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Social protection within the framework of labour legislation reform in Myanmar

Background research summary

Project: Supporting the transparent enforcement of labour legislation and skill development, an ILO-Japan fund for building Social Safety Nets in Asia and the Pacific.

Report prepared by: Lou Tessier, Technical Officer, ILO Liaison Office in Yangon

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Tessier, Lou

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Table of contents

ABBREVIATIONS	2
1. CONTEXT: TOWARDS A LABOUR CODE	3
1.1. MYANMAR LABOUR LAW REVIEW	3
1.2. CURRENT REFORM PROCESS	3
2. LEGISLATION ON SOCIAL PROTECTION	6
2.1. LEGAL FRAMEWORK AND CURRENT REFORMS	6
2.1.1. <i>Overview</i>	6
2.1.2. <i>Social Security schemes</i>	7
2.1.3. <i>Workmen compensation</i>	12
2.1.4. <i>Civil servants pension scheme</i>	12
2.1.5. <i>Social protection national strategic plan</i>	14
2.1.6. <i>Access to vocational training</i>	14
2.2. CHALLENGES AND OPPORTUNITIES	15
2.2.1. <i>Limited coverage and implementation of the legal framework</i>	15
2.2.2. <i>Need for resource mobilization and capacity building on social protection</i>	18
3. BIBLIOGRAPHY	21
APPENDIX: POPULATION TABLE.....	23

Tables and figure

TABLE 1. LABOUR LAWS.....	4
TABLE 2. SUMMARY OF THE LEGAL FRAMEWORK ON SOCIAL PROTECTION IN MYANMAR	6
TABLE 3. OVERVIEW OF THE ACTIVE SOCIAL SECURITY SCHEMES	8
TABLE 4. OVERVIEW OF THE INACTIVE SOCIAL SECURITY SCHEMES	10
TABLE 5. WORKMEN COMPENSATION ACT, 1924	12
TABLE 6. SOCIAL PROTECTION FOR CIVIL SERVANTS, MILITARY PERSONNEL AND POLITICAL PERSONNEL	12
TABLE 7. SOCIAL PROTECTION STRATEGIC PLAN FLAGSHIP PROGRAMMES – NEW BENEFITS	14
TABLE 8. COVERAGE FOR HEALTH	16
TABLE 9. COVERAGE FOR CHILDREN IN 2013-14.....	16
TABLE 10. COVERAGE FOR THE WORKING AGE GROUP IN 2013-14.....	17
TABLE 11. COVERAGE FOR THE ELDERLY IN 2013-14	17
FIGURE 1. FISCAL BALANCE UNDER STATUS QUO, LOW, MEDIUM, AND HIGH PACKAGES IMPLEMENTED OVER A 10-YEAR PERIOD FINANCED THROUGH GOVERNMENT BUDGET (PERCENTAGE OF GDP)	19
TABLE 12. TOTAL POPULATION OF MYANMAR BY SEX AND AGE GROUP (IN THOUSANDS)	23

Abbreviations

ABND	Assessment based national dialogue
AFFM	Agriculture and Farmer Federation of Myanmar
ASEAN	Association of Southeast Asian Nations
DOL	Department of Labour
DLR	Department of Labour Relations
FGLLID	Factories General Labour Laws Inspection Department
FTUM	Federation of Trade Unions Myanmar
GDP	Gross domestic product
HIV	Human immunodeficiency virus
ILO	International Labour Organization
IMF	International Monetary Fund
IOM	International Organization for Migration
MDRI	Myanmar Development Research Institute
MoE	Ministry of Education
MoFLRD	Ministry of Fisheries, Livestock and Rural Development
MoF	Ministry of Finance
MoH	Ministry of Health
MoLES	Ministry of Labour, Employment and Social Security
MoNPED	Ministry of National Planning and Economic Development
MoSWRR	Ministry of Social Welfare, Relief and Resettlement
MTUF	Myanmar Trade Union Federation
NGO	Non-governmental organization
OOP	out-of-pocket
RAP	Rapid Assessment Protocol
SPF	Social protection floor
SSB	Social Security Board
TVET	Technical Vocational Educational Training
UHC	Universal Health Coverage
UMFCCI	Union of Myanmar Federation of Chambers of Commerce and Industry

1. Context: towards a labour code

1.1. Myanmar labour law review

Myanmar has engaged in recent year in a number of important legal and political reforms. Since 2011, the Government of Myanmar has requested ILO's support for its major legal reform process and in the last few years an impressive number of laws and regulations were adopted. In this context, the ILO conducted a review of labour legislation in 2014 with a view to develop a comprehensive approach to support the progressive drafting of a labour code. This is an extract of the review (N. Nogami, ILO, 2014):

