dangerous tools, heat and cold, pesticides and chemicals.

As discussed in the Forced Labour section above, children (particularly in conflict zones) have been at risk of being recruited into armed conflict either by the Tatmadaw (National Army) or by armed non State actors, and have been listed by the UN Secretary General for the recruitment and use of children, though the incidence is now declining as a result of intensive action on Forced Labour.

b. Myanmar's legal framework on child labour

In 1991 Myanmar ratified the Convention on the Rights of the Child (UNCRC) and in 2013 it ratified ILO Convention no.182 on the Elimination of the Worst Forms of Child Labour. Myanmar has not ratified ILO Convention no.138 on the Minimum Age for Admission to Employment but the draft Child Law and the Labour Code are in line with the lower age limit for general admission to employment permitted by C.138, of 14 years. (ILO 2017a)

Myanmar is currently undergoing significant legal reforms including a review of the existing Child Law (1993) which covers a range of children's rights. Legislation on child labour is fragmented across several Acts and none contain a specific definition of child labour. Nor is there a regulation to define light work. In 2015 a review of child labour-related legislation recommended the development of a ministerial regulation on light work by the tripartite consultative fora. (ILO 2017a)

There is also no explicit prohibition on the worst forms of child labour (WFCL) though a number of activities amounting to WFCL are prohibited under various pieces of legislation. The Constitution for example prohibits forced labour and the Penal Code prohibits the sale and trafficking of children for sexual exploitation or for any unlawful or immoral purpose. The 2005 Anti- Trafficking Act bans the trafficking in persons with special attention to women and children and more severe penalties for those who traffic children. (ILO 2017a)

Similarly, the use of children in prostitution is prohibited through the penal code, but there is no explicit provision on the use of children in pornographic materials or performances. The Penal Code allows for the punishment of those who hire out a child and those who procure a child for sexual services. The Child Law allows for the punishment of guardians who allow girls under 16 to enter prostitution. The 2015 review of child labour related legislation recommended that the age be increased to 18 years, that boys should also be covered under the law, and that pornography with children should also be banned. (ILO forthcoming)

The use of children in illicit activities is limited to a provision in the Child Law that prohibits them from working in business of alcohol and gambling, and under the 1993 Narcotic Drugs Act, of using children in the narcotics trade. The 2015 review proposed extending the prohibition to encompass all illegal activities and as well as the use of children in armed conflict. (ILO 2017a)

Hazardous work by children below 18 years (in line with ILO Convention No.182) is partially covered by the Child Act and the Factories Act and the Technical Working Group on Child Labour (TWG-CL) has produced a draft list of hazardous labour prohibited under the age of 18 years for adoption as a regulation. The adoption of the list of hazardous work will be an important step in the direction of a more enforceable legal framework. The proposed new Child Rights law will provide an important opportunity to ensure that child labour is defined and prohibited explicitly and that all pieces of legislation related to children's rights are in line with international conventions and internally consistent. In addition, labour laws are undergoing systematic review and revision currently (including the amendments to the Factories Act and Shop and Establishment Act that brought the minimum age for employment to 14 years). (ILO 2017a)

c. The Draft National Action Plan (NAP) on Child Labour

As part of its obligations under the ratification of ILO Convention on the Worst Forms of Child Labour No.182, Myanmar is developing a National Action Plan on Child Labour.

The development process is ongoing and consultations were held across Myanmar that culminated last March with the National Consultations during which the Framework was developed. The proposed NAP framework fits within Myanmar's future commitments under the SDGs, in particular with SDG Target 8.7 on the elimination of child labour and forced labour, as well as SDG 1 on poverty; SDG 4 on Education; SDG 10 on Reduced Inequalities; and SDG 16 on Peace.

The NAP framework sets out a realistic phased process for the elimination of worst forms of child labour (WFCL) with the overall goal of "By 2030 all boys and girls in Myanmar are effectively prevented and protected from child labour, especially in its worst forms."

Among overall strategies identified in NAP Framework are: preventing child labour, withdrawal of children from WFCL, protection of young workers, mainstreaming with existing programmes and policies, regional and state perspectives and prioritizing conflict affected and disaster prone areas, gender equality, respect for child rights, attention to the informal sector, and multi-partner coordination and action.

Importantly it establishes policy coherence with other measures supporting inclusive growth such as the NSPSP which will provide social protection measures such as Child Grants, School Feeding Programmes, and other interventions to enhance household incomes (see Section V); the National Education Strategic Plan which will support better quality education and enhanced access, including for vulnerable children and especially in TVET for skills development; mainstreaming child labour concerns in other national policies including Disaster Relief Management as well as Forced Labour.

SECTION III: THE DYNAMICS OF EMPLOYMENT, THE LABOUR MARKET AND THE ECONOMY (SDGS 1,5,7,8,9,10,13,16)

This section explores the progress and main challenges with regard to achieving inclusive growth and productive employment for all. It provides a snapshot of current labour market characteristics and investigates key thematic issues such as Small and Medium Enterprise (SME) development, employment in conflict-affected zones to support peace and stability, sectoral strategies, corporate social responsibility, Green jobs, migration trends and challenges, as well as fostering skills to support a dynamic and rapidly changing economy.

Labour market characteristics

In 2015, MoLIP in collaboration with the Central Statistical Office (CSO), and with technical support from the ILO conducted a labour force survey, including modules on youth employment and child labour. The LFS, the first of its kind in more than 30 years, has provided rich information on current labour market characteristics. In 2017, the Government began to update the LFS on a quarterly basis.

I. Literacy and training

The LFS reveals that the literacy rate for the working age population (aged 15 years and above) is 89.6 percent, within which there are important disparities, with both females and those in rural areas having lower literacy rates. Of concern too, is that at the national level the proportion of the working age population that have completed high school is as low as 6.5 per cent, with disparities again between urban and rural areas.

The proportion of the working age population that has undergone any training during one's life time is a mere 2 per cent. Such data suggests that there are serious shortcomings in Myanmar's current capacity for human capital development that may hinder the momentum of rapid changes in the economy. The country has however recognised the seriousness of the situation and within a framework of inclusive growth there have been significant increases in investment in education and health in the last five years.

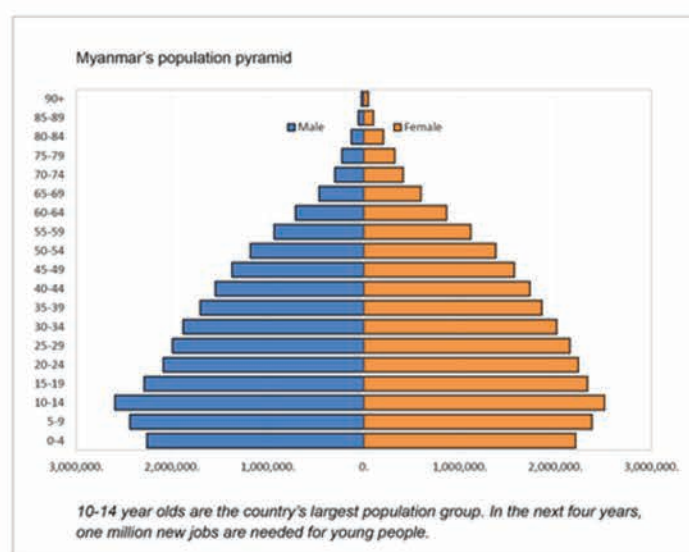
II. Participation rates

Labour force participation rates stand at 64.7 per cent (80 per cent males and 52 per cent females) and rural areas have a higher rate at 67 per cent compared to 60 per cent in urban areas. Agriculture is the biggest sector for jobs (51.7 per cent), with manufacturing accounting for 16.8 per cent and 31.5 per cent in the services sector. (MoLIP and ILO 2015)

What is important to note is the relatively low participation rates of women. As UNFPA suggests, if more women were to enter the labour market there would be a dramatic rise in the country's per capita income which would enable Myanmar to benefit from a 'gender dividend.' Such a dividend could only be realized however if women had equal access to education, job opportunities, land, credit and other resources. (UNFPA 2014).

III. Demographic profile

The LFS shows a primarily rural population with 72 per cent of people living in rural areas though urbanization is rapidly increasing. Myanmar has a relatively youthful population with persons in the working age group 15-64 years accounting for 64.9 per cent, with 29.2 per cent under 14 years and 5.9 per cent over 65 years. UNFPA analysis of census data confirms the youth of Myanmar's population as seen in figure 3.0 below.

Figure 3.0 Myanmar's Population Pyramid

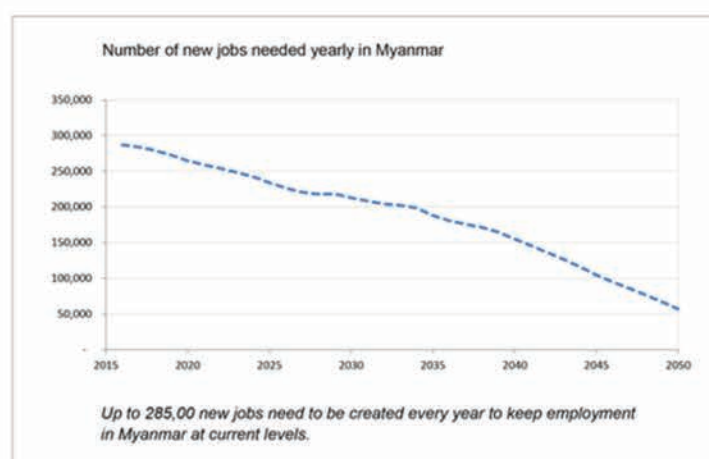
Source: UNFPA (2014) *Myanmar Population and Housing Census Thematic Report on Population Dynamics*

Such a demographic profile can be very positive for the productivity and economic growth of a country where the working age population is high and the dependency rate is low.

UNFPA analysis from the 2014 census shows that the dependency ratio, (that is, the number of dependents such as children and elderly per 100 economically active people), will remain almost constant at 52.5 for the next 35 years. (UNFPA 2014)

But for Myanmar to take advantage of such a demographic dividend it is essential to put in the right policy mix to support more and better employment. The School to Work Transition Survey which took place as part of the Labour Force survey found for example that 52 per cent youth had left school without completing middle school, and that 17 per cent of youth were not in any form of education or employment. Unless policy measures are put in place to enable these youth gain necessary skills the country is unlikely to harness its potential for innovation and prosperity, and maintain its momentum of transitioning to a higher value-added economy.

UNFPA projections (Table 3.1) also show that employment creation measures for young people will be particularly important. From 2016 to 2030, 3.7 million new jobs will be needed to simply keep employment at current levels. (UNFPA 2014)

Figure 3.1 Number of new jobs needed yearly in Myanmar

Source: UNFPA (2014) *Myanmar Population and Housing Census Thematic Report on Population Dynamics*

IV. Unemployment and Labour Under-utilization

Unemployment rates are low at 0.8 per cent (0.7 per cent for males and 0.9 per cent for females). Unemployment however is a poor indicator for understanding the labour market in low income countries, where poverty and lack of unemployment benefits forces the majority to find any work for survival. Labour underutilization and the extent of the informal economy can provide better insights into the structure of the labour market.