“Whilst both the Government and the Parliaments are themselves still coming to grips with the basic democratic principles of transparency and consultation in their policy development and legislative drafting processes the ILO has been able to contribute to varying extents and with varying levels of success in areas within its mandated expertise. This has included inputs into the forced labour elements of the Ward and/or village tracts Administration Law (2012) and the Prison Act draft, the Labour Organization Law, 2011; the Settlement of Labour Dispute Law, 2012; the 2013 draft Minimum Wage Law; the Social Security Law, 2012 and the Employment and Skills Development Law, 2013. There are however a lot more laws e.g.: the factories act revision, the shops and establishments act revision, a new occupational health and safety law draft, a leave and holidays act revision, the payment of wages act, foreign workers law etc. either currently in process or on the agenda for amendment or drafting.”

The labour legislation in Myanmar is currently composed of a number of old labour laws passed during colonial time and new laws adopted since the beginning of the reform process. The review of labour laws concerns mainly (i) the adaptation of the old laws to the new reality of the labour market and (ii) the revision of the laws which encounter implementation issues (i.e. either because they were drafted at a time the country did not have empirical experience in the matter or because they overlap with new frameworks). In any instances, at the moment there is not a core piece of legislation that would be the basis for employment relationships. This creates a number of issues, in particular in terms of congruence across laws and readability of the legal framework for employers and workers. In terms of time line, the government “would see that the consolidation of much of the legislation encompassing in particular conditions of work should [...] be undertaken for introduction into Parliament in the next two or three years to replace the revised laws and to give the country a modern, cohesive labour market regulatory framework” (N. Nogami, ILO, 2014). Meanwhile, it is anticipated that a number of laws would be revised to provide first solution to current implementation issues.

In this framework, the ILO is developing a dual strategy to respond to the government's request: (i) short-term support to review a number of labour laws prioritized by the MoLES and (ii) the formulation of a wider project to support the formulation of a consolidated labour code within two to three years.

Though social protection is by definition an inter-ministerial matter, the social security system currently lies within the MoLES. Hence, it is important to mention the broader context of labour law reforms. Revising laws in a coherent and cohesive manner should ensure proper coordination between social protection and labour market policies over the long run.

1.2. Current reform process

The labour laws concerned by the reform process are summarized in the table below.

Table 1. Labour laws

Name	Responsible	Status	Notes
Labour Organization Law	DOL	Enacted	Could be considered for amendment, especially with new developments viz. recognition of Federations.
Settlement of Labour Disputes Law	DLR	Enacted, with amendment currently under consideration by Hluttaw.	Submitted amendment introducing increased penalties for failure to comply with Arbitration Council Awards.
Social Security Law	SSB	Enacted, with amendments currently being prepared by SSB	-
Minimum Wages Law	DOL	Enacted	-
Employment and Skills Development Law	DOL	Enacted	-
Employment Restriction Act, 1959	DOL	Under amendment	Ongoing
Employment Statistics Act, 1948	DOL	Under amendment	Ongoing
Dock Workers (Regulation of Employment) Act, 1948		Under amendment	Ongoing
Leave and Holidays Act, 1951	FGLLID	Under amendment	Consultation process – soon to be submitted to AG Office. Amendment recently announced (as adopted by Hluttaw) in July 2014.
Shops and Establishments Act, 1951	FGLLID	Under amendment	Consultation process – soon to be submitted to the AG Office.
Factories Act, 1951	FGLLID	Under amendment	Consultation process – soon to be submitted to the AG Office.
Workmen's Compensation Act, 1923	DOL	Under amendment	Not started yet.
Payment of Wages Act, 1936		Under amendment	Not started yet.
The Law Relating to Overseas Employment, 1999	DOL	Under amendment	Not started yet.
Alien Worker's Law	DOL	Drafting	Has not yet been sent to the AG Office.
Occupational Safety and Health Law	FGLLID	Drafting	Has not yet been sent to the AG Office.

As noted, the Social Security Law, 2012, is part of the broader labour law reform and is envisaged to become a satellite law to the cohesive labour code in development.

The Social Security Law, 2012, is the central piece of legislation offering social security benefits in Myanmar at the moment. Still, a number of policies, strategies and legislations which are outside the scope of the Ministry of Labour also provide social protection entitlements, and are as such presented in this paper.