The labour underutilization rate refers to a mismatch between supply and demand leading to an unmet need of employment among the population. The aggregate measure of labour underutilization, which comprises unemployment, underemployment and potential labour force is 6.9 per cent (and higher for females than males).

The data also suggests that there are major disparities within regions in Myanmar. Not only do urban areas fare better than rural areas in terms of labour market characteristics, but there are significant differences between states. Development therefore has been uneven and inequality has been growing, with large demarcations between the poverty levels of certain regions, which have been exacerbated by ethnic conflicts and communal tensions. It will be essential for the country to foster more equitable development to support stability, peace and reconciliation.

Small and medium sized enterprises (SMEs)

SMEs are one of the largest sources of job creation and growth in developing economies around the world. They can not only generate jobs but can also be a source of innovation, wealth creation and poverty reduction. The Government of Myanmar has recognized the pivotal role they can play in developing the economy within an inclusive growth framework. SMEs are highlighted in the national development frameworks such as the Economic Policy for the Union of Myanmar unveiled in 2016 and the National Comprehensive Development Plan 2011-2030.

An ILO supported study from 2014 suggests SMEs are already playing an increasingly important role in the Myanmar economy, with an estimated 2.8 million SMEs in Myanmar and around 39,000 start-ups annually (ILO 2014). Similarly, a UNDP supported Myanmar Business Survey from 2015 found that the private sector is dominated by small businesses with less than 10 workers and that they tend to be concentrated in a few sub-sectors: primarily food, beverages and tobacco products in the manufacturing sector. (UNDP 2016)

While the current level of diversification is limited there is untapped potential for SMEs to take off in a broader range of sectors. Opportunities for output and employment growth are thought to be particularly strong in labour intensive manufacturing, tourism and travel, construction and retail. Strong output growth can also be expected in agriculture, energy and mining, telecommunications and financial services, all of which can boost SME development in these areas. Similarly, increased trade and FDI can also strengthen SME development in a wide range of sectors.

In order for SMEs to flourish however they need the right policy mix and an enabling environment supportive of private sector growth in areas such as the regulatory framework, licensing procedures, access to finance and other productive resources, business development services, skills development, incentivized taxation and social protection frameworks among other areas.

In Myanmar, the environment for SMEs is still in its nascent stages since emerging from a controlled economy after 1988. The country's ranking in the Doing Business Index remains low at 167 out of 188 countries in 2016. (World Bank).

There are a range of factors which are holding back MSME development despite the recognition at the highest level that they are the engines for Myanmar's growth and prosperity.

The problem of lack of financial inclusion is a serious challenge to the growth of SMEs in terms of access to both formal and informal finance. While a Microfinance Law was passed in 2011, microfinance institutions tend to be weak, with limited outreach and offer only a small number of financial products and loans. Formal finance through the banking system is similarly constrained, so the need for affordable credit for SMEs is substantial. Commercial banks point to the prohibitive regulatory framework including strict collateral and short repayment periods.

Recognizing the problem of finance for SMEs Small and Medium Industrial Development Bank (SMIB) under the Ministry of Industry has lent out several billion Kyat to the country's entrepreneurs. International donors including the International Finance Corporation (IFC) have also disbursed loans to local banks to shore up credit for SMEs. These efforts however only reach a fraction of the entrepreneurs in need of finance.

Skills development is another area which is holding back enterprise development in Myanmar. While technical skills provision is being reformed through the TVET reform process there is also a need to mainstream enterprise development skills in TVET and other training institutions.

The regulatory environment is another area which requires improvement. While there has been progress in streamlining registration and licensing procedures they can still be cumbersome and costly. Similarly, regulations in terms of patent rights, intellectual property rights, trademark registration are still being developed or are weak. Furthermore, incentives for enterprise development within social protection and taxation laws and policies are also weak.

The regulatory framework for SMEs is governed by the Private Industry Law 1999 and a Small and Medium Sized Enterprise Law in 2015. The SME Law defines small enterprises as those with between Kyat 50 million and 500 million in capital or with between 30-300 employees. Medium sized enterprise are those between 500 million and 1 billion Kyat in capital or between 60 and 600 staff. When a company exceeds the SME capital or employee thresholds it must change its registration details.

An SME Central Committee has been formed with the President as Chairman, the State Counsellor as Joint-Chairperson, Vice-Presidents as Vice-Chairmen and 19 Union-level members, five from the private sector, 24 altogether. The Central Committee in its current state needs to form a Working Committee and assign tasks and responsibilities and form subsequent agencies, fund management departments and other necessary departments.

In 2015 a Small Enterprise Policy was also developed to redress the many challenges facing SMEs. Among the areas the policy seeks to cover are: financial access, weakness in accessing domestic and foreign markets, low technology and skills, deficiencies in governance, weak business development services, weak infrastructure, low diversification and a sometimes contradictory and restrictive regulatory environment.

Jobs for Peace and Resilience

The ILO's work in this regard is particularly significant since it has been able to engage in conflict affected areas where other agencies have not been able step in. It has provided valuable technical support in generating employment intensive measures which are supporting local development, reconciliation and fostering stability in fragile areas, in line with the new ILO Recommendation 205 on Employment and Decent Work for Peace and Resilience.

This work will become even more important in the context of the ongoing peace process and the imperatives of nation building after conflict. Rehabilitation and repairs of damaged infrastructure in ceasefire areas are often a basic prerequisite for the overall reconstruction of economic activity and trust needed for sustainable peace. However, the resources needed for such tasks are often much larger than what is available (even taking into account possible external assistance). One realistic solution to the problem of rebuilding infrastructure in such situations is to rely on what is readily available at low cost: locally available material, and unemployed/underemployed labour. This can also provide employment and income opportunities for demobilized soldiers, displaced persons and refugees can help victims of conflicts adjust to a new life, and reintegrate into the society. Community participation in such initiatives can also provide new platforms and channels for dialogue and confidence-building in support of peace.

The Informal Economy

As detailed in Section II, the informal economy is a significant problem in Myanmar. For example, the Labour Force Survey revealed that the percentage of employed persons by their type of industry sector was 75.6 per cent in the informal sector. If left unchecked, the potential for informality to grow in Myanmar is high unless explicit policies and incentives are developed to facilitate formalization.

Sectoral development

As noted in Section I, Myanmar's economy is primarily agricultural but as it moves towards middle income status there are likely to be significant structural changes in the economy. There is currently a heavy reliance on capital intensive production based on the extractive industries, and the manufacturing sector Myanmar bases its global competitiveness on low wages. In the medium term however Myanmar needs to diversify its economy and promote investment in sectors that are more likely to be employment intensive. Tourism for example is a growing sector and ripe for further investment and growth.

The manufacturing sector is also dynamic, particularly in the garment industry. The Garment, Footwear and Textile sector employs over 700,000 workers of which four fifths are women. It is a key sector for creating jobs in Myanmar's nascent industrial base, contributing 31.2 per cent of all manufacturing jobs though employment in the sector is mostly informal (69.5 per cent) and three in five workers based in small firms that employ

ten or less workers. (ILO 2016b)

The sector, which relies heavily on low wage competitiveness faces various challenges in the future as discussed in the box below.

Box 2: The Future of work – a snapshot from Myanmar’s Textiles, Clothing and Footwear (TCF) sector

The ILO has commissioned research on the Future of Work around the world as technological changes transform employment and growth, and pose new challenges. Its Case Study on Myanmar has focused on the TCF sector. The research shows that while the sector has been competing globally on low wages, which has to some extent off-set challenges posed by new technology development elsewhere, productivity currently remains low.

TCF has one of the lowest levels of labour productivity in Asia, with one worker in Myanmar producing only 65 per cent of the level of a worker in Cambodia, 36 per cent of that in Viet Nam and about 7 per cent of that in Thailand. This may discourage further investment.

The report notes the critical importance of developing vocational training and skills to address labour productivity as well as fostering strong core skills such as teamwork and multi-tasking. Importantly also, there is an urgent need for constructive and forward-looking dialogue between employers and workers to enable the sector to adapt to new changes and challenges as technologies advance.

Source: (ILO 2017c) ASEAN in Transformation: How technology is changing jobs and enterprise. Myanmar Country Brief. January 2017

Where Myanmar is weak however is in supporting sectoral development through developing relevant skills and forecasting of skills needs, (see Skills section further below). This area of forecasting skills needs will be essential for Myanmar in its diversification strategy to build an economy with less reliance on extractive industries and more on strengthened human capital, innovation and higher value production.

The labour dimensions of Corporate Social Responsibility (CSR) initiatives

FDI has been growing significantly since Myanmar opened its economy. With a changing investment climate and a new commitment to fostering responsible investment in Myanmar the Government has been moving towards promoting greater transparency in new investments and ensuring that enterprises integrate social, environmental, human rights and consumer concerns into their business operations. The Myanmar Investment Commission (MIC) for example now seeks information about CSR and in some cases makes an environmental and social impact assessment (ESIA) as a pre-requisite for obtaining MIC approval. The government has also embraced international standards and initiatives such as the UN Global Compact and the Extractives Industries Transparency Initiative (EITI).⁴ Such developments can be seen for example in the partnership between UMFCCI and the UN Global Compact Network to support businesses to participate in the peace process. These initiatives will become even more important as FDI continues to grow and the Government seeks to direct investment to disadvantaged regions.

The Government has recognized that while multinationals companies are able to generate jobs efforts must also be in place to ensure the quality of the jobs. This is reflected in the recently adopted Myanmar Investment Law (October 2016) which raises as its first objective: (a) to develop responsible investment businesses which do not cause harm to the natural environment and the social environment for the interest of the Union and its

⁴ Interview with Vicky Bowman from MCRB, in the Mizzima Business Weekly. April 17 2014. <http://www.myanmar-responsiblebusiness.org/news/mizzima-business-weekly.html>

citizens.

Similarly, there must also be opportunities for indirect and induced employment creation and upgrading through business linkages with the local enterprises. The vital role that FDI can play in Myanmar's development was articulated by Daw Aung San Suu Kyi at the International Labour Conference in 2012:

“Foreign direct investments that result in job creation should be invited. Investors should adhere to codes of practices. Track records in regard to internationally accepted labour standards and environmental responsibility should be examined...there is a wide range of reforms that could be undertaken in Burma, not just to make investment attractive, but to make it sustainable and truly beneficial for our people. A democracy-friendly development policy of coordinated social, political and economic reform will put our country once again on the map of the positive and the successful.”

Socially responsible business practices can lead to better jobs both directly and indirectly (through supply chains), and moreover, can help tackle priority decent work issues such as forced labour, child labour, freedom of association, collective bargaining and non-discrimination, as well as contribute to local economic development through local sourcing.