2. Legislation on social protection

In 2014, the ILO supported the Ministry of Social Welfare, Relief and Resettlement and its inter-ministerial working group on social protection to conduct an Assessment-Based National Dialogue (ABND) exercise. The first step of this exercise consisted in mapping the current legal framework for social protection as well as the effective coverage. The below analysis is based on the results of the ABND.

2.1. Legal framework and current reforms

2.1.1. Overview

Table 2. Summary of the legal framework on social protection in Myanmar

Scheme name	Legal framework
Government employees	
Civil Servant, Military, and Political Personnel Pension Schemes	Constitution of the Union of Myanmar, 2008, article 26b; Civil Service Law (chapter 12, section 7) and Rules, 2013; and Political Pension Law (amending the Political Pension Law, 09/94, 07/00 and 02/01) and Rules
Medical care for military personnel and their families	The programme is not yet embedded within law.
Families of disabled and deceased soldiers	Families of Disabled or Deceased Soldiers Supporting Act, 2012.
Private sector formal workers	
Social Security Scheme	Social Security Act, 1954; Social Security Law and Rules, 2012
Employee Skill Development Fund	Employment and Skill Development Law, 2013
Informal economy workers	
Free Training Institutions for People with Disabilities	“Developing Rights of Persons with Disabilities” Law is currently being drafted
Welfare for People Living with Leprosy	The programme is not yet embedded within law.
Older People’s Self-Help Groups; Voluntary Homes for the Elderly; Village Development Committees.	The programmes are not yet embedded within law, but the Law for Older People is currently being drafted and may give ground to these three programmes
Social Security Schemes	Social Security Law and Rules, 2012
Free Medicine Programme for HIV/AIDS patients	Strategic Plan and Operational Plan on HIV and AIDS 2011-2016 (NSP II)
National Tuberculosis Programme	The programme is not yet embedded within law.
Rural economy	Rural Development Strategic Framework, 2014
Children	
Basic Education (support to compulsory education and National School Stipends Programme)	The programmes are not yet embedded within law, but the Basic Education Law is currently being developed.
Free preschool and day care centres	The programme is not yet embedded within law. The rules to accompany the Early Childhood Care and Development (ECCD) Law are currently being developed and may give ground to this programme.
Free national nutritional programmes	The National Plan for Action for Food and Nutrition is currently being formulated.
Expanded programme on immunization	The programme is not yet embedded within law.

2.1.2. Social Security schemes

In 2014, the ILO conducted in partnership with the Myanmar Development Resource Institute (MDRI) an evaluation of the Social Security Board current operations, which allowed to gather significant information on the legislative reform and their application. The below section draws on to this evaluation report. At this stage, the Social Security Law, 2012, is not fully implemented, both active and inactive schemes are described below.

In 2012, the Government of the Union of Myanmar adopted a new Social Security Law, 2012. This new law provides for an extended social security scheme:

- More branches of social security are covered (family benefit, old age pensions, disability and survivors' pensions, unemployment insurance and housing benefits).
- The cash benefits existing under the Social Security Act, 1954, (sickness, maternity and work injury) have higher levels under the new law.
- The medical care scheme opens the possibility to contract medical facilities outside of the SSB-owned facilities.
- The mandatory registration could be extended progressively to smaller enterprises (today there is a threshold of five workers) and a voluntary registration is made possible for the sectors not covered by mandatory registration (in particular rural areas).

The Social Security Board is progressively implementing that new law. In April 2014, the SSB started the implementation of the new contribution and benefit levels for the existing benefits (medical care, sickness, maternity, funeral and work injury) as well as the collection of contributions for the family benefits.

Compulsory registration to the SSB for:

- Companies with 5 workers or more, excluding the following: government personnel, international organizations, seasonal farming and fishery, non-profit organizations, domestic work. Possibility for additional exemptions.
- All paid workers in the said companies, including paid and unpaid apprentices, permanent and temporary, but with the exclusion of dependent family members of the employer – however the later can register on a voluntary basis.

Voluntary registration¹ for:

- Companies with less than 5 workers.
- Students.
- Independent workers and farmers.

Wage determination: wage includes the total wages or declared income (for voluntary registrations only). It shall not be under the minimum wage when the later will be set².

¹ Voluntary registration is not opened yet.

² Though the law states that overtime and bonuses shall be included, in practice it is not the case yet in the garment sector where only the base salary is included in the determination of the wage level.