It should be noted too, that while FDI flows can be volatile the country's efforts at improving labour market governance and democracy and respecting labour standards at work, can be a catalyst for investors to continue to invest in Myanmar.

Engaging the private sector with the SDGs

Myanmar's private sector is growing significantly, from micro enterprises through to investment by multinational corporations. There is great potential for the private sector to significantly improve development outcomes since it has a strong interest in creating prosperous societies. Vibrant private sectors spur job creation, increased incomes and economic growth. However there is a need to develop a broader and deeper dialogue with the Government and other stakeholders on how the private sector can contribute effectively to inclusive growth and sustainable development, including through multi-stakeholder partnerships and development finance initiatives.⁵

Green jobs potential in Myanmar

There is now almost universal global consensus that there needs to be a significant shift to environmentally sustainable economic policies as the impacts of climate change are felt around the world. For countries like Myanmar, climate change brings with it the destruction of natural habitats, and increases the risks of natural disasters and severe storms. Moreover, its economic impacts can be severe and can intensify poverty and add complexity to addressing other unresolved challenges such as weak health systems and lack of infrastructure in rural areas. It is for these reasons that the SDGs also prioritize protection of the planet.

Addressing climate change can reap important dividends for economies, accelerating growth and significantly boosting employment creation.⁶ A 2016 World Wide Fund (WWF) report has shown that addressing climate change is the fastest way to solve Myanmar's energy crisis and could create 3.8 million jobs over the next 35 years. This is 2-3 times more jobs than fossil-fuel based energy jobs. One scenario in the

⁵ CPG Secretariat May 2017 Seminar Concept Note: Fostering Public-Private Dialogue – The Private Sector's Contribution to 'Transforming our World: the 2030 Agenda for Sustainable Development'

Green jobs are defined in terms of decent jobs that contribute to environmental sustainability in all sectors, as well as emerging green sectors such as renewable energy and energy efficiency. In this perspective, any job can potentially become greener. Even 'brown' high polluting jobs can be transformed by improving energy and raw material efficiency, limiting green-house gas emissions and minimizing pollution and waste.

report provides evidence that 100 per cent of Myanmar's energy needs could be met by renewable power by 2050 through a mix of solar, wind, biomass, hydropower and geothermal sources. (WWF 2016)

The process of dialogue on environmental sustainability has already begun in Myanmar with the engagement of 81 organizations in 2015 in the Myanmar Platform for Dialogue on Green Growth which developed a series of recommendations covering three pillars: (i) Investing in Natural Capital, (ii) Investing in Renewable Energy and (iii) Investing in Sustainable Cities.⁷

Even though the evidence is mounting on the positive benefits of green transformation, these are to a large extent determined by coherent and coordinated national policies, levels of investments and incentives and overcoming the numerous challenges and dislocations which can occur in structural change.

Coordination and dialogue will be required in the development of incentives and the regulatory framework for green economies. Fiscal, training and credit opportunities, market exploration, subsidies and investment in research and technology, and enforcement of regulations will need to be brought together to catalyze green transitions. Myanmar's existing green jobs in waste management will need to be improved, upgraded and expanded. Targeted assistance for poor communities and regions and green infrastructural development will significantly boost the potential for green transformation in Myanmar.

Internal and international migration for labour

Demand and supply factors continue to fuel the growth of internal and international migration for employment in Myanmar. With limited job prospects in rural areas and in disadvantaged states and regions, as well as the long history of ethnic conflict and instability in some states, migration is an important survival mechanism for poor households. On the demand side the need for low skilled labour in urban areas, special economic zones and in neighboring countries and further afield continues unabated. Creating employment alternatives to migration and opportunities for migrants to return was one of the 12 economic priorities set by the new Government under the Economic Policy of the Union of Myanmar.

Data from the Labour Force Survey shows significant labour market churning with 20 per cent of people not living in the place they were born, and with a particularly high rate for Yangon (with over 42 per cent of residents in the city coming from other areas).

The data shows also that 1.12 million people in 2015 living abroad (of which 60 per cent were male and 40 per cent were female) and almost all of them migrated for employment reasons. Young people in particular migrate for employment indicating the weak employment prospects for them in local labour markets. The average age of a person living abroad is 26 years. (MoLIP and ILO 2015)

Data on irregular migration is particularly hard to verify, though there are estimates that it is very high. In Thailand for example there are an estimated 1.6 million undocumented migrants from Myanmar who are currently registered under the various schemes set up by the Thai Government (Department of Employment, Ministry of Labour, Thailand). NGOs estimate that a similar number remain unregistered. The extent of the irregular migration to Thailand goes back decades to a period when there was no regular migration, which only started in 2009. International experience has shown that irregular migration is particularly prevalent where there are restrictions and bans on migration to a destination country, where demand for labour is still high. Irregular migrants are more vulnerable than those with papers to arrest and deportation, bondage to their employers and trafficking and other forms of serious exploitation. Irregular migrants also include those who have been displaced by conflict and have left as refugees or are internally displaced.

The vast majority of the total migrants from Myanmar work in Thailand (74.3 per cent), followed by Malaysia (14.5 per cent). (MoLIP and ILO 2015). Other important destination countries are Singapore, Japan, China and Korea.

While migration can be a positive experience, generating much needed remittances for poor households and enabling migrants to gain new skills and experiences which can be channeled into supporting Myanmar's development upon their return, many migrants face vulnerabilities and are at risk of exploitation in a range of areas.

The exploitation can begin at the very onset of the migration process. As a result of the high costs of migration (both regular and irregular) migrants have to borrow money and go into debt to pay the migration costs. These debts contribute to the disempowerment of migrant workers and their reluctance to complain against abuses.

Within destination countries Myanmar migrants' vulnerability is increased if they do not have access to social protection;⁸ have low skills, little knowledge of their rights and limited recourse to justice. These conditions together with the limitations placed on their ability to organise often result in low wages, long working hours and poor working and living conditions. Children of migrants in overseas destinations may also be sometimes denied schooling which places them at high risk of child labour.

Upon their return, there are as yet few measures to support their reintegration, engagement into productive employment or investment of their remittances and savings. Many migrants re-migrate and these may become repeated cycles of migration. With the current weak capacity of the country to generate sufficient good quality jobs and upgrade the skills of its labour force rapidly, migration becomes less of a choice and more of necessity in poor communities.

Trafficking too, remains a serious concern in Myanmar, though with Government efforts to address the problem, it has been upgraded in the United States Department of State ranking to a Tier 2 country. Trafficking is prohibited under the 2005 Anti-Trafficking in Persons Law. Women and children, especially those in conflict zones have greater risk of trafficking for commercial sexual exploitation, though trafficking is not limited to this sector for either gender (see also Section II on Forced Labour).

While Myanmar has developed a National Action Plan on Management of International Migration 2013-2017, parts of this have not yet been implemented and the Plan has certain weakness in a rights-based approach.

MoLIP has oversight over Myanmar's migration for employment policies and is the lead Ministry in the Inter-Ministerial Overseas Employment Supervisory Committee. It has developed bilateral agreements with Thailand and Korea and is proposing new ones for Malaysia and China. It also has labour attaches in Thailand (five labour attaches), Malaysia (2 labour attaches) and Korea (one labour attache), though all 8 labour attaches are men.

MoLIP with support from the ILO and IOM has set up twelve Migration Resource Centres in Labour Exchange offices in states and regions with high levels of out-migration. While these MRCs are currently under-utilized, with greater public awareness raising of their functions, they can become the most important source of information on safe migration, pre-departure training, awareness of rights, access to justice and supporting returnee reintegration.

⁸ Some countries, such as Thailand do have systems in place to include migrant workers and their families in universal health care schemes or social security, depending on their immigration and work permit status

Most migrants remit their money through informal systems developed at community level, which is often known as ‘hundi’ which has proven to be fairly reliable and cost-effective for migrants, given their mistrust with the formal banking system as a result of the recent past. There are new innovative developments using mobile apps and IT technology which are also gaining hold, and a major Myanmar bank is also now providing remittance transfer services which should increase efficiency and transparency. While remittances provide a valuable boost to household incomes, as yet Myanmar’s progress in developing investment opportunities for savings and generating jobs from remittances is weak.

Myanmar is also considering amending the 1999 Overseas Employment Law to make it more in line with international standards and a rights-based approach. The proposed law proposes to include the setting up of a fund to support migrants in critical situations, to be more gender responsive, and have clearer and more comprehensive regulation of overseas recruitment agencies.

MoLIP is also responsible for the licensing of private recruitment agencies and monitoring their conduct. This includes ensuring that agencies follow licensing procedures, and are not charging migrants onerous fees and investigating complaints from migrants if there are violations of their rights. Although Myanmar has not ratified the ILO Convention 181 on Private Employment Agencies (1997) this could potentially provide effective guidance in supporting Myanmar’s efforts in regulating private agencies.

In some areas, Myanmar’s response to abuse of migrant workers has been counter-productive. For example, in response to the exploitation and violence experienced by domestic workers and the public outcry, the government banned the migration of women to work as domestic workers. But with few migration options available to women, they continued to migrate to work as domestic workers. In some countries of destination, they continue to get work permits as domestic workers (for example, Thailand and Singapore) however the ban means there are limitations on the support and protection they can receive from Myanmar authorities, including the embassies. Domestic workers need better protections in place, recognition in labour laws and MOUs of their work, and a removal of the stigma attached to the work. The Convention for Domestic Work Convention, 2011 (No.189), which Myanmar has not ratified could provide effective guidance in developing a national legal framework to protect domestic workers rights and a good platform for Myanmar to advocate for the rights of Myanmar domestic workers abroad.

Skills Development

As Myanmar’s economy rapidly transforms, skills development is an essential area for enabling the country to keep on its trajectory of economic development and high growth. In 2016, State Counsellor Daw Aung San Suu Kyi called on students and their parents to value vocational training as it is an educational path that meets their interest and can enhance their lives.⁹

Strengthening human capital is critical for improving labour productivity, fostering innovation and boosting research and technological development. It will also help the country find entry points into higher value-added sectors and diversify its economy away from capital intensive economic growth - with its heavy reliance on the extractive industries, to one based on the quality of its human resources. Skills development is thus an essential part of the Government’s 12 Point Economic Plan. (See Section I)

However, Myanmar is only now emerging from several decades of underinvestment in skills and education which have inhibited its growth potential. Although spending on education has increased significantly (for the academic year 2016/17 the budget doubled to 8 per cent of the national budget) many problems remain. The TVET sector in particular is hampered by numerous challenges.

⁹ <http://www.statecounsellor.gov.mm/en/node/150>

Myanmar's Comprehensive Education Sector Review (CESR) revealed a number of structural problems facing TVET and skills development in general. With a rapidly evolving economy, Myanmar is currently struggling to provide the sorts of hard skills (technical and business oriented) and soft skills (communication skills, employability skills, negotiation, problem solving and critical thinking skills) needed to shore up the dramatic transformation of the economy and ensure global competitiveness.

Myanmar has plans to develop its national qualifications framework (NQF) to act as benchmark for the level of learning recognized in the national qualification system. But its planning varies from other ASEAN Member states in terms of government arrangements, purpose and structure (levels, domain, credit point application). An 8-level framework is proposed specifying knowledge and skills, application and competence and responsibility.¹⁰

Among the problems identified by the CESR process were the following:

I. Weak coordination and fragmentation

Currently at least 14 Ministries or agencies are actively engaged in providing TVET. The Sector Coordination Group on Education, headed by Ministry of Education (MOE), now includes TVET and this has to some extent helped to alleviate the fragmentation and weak coordination amongst skills providers, though this continues to be an issue. As the apex body for TVET, MOE must be able to provide the strong leadership in ensuring better policy coherence and coordination in the sector.

The preparations for the new TVET Law should not only provide more unified definitions of TVET but also ensure greater cooperation and planning between relevant public agencies as well as establishing institutionalized links with the private sector. The draft has not yet been submitted for adoption. The Employment and Skills Development Law (enacted in August 2013) covers employment regulation and skills development with a primary concern on non-formal skills development. The Law has greatly strengthened the role and functions of the National Skills Standards Authority (NSSA) in national skills/competency standards development and certification enhanced by building capacities for TVET reform.

II. Limited Access

Although TVET has a key role to play in upgrading the skills of low-skilled workers, migrants and rural populations, there are significant barriers in their access. For example, many TVET programmes require successful passage of the matriculation exam at the end of Grade 11 which is the gateway for entry into higher education. With fewer than half of young people completing middle school, this has led to a large proportion of the less well-off and those in rural areas (where the quality of education is poor), being denied opportunities to gain TVET. This is exacerbated by displacement and the lack of programmes in some conflict-affected areas like Rakhine State.

Additionally, since most youth who pass the matriculation exam prefer other higher education options because of the low status of vocational education, it means that TVET is an under-subscribed option. Public sector TVET provision is mainly focused on advanced diploma programmes targeting high school graduates. Although private training has also expanded in recent years it remains limited and targeted towards affluent urban areas.

The issue of access has also been due to limited outreach because of the limited capacities of existing formal TVET providers and schools in reaching out to the rural and disadvantaged communities which have become underserved. Even access to TVET by women has been seen to be difficult.

¹⁰ ASEAN, ASEAN Guiding Principles for Quality Assurance and Recognition of Competency Certification Systems, August 2016

The CESR identified recommendations for increasing access including the expansion of secondary education and TVET school networks, a continued expansion of needs-targeted scholarships and widening access to short modular courses in demanded skill areas, targeted at large numbers of youth and unskilled workers. Financial incentives and scholarship supports will also be important in broadening access.

The Ministry of Education has recently developed two core alternative education programmes which deliver a range of life-long learning opportunities and basic vocational training programmes to enhance career opportunities for youth.

III. Poor Quality

Evidence suggests that the quality of education and TVET is weak, particularly in rural areas and remote regions. ADB analysis shows that children from poorer communities are more likely to repeat grades and to drop out altogether, suggesting in part that the poor quality of education in their communities may be at fault. TVET outreach is difficult in poorer states due to Myanmar's overall low level of infrastructure and limited public transportation.

TVET is also plagued by insufficient teaching materials, teaching aids, laboratories and training TVET management staff. Similarly, pedagogies are often based more on theoretical approaches and still retain much rote learning methodologies, with little regard for practical application. Moreover, courses rarely include training in soft skills to enhance employability, which are highly regarded by employers. Other factors inhibiting quality TVET provision include the limited numbers of qualified trainers and teaching staff and the low salaries, with many technical trainers migrating to other countries where working conditions and salaries are better.

A positive development is the formation of the National Skills Standards Authority (NSSA) which was established by the Employment and Skills Development Law and which has been working to ensure a uniform set of skills that are recognized for various occupations.

IV. Weak Relevance

As in all countries Myanmar is struggling to address the mismatch between the supply and demand for skills. This is in part a reflection of the relatively weak role that the private sector and industry play in engaging with TVET. Employers have poor regard for the quality of vocational training, preferring instead to conduct their on-the-job training, which in turn affects the perception of the viability of vocational education for students. Currently there are few formal mechanisms for the involvement of business organizations and employers' representative in the planning of TVET. While businesses are consulted occasionally it is not done in a periodical way with well-established mechanisms like forums, committees or other groups, though the NSSA has sub-committees which engage private sector in the development of standards.

The weak linkages can be seen for example in the limited mentoring and coaching mechanisms and the few options available to link trainees with work experience in industry and businesses. Stronger linkages would enable a greater focus on skills in high demand in the labour market including the sciences, accounting and business studies, and help diversify the curriculum to the needs of high demand sectors.

Decentralization and expanded autonomy would also help improve the relevance of TVET education, enabling institutions to respond to transformations in local economies, though this would still require careful coordination to maintain quality and standards and avoid the risk that some regions and areas may benefit at the expense of others.

V. Limited data and weak labour market forecasting

The problem of relevance is also closely linked to the scarcity of viable data as well as the weakness of labour market information systems in general. While data can be found through national census and household surveys and the recent Labour Force Survey, more systematic and regular collections of information, particularly on demand in the labour market need to be collected and analyzed. Among the relevant information needed to strengthen demand forecasting is data on sectors prioritized for public investment, trends in tradeable goods and services, FDI trends and potentials, SME trends and other private sector development trends.

In parallel with this is the need for strong linkages between data providers and TVET institutions. While the development of an effective labour market information system that can feed into relevant institutions including TVET, will take time to be established, this will be an essential mechanism to ensure that TVET is more able to meet the needs of the evolving economy.

VI. Addressing occupational segregation

Like all countries Myanmar has difficulties with entrenched occupational segregation, in which men and women are streamed into different occupations. With women concentrated in low productive, low wage ‘feminized’ jobs it is a major task of all countries to ensure greater equality of opportunity within the labour market by breaking down these barriers. Skills development and training in ‘non-traditional’ and demand driven occupations can significantly break down segmentation in the economy and enable women to access more highly paid and high-status jobs.

Currently there is little evidence that there is a concerted effort to overcome the gendered division of labour in jobs and little awareness of the problem it poses for women’s economic empowerment in Myanmar. The TVET sector could consider many of the strategies developed in other countries including setting targets on gender balance in courses, providing financial incentives, reforming curriculum to become more gender-sensitive, providing incentives including transport and childcare allowances among other measures to facilitate entry into a broader range of skills.

SECTION IV: DECENT WORKING CONDITIONS AND OCCUPATIONAL SAFETY AND HEALTH (SDGS 1,8,9,10)

Occupational Safety and Health (OSH)

Occupational risks remain high in Myanmar linked to the opening of the economy and the current economic growth which implies workplaces are evolving and facing new risks. New risks are linked to functional upgrading (new work processes and equipment, access to imported chemicals for industrial and agricultural use etc) and require that prevention policies and processes be in place.

Gaps in the laws and weak compliance leaves many workers including women and children working in dangerous and hazardous conditions. Data on workplace injuries is however scarce since the keeping of occupational safety plans and reports of accidents by township labour offices is still very weak. There are numerous examples of unknown or unreported occupational accidents, particularly on construction sites. The workers who are hired on a daily basis and/ or are in the informal economy, are not covered by any social protection laws are thus very vulnerable. (ILO forthcoming)

The lack of effective access to social protection, especially medical care as well as income replacement in case of sickness and maternity, which forces workers to work when they are not physically fit to do so, also increases the probability of ill health or accident at work. Though important efforts were made to reinforce policy frameworks for social protection, the responsible institutions need to reinforce their delivery capacities in both the formal and the informal economy, (see the Social Protection section below).

Available data should be used with caution.¹¹ Data from the Labour Force Survey shows that the average number of injuries is 0.04 per cent and the average number of work days lost per injury is 0.63 per cent. The data suggests that most of the injuries are not serious and are mainly superficial (73 per cent). Very little variability is found across industries with the exception of the construction sector. The manufacturing sector has a relatively low rate of superficial injuries implying that the incidence of severe injuries is higher. Seventeen per cent of injuries in manufacturing are dislocations, sprains and strains, followed by amputations at 5.6 per cent (MoLESand ILO 2015).

There are a number of ministries and public agencies responsible for occupational health and safety in Myanmar including the Factories and General Labour Laws Inspection Department (FGLLID) and the Social Security Board under Ministry of Labour, Immigration and Population (MoLIP), Ministry of Industry, Ministry of Mines, Ministry of Health and Sports, Ministry of Construction, Ministry of Agriculture, Livestock and Irrigation among others. Primary responsibility for health and safety resides with FGLLID.

With regard to injuries, there are three mechanisms for compensation, firstly under the Social Security Law 2012 which covers an employment injury insurance (EII) scheme based on contributions from the employer; and secondly through The Workmen Compensation Act,¹² 1924 which is based on employer liability and through which employers may be obliged by the district labour office to cover a lump sum compensation in case a worker makes a claim. Thirdly, through the Civil Servant Pension. The first two overlap, only the third is a periodic pension (that is, able to truly guarantee protection over time). There is no indexation of benefits on wage or inflation, hence effective income replacement in case of a work accident or diseases is not achieved.

¹¹ There are currently several sources of data collected by different agencies and Ministries, and the accuracy of the data is still questionable due to the lack of coordination mechanisms between the institutions to reconcile data on the basis of consensual estimates, as well to analyze the data to understand where and why occupational accidents and diseases happen, and thus to inform prevention policies.

¹² The Workman Compensation Act ceiling for lump sum compensation is about 500 USD in case of death, this is very low and hardly covering the full cost of compensation for the worker, and it fails to cover any medical expense.

The work of FGLLID however is constrained by the outdated Factories Act of 1951 which confines its activities only to the formal economy and those entities with five or more workers. While the FGLLID also supports the implementation of the 2016 Shops and Establishments Act, the fragmentation of laws and institutional structures related to OSH means that key sectors such as construction, agriculture, mining and health are not within FGLLID's scope and mandate. Improving safety and health outcomes in the country requires a proactive attitude towards prevention and reinforcement of capacities in areas for which responsibilities are shared between a number of Ministries and public agencies.

This situation should be rectified however with the adoption of the proposed OSH Law. The ILO has been providing technical advice in the context of its broader support to labour law reform.¹³ Under the proposed law a Central Body would be formed to coordinate activities of the different agencies involved in various aspect of OSH. Supporting the OSH Law would be the Rules and Regulations pertaining to safety which will update existing provisions of the Law and Rules covering the entire field of Occupational Safety and Health.

The law would enable social partners to play a key role in ensuring OSH, while the Government would oversee the overall process. Currently the relatively low organization of workers and employers has limited efforts at prevention, protection and compensation, though the progress in Freedom of Association is helping to rectify this. Additional capacity building for social partners will be needed in awareness of rights and responsibilities regarding OSH.

There are three provisions for institutionalizing OSH under the proposed law. The first is the creation of the national Occupational Safety and Health Council to coordinate the parties with responsibilities for OSH which will include national level tripartite discussions. The second level will be the creation of workplace safety and health committees to be formed with equal numbers of employers and employee representatives, which will ensure that national policies are implemented at the workplace; and the third level will be the establishment of a workplace safety and health office to give technical support to the employer and employee representatives.

Like many countries Myanmar is under-resourced in terms of the numbers of labour inspectors, with only 160 inspectors. FGLLID is cognizant of the need to strengthen the capacity of its inspectors and furthermore is aware that given the limitation of human and financial resources, innovative strategies will need to be developed, building on experiences from other countries that can be adapted to the Myanmar context. The FGLLID's capacity could be further strengthened through expanding their current training programmes for workplaces and through mechanisms for greater outreach into regional, state and district levels.

Occupational Health (OH) services

Though occupational health is mentioned in the draft OSH Law, at the moment Myanmar does not benefit from a structured Occupational Health (OH) system. In practice, OSH services exist in public companies under the authority of the Ministry of Health and Sports/ Occupational and Environmental Health Division. In parallel, the medical facilities of the Social Security Board largely bear the burden of occupational diseases and injuries suffered by its members (workers in the formal economy), through their clinics in industrial zones as well as their mobile medical units. There is no coordination between the two systems and, together, they are not sufficient to effectively cover all workers. The use of SSB facilities for OH purposes poses further issues in terms of recording and surveillance of occupational injuries and diseases. The fact that those services are mostly curative and do not focus on prevention further burdens the social security medical care scheme. The access to public services to support the effective assessment of risk factors at the workplace is limited to the public sector via the Occupational and Environmental Health Division of Ministry of Health and Sports.

¹³ ILO's support to OSH goes beyond the legal framework to also include better OSH data, stronger policies, improved technical capacity and better OSH awareness.

In the informal economy, access to a skilled medical professional trained in occupational health is extremely limited. Despite recent changes, the health system in Myanmar is still very much focused on curative care, consequently the resources for prevention remain scarce.

Wages

Industrial tensions in Myanmar are most often fueled by disputes about wages. Recognizing this, the Government has been introducing legislation to alleviate this volatility and to provide a social floor, through the Minimum Wage Law 2013, and the new Payment of Wages Law 2016. The latter sets out the obligations of employers for wages, the methods and time frames for payment, the permissibility of deducting wages and the duties and responsibilities of the FGLLID with regard to wages. The new law expands the definition of 'employer' from the previous 1936 law, to include those in trade, manufacturing, services, agriculture, and livestock industries, as well as their contractors, authorized agents and successors. The new law also details punitive sanctions for violations of the law including criminalization, which is of particular concern to employers' organizations. Employers have expressed concern about the weak communication about the laws and poor implementation, suggesting that to some extent this may have contributed to further industrial tensions.

I. Minimum wages

Basic wages differ slightly among the industry depending on the nature of work and are far from sufficient to cover living expenses, and workers have to rely a great deal on overtime and bonuses. Workers representatives complain that basic wages do not sufficiently cover living costs without additional overtime payments, allowances (such as living, transport, meals), bonuses for productivity targets and regular attendance.

In 2013 the Minimum Wages Law was enacted by Parliament, replacing the previous Minimum Wage Act (1949). The process of setting the minimum wage is through a national committee mandated to implement the law, composed of tripartite partners, researchers, and relevant personnel from government departments.

The rate has been set at 450 Kyat for one hour and 3600 Kyat for eight hours per day for a 30 day month. It covers the whole country irrespective of regions and industrial categories, with the exemption of businesses which are employing 15 workers or less, and family informal businesses. The rate will be revised every 2 years and the first review process was completed in January 2018 with the new rate being set at 4,800 Kyat per day.

As with other laws there are issues of compliance and enforcement that hamper effective implementation. Moreover, in the absence of an effective system for collective bargaining, the minimum wage can de facto become the maximum wage.

From the employers' perspective, particularly in industrial sectors, overtime is calculated on the basic wage so increasing the minimum wage can be difficult for them, while from the workers' perspective, the basic pay of a worker should be comparable to the salary of those working an eight-hour day as stipulated by the law and should be sufficient to cover living expenses without overtime pay.

Employers have also noted that the lack of differentiated minimum wage between regions means there is no incentive for employers to invest in disadvantaged regions, thus contributing to a concentration of economic activities in urban centres.

SECTION V: SOCIAL PROTECTION (SDGS 1,3,5,8,10,16)

As part of its commitment to inclusive growth Myanmar has recognized the importance of developing a social protection floor to mitigate multifaceted household deprivations and its population's exposure to a variety of shocks and risks. The Government's awareness of the role social protection can play in boosting social cohesion and promoting human rights by promoting transformative pathways for human development and economic growth is particularly important in the current context of widespread inequality and poverty, social tensions and a fractured political landscape.

While paradoxically, Myanmar has been achieving high levels of growth, inequality has not been reduced and the impacts on poverty have been modest at best. Social protection as a redistributive mechanism is vitally important to support the development of human capabilities and opportunities and foster inclusive growth. This is the reason that social protection has a key role to play in the SDGs, as a means of promoting social justice, social cohesion and socio-economic activity. Among the SDGs with inherent social protection measures are goals 1-8 and goal 10 (see Annex for list of SDGs). Thus, Myanmar's efforts in expanding social protection will be a critical put into meeting its SDGs obligations.

Poverty levels

Myanmar's poverty profile shows that poverty is endemic. While official data shows a rate of 25 per cent (see Section I), other data using different measurements, for example the Integrated Household Living Conditions Survey conducted in 2010, showed that 70 per cent of households live below the USD\$2 per day threshold. The data suggests that a large proportion of households lie close to the poverty line or just below it, and for those just above it, an unexpected income shock, illness or natural disaster can easily also push these households below the poverty line. (UNICEF 2016)

Recognizing that those most at risk were the least protected, with many households facing dire and hazardous circumstances which intensify poverty and deprivation, Myanmar has recognized that this neither sustainable nor equitable. Even small amounts of social protection can have major impacts through a web of positive interactions, impacting maternal and child health, supporting productive employment and alleviating poverty risks for vulnerable groups. Amongst the groups most at risk without social protection are women in poorer communities, children, ethnic groups, the elderly and people with disabilities.

Social protection floors

In broad terms social protection floors comprise a set of social security guarantees that aim to ensure that all in need have access to essential health care and basic income security and other services defined at the national level (such as education, social welfare, nutrition and other goods and services). Social protection floors are often designed around four main areas (though are not limited to these areas. They include coverage to ensure that 1) all residents have access to affordable essential health care and maternity care; 2) all children receive basic income security providing access to nutrition, education, care and any other necessary goods and services; 3) all persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability receive basic income security; and 4) all residents in old age receive basic income security either through pensions or in-kind transfers.

The emphasis the ILO puts on social protection is that it is essential to productive economic growth enabling the poor to both become agents in and beneficiaries of inclusive growth. It is therefore an integral part of ensuring decent living standards for all. It supports the development of human and social capital which are

the foundations for sustainable development and it allows cost savings in other fields of public policy through for example facilitating access to schooling and healthcare. Social protection also has profound impacts on poverty and inequality.

I. Legal frameworks for social protection

Despite the concept of a social protection floor being relatively new in Myanmar, the country has made progress towards developing policies for universal social protection measures. The right to social protection is enshrined in the 2008 Constitution. Prior to that there existed some healthcare access, though it was significantly under-resourced, and a pension scheme primarily for military and Government officials. In 2015, the civil servant pension was the highest public social protection spending in the country.

The Social Security Act, 1954 was replaced with a new Social Security Law enacted by Parliament on 31 August 2012. Currently, three kinds of insurance systems out of six insurance systems envisaged in the law are being implemented, consisting of 15 types of benefits. The new Social Security Law offer new type of benefits which are not available before. New benefits such as maternity cash benefits, paternity benefit and adoption of under one year old child are active while disability, superannuation, survivor, unemployment benefit and housing scheme are not active yet. The benefit amount for previously available benefits such as sickness, maternity, funeral and employment injury benefits were increased. Current implementation of social security schemes were seemed to be slow to extend the coverage of social protection in Myanmar. This is due to the limitation and weaknesses of the new law and SSB is undertaking IT, Medical, Administrative and Legal reforms to address them. Moreover, the benefit rates have been expended for the sickness, maternity, funeral and employment injury benefit. While the law is a very important step forward in extending social protection, implementation is relatively slow, and SSB is now undertaking the IT reform, medical reform, legal reform and administrative reform.

According to 2012 Social Security Law, five workers and above who are working in an applicable establishments mentioned in the law are required to register compulsorily. SSB is trying to extend the coverage to applicable establishments which has under five workers. Inapplicable establishments can register voluntarily.

II. National Development Frameworks

Myanmar has recognized the importance of social protection not just through its legal framework but in policy development for inclusive growth and poverty reduction. It is part of the Framework for Economic and Social Development, the Rural Development Strategic Framework 2014, the National Comprehensive Development plan and it is implicit within the yet to be detailed Economic Policy of the Union of Myanmar. Furthermore, as Myanmar moves towards developing an implementation framework for its SDGs, the emphasis it is placing on social protection will assist in meeting several of the goals, in particular the first goal on reducing hunger and poverty.

III. Assessment Based National Dialogue (ABND) process

As part of its technical support to Myanmar to establish a basic social protection floor the ILO, as a member of the Technical Support Group (TSG) on social protection (co-chaired by UNICEF and the Ministry of Social Welfare, Relief and Resettlement (MOSWRR) engaged line ministries, the United Nations country team, social partners, civil society organizations, research institutions and other relevant stakeholders to assess the social protection situation in Myanmar, identify policy gaps and implementation issues and draw appropriate policy recommendations for a comprehensive social protection floor. This process of national dialogue (the AsBND on social protection) took place in a series of workshops over 2013 and 2014 and was based on three steps:

1) The development of the assessment matrix which mapped the existing schemes and gaps in coverage; 2) costing using the ILO Rapid Assessment Protocol (RAP) covering the period from 2014 to 2024 in terms of percentage in GDP and government expenditures; and 3) finalization and endorsement.

The inventory of social protection interventions prior to 2014 showed that assistance has been minimal and fragmented, as well as scattered across a number of Ministries, and that by and large the vast majority of households are forced to provide for themselves in dire and hazardous circumstances.

The ABND process aimed to formulate recommendations with due consideration to international standards and good practices, as well as international conventions ratified by Myanmar. It led to the new National Social Protection Strategic Plan (NSPSP) unveiled by the Government in 2014.

IV. National Social Protection Strategic Plan (NSPSP)

The NSPSP process was led by the Government and involved 21 Ministries, the UN Country Team and INGOs. The NSPSP is based on principles of a life cycle approach to social protection, universal access, protection against risks including natural disasters and economic shocks, and is also focused on system and institution building. With its emphasis on equity and promoting social cohesion in a rapidly changing society, it is a significant departure away from a system based on charity. Its core elements include preventing and alleviating economic and social vulnerabilities, promoting access to essential services, infrastructure and economic opportunity, managing disasters and income shocks. Many of the measures in the strategy complement and leverage other public policy interventions such as health and education.

The process took into consideration the very large number of households facing poverty risks, the demographic profile of the country and the large diversity of its population as well as rapid changes. It therefore proposed an innovative universal approach that goes beyond poverty measures and takes into account existing capacity, the complexity of administering targeted programmes, the imperative of protecting human rights, and promoting social inclusion as well as the need to enhance human capabilities to contribute to social and economic development.

Among the flagship programmes are 1) Cash transfers for pregnant women and mothers of children under age 2 years; 2) Cash transfers for children aged 3-15 years; 3) an allowance for children with disabilities; 4) a school feeding programme; 5) a public employment programme including access to vocational training; 6) social pensions for those aged 65 plus; and 7) self-help groups for older persons. The Plan also has measures for Disaster Risk Management (DRM) given Myanmar's high vulnerability to natural disasters. The Plan is ambitious and a landmark in supporting the principles of inclusive growth and equity, it is nonetheless hindered by lack of human resources and institutional capacity, as well as weak funding which means that only a few elements have been implemented to date.

V. Costing exercise

The NSPSP is ambitious, and, as in all least developed countries, affordability is a concern. ILO has provided technical support to help Myanmar assess costs and benefits and prioritize amongst interventions. What is clear from other countries is that while short term costs may be high, longer term benefits are enormous in terms of human capital development, social cohesion, addressing poverty and exclusion and enabling these segments of the population to become empowered and economically active. UNICEF projections in Myanmar suggest for example that a minimum package of benefits would help 1.4 million households move out of poverty and drop the Gini Coefficient (the measure of inequality in a country) by 12 per cent. (UNICEF 2016)

Furthermore, the costs of inaction in a country context of widening inequality and deep vulnerability especially within poor communities, and the impact on children and their future development would be extremely high. The weight of international evidence suggests furthermore that investing in the economic empowerment of girls and women has significant multiplier effects on range of aspects of poverty including health, nutrition, human capabilities, reducing fertility and enhancing female decision-making power in households.

Myanmar is currently in an advantageous position with regard to financing given that GDP growth has been consistently high and that tax revenues have been growing. There is an impressive upward trend in tax revenues which more than doubled as a share of GDP in 2012/2013 and 2014/2015 from 3 per cent to 8 per cent. Taxation reforms are also underway to widen the tax base, introduce progressive taxation, increase the tax on cigarettes and alcohol and improve efficiency in tax collection, all of which can contribute significantly to increasing resources for social protection allocation.

Myanmar also has rich natural resources. The revenues from their extraction in the form of royalties, taxes and specific windfall taxes could be channeled into social protection to ensure sustainable economic growth and the development of human capabilities to move towards a more highly educated who can harness their creativity and innovation to drive economic growth. Furthermore, extraction imposes high externalities on local communities and redistributing the benefits of their extraction is an important part of mitigating these costs.

Estimates of selected social protection programmes such as the universal social pension, universal maternity benefit, universal child allowances, disability benefits and setting up an integrated social protection services, are expected to cost about 2.5 per cent of GDP (when the average is calculated up to 2025) (UNICEF 2016). This accounts for roughly 8 per cent of total expenditure and 10 per cent of total revenue and provide a useful starting point for planning budgetary allocations. Table 5.0 below provides costings of selected programmes up to 2025.

Table 5.0 Estimated and projected costs of recommended programmes in Myanmar's SP Strategy (% GDP)

Intervention	2017	2024
Maternity and child allowance to age 2	0.44 %	0.32 %
Disability	0.31	0.43
Child Allowance age 3 – 15 years	0.00	0.98
School feeding programme	0.47	0.64
Public Employment, VET	1.57	1.71
Social Pension	1.32	0.30%
Older persons self-help group	0.00	0.00
Integrated social protection services	0.01	0.01
Total	4.30	5.29

Source: Myanmar NSPSP

The annual costs of these programmes would be less than 6 per cent of GDP when fully implemented (projections up to 2024), which is in line with social protection expenditures in middle income countries.

VI. Social Security Board of MoLIP

The Social Security Board, (SSB) was created in 1956 in accordance with the Social Security Act 1954. With the passing of the 2012 Social Security Law the scope and mandate of the SSB has expanded considerably. Under the law, there are six Social Security Insurance schemes: These are health and social care insurance system; family assistance insurance system; invalidity benefit, superannuation benefit and survivors' benefit insurance system; unemployment benefit insurance system and other social security system (Housing plan).

Only the three insurance systems: Health and Social Care Insurance System, Family Assistance Insurance System and Employment Injury Benefit Insurance System have begun to be implemented. The employer and employee have to pay equal contributions (two percent) upon wages per a month of the insured persons for Health and Social Care Insurance System, and the employer has to pay extra (one percent) contribution for Employment Injury Benefit Insurance System. They do not have to pay contribution for Family Assistance Insurance System. In these three insurance systems, there are sickness benefits, maternity and confinement benefits, paternity benefits, employment injury benefits, survivor's benefits on employment injury and funeral expenses.

The SSB now has 77 township offices covering 116 townships and is present in all states and regions with the exception of Chin State.

Among the services offered by the SSB are cash benefits and free medical care. According to the law, employers and employees must contribute amounts based on the monthly salary of the worker. The law defines the categories of businesses that have to make mandatory payments to the social contribution fund. It also allows voluntary contributions from the informal economy (ILO forthcoming). The law also provides for an employment injury benefit system that requires employers to insure workers as a compulsory commitment. According to Social Security Board's data, as of January 2018, 699,671 Social Security Insurance Scrutiny Cards were issued by Social Security Board.

While the work of the SSB has considerably expanded since the passing of the 2012 law, it is still challenged by weak public awareness of its role and the benefits it offers. According to the LFS only 11.8 per cent of workers have either a pension and/or gratuity for example. The SSB has recognized this problem and is seeking to build awareness amongst workers and employers, especially SMEs to ensure greater 'buy-in'. Disseminating information to employers is particularly important given their concerns about the levels contributions required, and amongst workers the administration of accessing benefits is sometimes complex.

The SSB is also hampered by the need for greater institutional capacity building to implement effectively. With limited data management systems, there is difficulty for example in verifying contributions from businesses in the compulsory schemes.

A further problem is that for workers, the compensation is very low given the economic climate, and the system as a whole is hindered by scarce resources. The funding for social security is covered by employer and employee contributions and a government subsidy. Benefits are being issued in line with Social Security Law, 2012 but since contributions are low as a result of low wages the levels of benefit are inadequate.

Perhaps the greatest challenge ahead for the SSB is building trust with workers' and employers' organizations

and ensuring greater transparency. Under the 2012 Social Security Law there is provision under Chapter III for the SSB to be governed as a tripartite institution. If this were given effect it would have a profound impact on greater investment, ownership and trust by social partners in the workings of the SSB and in the management of the Social Security Fund. International good practices show that giving social partners a voice in the governance of social security systems is the major catalyst for more effective and efficient management of the institutions.

VII. Informal economy population

According to the Labour Force Survey the informal economy (comprising both informal employment in the formal economy and the informal sector) is large in Myanmar. Invariably those people working in the informal economy have limited coverage of social protection benefits, though they are able to access their right to free healthcare¹⁴ through the Ministry of Health and Sport. The Social Security Scheme operated by the Social Security Board under the Ministry of Labour, Immigration and Population, will introduce a voluntary contributory scheme for informal economy workers whereby both the employer and worker contributions are paid by the worker who does not have employer, though given the low earnings and lack of awareness of the SSB's function, take-up is likely to be low.

With regard to workplace injuries under the Workmen's Compensation Act, 2005, workers receive financial compensation in case of occupational disease or work injury resulting in disability or death of the worker, which will be paid fully by the employer.

The Ministry of Social Welfare, Relief and Resettlement also provides some benefits to vulnerable groups including to the disabled and the elderly. These include free training for the disabled, welfare support for those with leprosy, training centres for vulnerable women and youth, homes for the elderly and self-help groups.

VIII. Progress and challenges of moving towards an effective social protection floor

Myanmar has made significant progress towards a social protection floor given that it was a relatively new concept in 2008 when the Ministry of Social Welfare first undertook its commitments to ensuring minimum standards for the population. The development of laws and the processes of national dialogue resulting in a coherent and ambitious framework for social protection are a welcome start, though the challenge remains in implementation and setting targets for progressive coverage. Firstly, there is a problem of internal capacities within various ministries to implement and manage and deliver effectively social protection schemes, and with a large number of Ministries involved there is sometimes weak coordination and a lack of synergies in delivery mechanisms particularly at township level.

There is also a problem of lack of awareness of rights and responsibilities under the law by employers and employees, as well as weak enforcement of the laws, due in part to the limited resources and capacities to labour and social security inspection. Funding is also a key problem for social protection programmes which is especially problematic for non-contributory schemes. For workers, compensation is sometimes too low and accessing benefits is made more complex by cumbersome administrative processes and the fact that few people have bank accounts.

There is also a considerable problem of gaps in social protection coverage for the large numbers of Myanmar migrants overseas. Although Thailand has developed measures to support some social protection access for them, for the most part Myanmar migrants abroad have very weak access to social protection.

¹⁴ Evidence on out of pocket health expenditure in Myanmar illustrates that health is not totally free even in public facilities and that most of the burden of care is paid by households themselves.

Nevertheless, Myanmar has made rapid progress in its policy framework and there is significant political will to address social protection in the context of the country's commitment to inclusive growth. A new Sector Coordination Group on social security will help to coordinate support to the Government in this critical area.

SECTION VI: EQUAL OPPORTUNITIES AND TREATMENT IN EMPLOYMENT (SDGS 1,4,5,8,10,16)

This section deals with equality of opportunity and treatment in employment which is one of the key aspects of decent work. The section focuses on the extent to which women and men as well as other categories of workers enjoy equal opportunities and receive equal treatment in employment, as well as the policies that are in place to improve equality of opportunity and treatment. It complements the information in Section II on Discrimination.

Gender

Myanmar has a mixed narrative on gender equality. While on the one hand it has the appearance of strong foundations for supporting gender equality, this can nonetheless inadvertently mask structural inequalities and contradictory messages within the legal framework. Global and regional indexes for gender inequality reflect Myanmar's weak position in rankings. In 2015, it was ranked 80th out of 188 countries in the Gender Inequality Index, and the 2012 Social Institutions and Gender Index placed the country at 44th of 86 countries and 8th of nine countries in East Asia and the Pacific. (ADB 2016)

The 2008 Constitution guarantees equal rights before the law and equal legal protection (Section 347) and does not discriminate against any person on the basis of sex (Section 348). Myanmar has also ratified a number of international conventions and agreements on gender equality, though not notably ILO core Conventions on Equal Pay and Non-Discrimination (see Annex for core Conventions).

Furthermore, the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) observed that there is an assumption that gender equality is prevalent and that a legal definition of discrimination against women is unnecessary in national legislation.

The CEDAW Committee also noted that neither the Constitution nor national legislation provided for temporary special measures to achieve gender equality, and that the Constitution also clearly states that “nothing in this section shall prevent appointment of men to positions that are naturally suitable for men only.” CEDAW also noted that when gender intersects with other dimensions of vulnerability such as ethnicity and poverty there is an added risk of marginalization and exclusion.

Myanmar has a National Strategic Plan for the Advancement of Women (2013-2022), led by the Ministry of Social Welfare, and based on the 12 priority areas of the Beijing Platform for Action, 1995. Implementation is inter-ministerial and line ministries are responsible for gender mainstreaming in policy development. There is great potential however to more rigorously engender national plans and policies including the National Comprehensive Development Plan (2011-2030) and the Economic Policy of the Union of Myanmar unveiled by the Government in 2016. The Government has also established a new cross-cutting group on Gender Equality and Women's Empowerment to coordinate and facilitate gender mainstreaming into the broader development strategies.

The Government's strong commitment to inclusive growth and poverty alleviation offers potential for women to be regarded as dynamic economic actors rather than passive recipients of social help. With a growing international consensus and widespread evidence that women's economic empowerment is one of the strongest catalysts for sustainable development and poverty reduction, there is great scope for a more systematic inclusion of women as economic actors within the framework of national development policies

and plans in Myanmar.

As detailed in Section II women's position in the labour market is weaker than men's, with high rates of unemployment (0.7 per cent for men and 0.9 per cent for women), labour underutilization (in all criteria women had higher rates than men), vulnerability and labour force participation (80 per cent for men and 52 per cent for women), and lower employment rates (women's employment rates represented 43.1 per cent of the total employment). The Labour Force Survey also revealed significant differences in the household division of labour with 64 per cent of females engaged in housework, compared with 14 per cent of males). (MoLIP and ILO 2015) Unpaid care work is recognized internationally as one of the most serious barriers to women gaining decent work and participating in the political and public life.

Although girls have been doing remarkably well in education, this has not yet translated into better employment outcomes in the labour market. Like every country, Myanmar also struggles with entrenched occupational segregation, both vertical (with women concentrated in certain 'feminized' segments and jobs) and horizontal (with difficulties of promotion and advancement within jobs). While one of the most senior figures in the new Government is a woman, there is not yet in-depth gender balance in the most senior positions in both the public and private sector.

As UNFPA analysis of census data shows (see Section III), Myanmar has an untapped potential to reap a 'gender dividend'. With only just over half of women employed, increasing opportunities for women's economic empowerment through skills training, job opportunities and increasing access to productive resources such as credit and land, can significantly increase per capita income for the country. (UNFPA 2014)

I. Gender wage gap

Like all countries, Myanmar also has a significant gender wage gap. According to the LFS, the average monthly wage for women was 119.04 thousand Kyat while for men it was 134.48 thousand Kyat. Despite the principle of equal pay for work of equal value in Article 350 of the Constitution, there appears to be significant differences in wage rates.

Based on an estimated daily wage for all employees, men tend to earn around 10 per cent more than women. When controlling for other factors such as age, marital status, education, experience, geographic location, sub-sector, occupation and firm dynamics, women still face a wage gap of nearly 9 per cent. In comparison, however, the gender pay disparity is significantly higher in other industries aside from Garment, Textile and Footwear sector, where the adjusted earnings of men are around 20 per cent more than for women. (ILO 2016b).

Similarly, the Myanmar Centre for Responsible Business (MCRB 2017) recently conducted Sector Wide Impact Assessments in the Oil and Gas sector, the Tourism Sector, the Information and Communication Technology Sector, the Mining Sector, and found significant gender gaps for women in all these sectors. (MCRB 2017)

Youth

Another category of workers that are vulnerable to a less equal status in the labour market are youth. According to the School to Work Transition Survey youth (aged 15-29) make up 26 per cent of the population of Myanmar at around 12.5 million people in 2015.

While youth in itself is a vulnerable category in the labour market, when it intersects with other areas of marginalization, the risks of exclusion are even higher. For example, young women have less earnings than young men. The average daily salary of a young man was 4,800 Kyat in 2015 and 3,800 for a young woman.

Monthly earnings of the self-employed also show a gender wage gap with young men earning 124,200 Kyat on average, compared to 109,100 Kyat for young women (MoLIP and ILO 2015).

Similar disparities are evident in the NEET rate (those not in employment, education or training) with an overall rate of 17 per cent of youth. The rate for females was 25.4 per cent while for males it was 7.5 per cent (ibid). The survey also showed that 57 per cent of young men had transited from school to acceptable forms of work while only 43.5 per cent of females had done so.

Of concern for youth's prospects for attaining decent employment is high levels of under education. The survey showed that 45 per cent of youth had left school before completing the middle level, and this proportion is higher in rural areas where it is 53 per cent. The average age of leaving school was 14.7 years, and is even lower in rural areas at 12.6 years. Early drop-outs from education are likely to set young people off on a long-term trajectory of poorly paid and informal work, which, without policy interventions are likely to result in a life time of poverty.

Youths are also involved in migration both internal and international migration, giving an indication that labour market prospects in many states and regions are weak for young people in general. About 45 per cent of all youth in Yangon for example migrated from other areas.

Out-migration is also particularly prevalent in conflict affected zones. An ILO study of Shan State found limited off-farm opportunities for youth which led to migration abroad as a key livelihood strategy. The study also confirmed the limited access to labour market information as a key barrier to gaining employment for young people. (Konstanzer 2017). A similar ILO study was conducted in Kayah State showing similar evidence of poor employment outcomes for youth.

Disability

Myanmar has ratified the United Nations Convention on the Rights of Persons with Disabilities on 7th December, 2011. Myanmar enacted the Rights of Persons with Disabilities Law on 5th June, 2015 that includes the education right of persons with disabilities in accordance with the convention. 2015. According to the data provided by the Census in 2014 a total of 4.6 per cent of the population in Myanmar experiences some form of disability. Out of 4.6%, 1.7% are identified as persons with physical impairment, 2.5% are visual impaired person. In addition, 1.3% are persons with hearing disabilities and 1.9% are with intellectual disability.

At present, the government has announced the adoption of the By Laws related to the rights of persons with disabilities in order to support employment opportunities of persons with disabilities.

According to an MCRB report the major challenges disabled persons face concerning employment in Myanmar are access to, and poor quality of, education, thereby restricting their employment opportunities; lack of capacity and confidence to seek a job effectively, including lack of information, technical assistance and transportation; negative attitudes of employers or co-workers; lack of accessible workplaces; and lack of training facilities and capacity building programmes for people with disabilities. In general Myanmar society and the Government take a charity-based rather than a human rights-based approach to people with disabilities. (MCRB 2017)

Other forms of discrimination

Despite good intentions of the reform process, challenges and uncertainties remain and a culture of human rights and democratic governance, including the principles of non-discrimination will take time to take root.

As noted in Section I Myanmar is one of the most ethnically diverse countries, with 135 officially recognized ethnic groups, and the country is only now emerging from several decades of armed conflict over the issue of ethnicity in different regions. While the Government has enacted a new Ethnic Rights Protection Law and created a new Ministry of Ethnic Affairs as well as developed initiatives under the ongoing peace process, the road ahead is still likely to be difficult. Constitutional rights are linked to citizenship, leaving gaps in protection for some groups in the population who are without citizenship.

An MCRB report suggests that discrimination against certain groups in Myanmar is a cross-cutting issue affecting all industry sectors. MCRB has identified women, ethnic minorities, religious minorities, lesbian, gay, bisexual and transgender (LGBT) people, and people living with disabilities as groups likely to face discrimination. Discrimination against certain groups is prevalent in law, policy, and practice in Myanmar. It occurs not only at the institutional level but also in families, workplaces and wider society. Moreover, some individuals face discrimination on multiple grounds, for example women who are members of ethnic minorities.

Similarly, direct discrimination, using outdated British colonial laws, is prevalent against Lesbian, Gay, Bi-sexual and Trans-gender (LGBT) communities, and their job opportunities tend to be more restricted to a few sectors.

The report also found that discrimination exists against ethnic minorities in terms of land and natural resource use and in the workplace. Religious minorities too experience widespread discrimination according to the report. National identity papers state the religion and ethnicity of potential job applicants and can thus be used against equal opportunities in recruitment. (MCRB 2017)

A concerted effort to promote non-discrimination and equality of opportunity will support the Government's agenda of democratization and achieving sustainable peace. The ILO can play a key role in sensitization and capacity building for duty bearers on the principles of non-discrimination inherent within international labour standards and the Decent Work Agenda. It is also important that conflict-sensitivity and non-discrimination inform all ILO programs and projects in the country.

SECTION VII: SOCIAL DIALOGUE (SDGS 1,4,5,8,9,10,16)

This section complements the discussion on freedom of association, dispute resolution and collective bargaining in Section II. It examines the evolution and situation with regard to promoting social dialogue between Government, employers and workers to pursue decent work for all. Sound industrial relations also require an effective environment provided by labour law which will also be examined in this section.

Organization

As discussed in Section II on Freedom of Association, the numbers of workers and employers' organizations has proliferated since the passing of the Labour Organization Law in 2011. There are however a number of challenges and barriers that need to be overcome to ease difficulties in forming and registering organizations.

I. Trade unions

For five decades trade union activities were illegal and many labour activists were arrested and imprisoned. It was only with the 2008 Constitution that the right of citizens to form associations and organizations was recognized. However, that right can only be exercised 'if not contrary to the laws enacted for Union security, prevalence of law and order, community peace and tranquility or public order and morality.' Furthermore, even this circumscribed right can be suspended indefinitely by invoking state of emergency under Article 379 (ILO forthcoming).

The adoption of the Labour Organization Law, despite some flaws, was a significant step forward for the labour movement and the number of organizations has grown steadily. Between 2012 and May 2017 there were 2341 Basic Labour Organizations (BLOs), 136 Township Labour Organizations (TLOs), 20 Region or State Labour Organizations, 8 Labour Federations and 1 Labour Confederation registered.

The challenges to forming unions have been detailed in Section II.

In general awareness of the right to form unions is low amongst the population. Labour Force Survey data shows that only 0.4 per cent of workers are organized and only 4.1 per cent of workers are aware of their right to organize. (MoLIP and ILO 2015)

The majority of BLOs (66 per cent) and TLOs (68 per cent) are in the agricultural sector and agricultural workers also represent approximately half of overall union membership. Data from other sectors shows that 6.5 per cent of BLOs cover Garments, another 6.5 per cent cover Freight Handling, 5.2 per cent cover Consumer Goods and 3.2 per cent cover Transport and Fisheries. (ILO forthcoming)

The sectors with the lowest level of union membership are tourism (travel services), banking and information technology. Similarly, the unionization rate of the public sector is also low due to restrictions in the law. There is no information covering disaggregation by gender, though CTUM provided data that one third of their industrial membership is female, mainly from the Garments sector.

At present, there does not yet appear to be a problem of a multiplicity of unions at a single worksite which can be a challenge for dialogue and negotiations. Nevertheless, the rapid proliferation of unions in a short time has led to some tensions and splits among unions. Difficulties between unions have contributed to the lack of sectoral collective bargaining and negotiations have been limited to individual contracts or enterprise level contracts.

While in general trade unions are growing in strength and have made significant progress in engaging in dialogue particularly at the national level, there are many challenges ahead. As yet, the majority of unions have weak capacity in terms of bargaining experience and skills and limitations with regard to financial resources to engage fully with employers. Similarly, there is also weak awareness of rights and responsibilities of unions provided by the law.

II. Employers' organizations

Compared to labour organizations, numbers of employers' organizations are significantly lower, in part because of the vagueness in the law, as detailed in Section II. Labour Force Survey data shows that 0.1 per cent of employers are organized and only 2.4 per cent of employers are aware of their right to organize under the law. Between 2012 and May 2017 there were 27 Basic Employer Organizations, 1 Township Employer Organization and 1 Employer Federation registered.

Many associations of employers already exist and are registered under other laws. These diverse associations and organizations – some of which have existed for over a century – are often referred to as business associations, Chambers of Commerce and sectoral management committees may occasionally take on labour market functions which are normally attributed to employers' organizations. UMFCCL plays the primary role as employers' representative and has established an employment services department to support its labour-related activities. (ILO forthcoming)

With one notable exception, the majority of employers' organizations are weak in terms of their capacity to engage with dialogue with unions. They exist mostly at plant level and rarely provide services to their members. Although there are prominent women business leaders, women are significantly under-represented in the executive body of UMFCCL.

III. The National Tripartite Dialogue Forum (NTDF)

National level dialogue has been much more successful than bipartite dialogue at the work place. The National Tripartite Dialogue Forum (NTDF) met for the first time in 2014. Technical working groups have been developed and these have been actively engaged in labour law reform and in policy development.

Labour law reform

Sound industrial relations contribute to more equitable outcomes, reduced inequality and higher productivity. As discussed in previous the newly elected government has enacted, drafted and revised several labour-related laws to safeguard rights, responsibilities and interests of workers and employers (ILO forthcoming). The Labour Organization Law 2012, the Settlement of Disputes Law 2012, the Minimum Wages Law 2013, the Social Security Law 2012 and the Employment and Skills Development Law, 2013 have all been enacted to improve labour standards and enhance the industrial relations system (ILO forthcoming). These laws have been already discussed in various sections of this report.

In general however, industrial relations remain fractious in Myanmar for a number of reasons. It is partly a result of late evolution of the culture of dialogue and negotiation, with mistrust and misconceptions on the part of social partners, as well as existing gaps in the industrial relations framework including legal guidance on collective bargaining. Furthermore, while there have been positive developments in the ongoing process of labour law reform, awareness of rights and responsibilities under the law remain weak amongst the partners, so too, is the Government's capacity to ensure compliance with the law.

SECTION VIII: SYNTHESIS OF KEY CHALLENGES

This section presents an overview of the key challenges facing Myanmar with regard to decent work. Myanmar has been undergoing profound economic and political changes in a relatively short time as it emerges from decades of isolation. While progress has been significant there are many challenges ahead. Some key findings of the Diagnostic are:

Industrial relations remain fractured, and social dialogue, particularly at bipartite level at the workplace, is weak. This is a result of limited capacities of social partners in negotiation and dialogue, weak understanding of roles and responsibilities under the law and in some cases lack of clarity in the law on issues such as collective bargaining. The disputes settlement process also has several weaknesses which has meant that mistrust on both sides continue.

Labour law reform has been intensive but there are still many gaps in ensuring that laws are aligned with international labour standards which protect the rights of workers while also safeguarding the interests of employers. There are for example some issues related to Freedom of Association and collective bargaining which are hindering organization of social partners and limiting effective dialogue and negotiation. Moreover, with a plethora of labour legislation there is a danger of fragmentation and lack of coherence in the legislative framework since a unifying labor code has not yet been developed.

Although round table meetings with various stakeholders reveal a caution with regard to ratifying further international labour standards (ILS) this may be as a result of misconceptions regarding ILS and their flexibility as well as their reporting requirements. The guidance contained in various Conventions and Recommendations would be a very important input in overcoming many of the challenges and gaps in decent work revealed by this Diagnostic.

The issue of forced labour continues to be current, with a still weak capacity among local and national authorities to prevent and redress forced labour. As some forms of forced labour have declined – particularly those linked to the public sector and the military - other forms such as those linked to the private sector have yet to be adequately addressed. Currently the capacity of social partners to address private sector forced labour is weak.

Policy development in areas such as child labour, migration, SME promotion and social protection have been significant but the challenges ahead will be in effective implementation and capacity building of all actors.

Myanmar faces tremendous challenges in forging a lasting peace after decades of conflict. Employment generation will need to be a key element of overcoming regional inequalities, supporting poverty alleviation and national reconciliation.

Similarly the issue of employment creation in general needs to be strengthened. While there is strong commitment to inclusive development, the job-rich aspects of growth need to be made more explicit, particularly given Myanmar's current patterns of growth which are capital intensive and vulnerable to external shocks such as volatile commodity prices.

The many dimensions of employment creation are currently fragmented and lack policy coherence. These problems could be overcome through the development of a specific national employment policy which could

provide the overarching impetus for job-rich growth within the Government's commitments to inclusive growth.

Such a national employment policy and programme could detail the different dimensions of employment growth including skills development, entrepreneurship support, financial inclusion for enterprises, building an enabling environment for SME development, responsible business and investment practices in the context of global supply chains, employment intensive strategies in public works, CSR promotion for FDI, among other areas. The policy could also highlight strategies for economic inclusion for marginalized groups such as women from poor communities, youth, ethnic minorities, rural areas and disadvantaged regions as well as disabled workers.

Discrimination is a complicated issue in Myanmar. There is a need to ensure gender equitable outcomes in areas such as the gender wage gap, occupational segregation, the barriers created by the gender division of labour in the household which constrain women's employment choices, and the weak employment outcomes for women (including engagement in poorly paid, low status and vulnerable employment).

Discussions with stakeholders for this diagnostic has revealed that the need for explicit gender equality measures is not seen as a priority or even a necessity. Nonetheless apparent surface gender equality can obscure more deep-rooted structural inequalities. Myanmar is not immune to any of problems mentioned above as this diagnostic has shown in Sections II and VI. Furthermore, the lack of guidance in the law and the incomplete implementation of the National Strategic Plan for the Advancement of Women suggests that Myanmar may need more work to support gender equality including through gender mainstreaming of national policy frameworks as well as the integration of targeted gender specific measures.

Youth too, face numerous disadvantages in the labour market. With a relatively young population Myanmar needs the right policy mix to take advantage of its demographic dividend. Supporting the up-skilling of youth, promoting their access to productive resources and entrepreneurship support as well as providing opportunities for work experience can help Myanmar harness the dynamism and innovation of its relatively young workforce and avoid the brain drain of large scale international migration.

Child labourers are another highly vulnerable segment of the population. Myanmar has demonstrated strong commitment in the ongoing development of the draft National Action Plan on Child Labour with a realistic framework for preventing and eliminating child labour in the country. Once the Plan is adopted support for implementation and technical capacity building will become even more urgent.

The issues of non-discrimination regarding other markers of vulnerability such as ethnicity, religion, as well as uneven development in regions and rural areas are more complex and sensitive to address in the current context. While the Peace Process will be an important way to shore up the respect for diversity and rights at a national level, efforts at the workplace will also need to be addressed.

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Various ILO Myanmar project documents were also used for the development of this report.

Annexes:

Annex 1 - List of interviewed organizations

1. Union of Myanmar Federation of Chamber of Commerce and Industry
2. Confederation of Trade Union of Myanmar
3. Myanmar Industries Craft & Services – Trade Union
4. Agricultural and Farmer Federation of Myanmar (Food Allied Workers)
5. Ministry of Labour, Immigration and Population
 - Department of Labour
 - Department of Labour Relations
 - Factories General Labour Law Inspection Department
 - Social Security Board
6. Ministry Of Education
 - TVET Department
 - Higher Education Department
 - Research Planning and training Department
 - Myanmar Ethnic Language Department
7. Ministry of Social Welfare Relief and Resettlement
 - Department of Social Welfare
8. Ministry of Planning and Finance
 - Central Statistical Organization
9. Ministry Of Industry
 - Small and Medium Enterprises

Annex 2 - ILO Core Conventions

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Right to Organise and collective Bargaining Convention, 1949 (No. 98)

Forced Labour Convention, 1930 (No. 29)

Abolition of Forced Labour Convention, 1957 (No. 105)

Minimum Age Convention, 1973 (No. 138)

Worst Forms of Child Labour Convention, 1999 (No. 182)

Equal Remuneration Convention, 1951 (No. 100)

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Annex 3 - Sustainable Development Goals



Goal 1: End poverty in all its forms everywhere



Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture



Goal 3: Ensure healthy lives and promote well-being for all at all ages



Goal 4: Ensure inclusive and quality education for all and promote lifelong learning



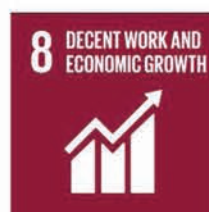
Goal 5: Achieve gender equality and empower all women and girls



Goal 6: Ensure access to water and sanitation for all



Goal 7: Ensure access to affordable, reliable, sustainable and modern energy for all



Goal 8: Promote inclusive and sustainable economic growth, employment and decent work for all



Goal 9: Build resilient infrastructure, promote sustainable industrialization and foster innovation



Goal 10: Reduce inequality within and among countries



Goal 11: Make cities inclusive, safe, resilient and sustainable



Goal 12: Ensure sustainable consumption and production patterns



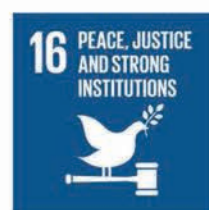
Goal 13: Take urgent action to combat climate change and its impacts



Goal 14: Conserve and sustainably use the oceans, seas and marine resources



Goal 15: Sustainably manage forests, combat desertification, halt and reverse land degradation, halt biodiversity loss



Goal 16: Promote just, peaceful and inclusive societies



Goal 17: Revitalize the global partnership for sustainable development



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