Table 3. Overview of the active social security schemes

Benefit name	Benefit package	Contribution level	Qualifying conditions	Difference with Social Security Act, 1954
Medical care	<p>Medical treatment and delivery (out-patient, in-patient, medicine, laboratory, transportation in case of referral outside urban areas) for a maximum of 26 weeks.</p> <p>Free in all SSB facilities except for retired workers. Retired workers have a co-payment of 50% of the cost of treatment.</p> <p>Reimbursement on the basis of fixed rates in case of referral in other public facilities.</p> <p>Covers the worker only.</p> <p>In case of maternity, the new born is covered during one year.</p>	<p>“Health and Social Care Fund”</p> <p>If the insured person is less than 60 years old at registration: Worker: 2%. Employer: 2%.</p> <p>If the insured person is 60 years old or older at registration: Worker: 2.5%. Employer: 2.5%.</p>	<p>Worker registered at the SSB and regularly paying contributions.</p> <p>Referral system to access to secondary and tertiary care.</p> <p>No waiting period.</p>	<p>Contributions for medical care, sickness, maternity and funeral grant: Workers: 1.5%. Employer: 1.5%.</p> <p>No family benefit.</p> <p>New born covered for medical care only the first six months.</p>
Funeral grant	<p>Lump sum.</p> <p>Funeral allowance benefit = average wages or income in the past 4 months x (number of contributed months/18)+1.</p>		<p>Being registered and regularly paying contributions at least 1 month prior to the claim.</p>	<p>Fixed amount to be paid to the widow or orphan of the deceased (40,000 kyats).</p>
Sickness cash benefit	<p>Periodical benefit: 60% of the average salary of the last four months. Weekly installments.</p> <p>Up to 26 weeks.</p>		<p>Being registered and regularly paying contributions at least 4 months prior to the claim.</p>	<p>Periodical benefit: 50% of the wage. Up to 26 weeks.</p>
Maternity cash benefit	<p>70% of the average salary of the last six months.</p> <p>Weekly installments or lump sum.</p> <p>Up to 14 weeks.</p> <p>Bonus: 50%, 75% or 100% of the average wage at the time of delivery depending on the number of babies (1, 2 or 3).</p>		<p>Being registered for at least 12 months and regularly paying contributions for at least 6 consecutive months prior to the claim.</p>	<p>Periodical benefit only: 66.67% of the wage. Up to 12 weeks.</p>
Paternity cash benefit	<p>70% of the average salary of the last six months for up to 15 days.</p> <p>Bonus: half of the provisions of maternity benefit for the uninsured wife.</p>		<p>Being registered for at least 12 months and regularly paying contributions for at least 6 consecutive months prior to the claim.</p>	<p>No paternity cash benefit under the former law.</p>

Benefit name	Benefit package	Contribution level	Qualifying conditions	Difference with Social Security Act, 1954
Family benefit	<p>(a) Educational allowance Means-tested benefit. Periodical benefit: Monthly benefit (10 months a year) of 10% of average wage per child in primary school.</p> <p>(b) Natural disaster 40% of average wage over the past 12 months (lump sum).</p>	Financed by a 10% contribution of the “Health and social care fund”.	<p>(a) Being registered for no less than 48 months and regularly paying contributions for at least 36 months prior to the claim. Earning less than the threshold stipulated by the SSB over the year prior to the claim. Having his/her child attending primary school (recognized by the State).</p> <p>(b) Being registered for no less than 48 months and regularly paying contributions for at least 36 months prior to the claim.</p>	No family benefit under the former law.
Work injury	<p>(a) Temporary disability benefit Periodical benefit: 70% of the average wage received over the past four months. Weekly installments. Up to 12 months.</p> <p>(b) Permanent disability benefit Benefit amount depending on the loss of working capacity, with a maximum of 70% of the average wage received over the past four months. Benefit granted for a length which depends on the percentage of loss of working capacity. Weekly installments or lump sum.</p> <p>(c) Survivor benefit Weekly installments or lump sum. Between 30 and 80 times the average monthly wage of the deceased over the past four months depending on the deceased contribution period (from less than 60 months to over 240 months).</p>	<p>“Employment injury Fund”</p> <p>Employer: 1%.</p> <p><i>Can go up to 1.5% as a sanction in case of repeated work injuries (threshold defined in the rules, art. 58).</i></p>	<p>Being registered and regularly paying contributions at least 2 months prior to the claim.</p> <p>Being subject to a work injury / occupational disease recognized by the SSB medical board.</p>	<p>(a) Temporary disability benefit: Waiting period of four days to enjoy the benefit. Benefit level: 66.67% of the wage.</p> <p>(b) Permanent disability pension: Additional benefit in case of dependency. Monthly installments or lump sum (for less than 20% loss of capacity).</p> <p>(c) Survivor’s pension: Aligned on the provision of (b). Benefit level: 66% of the wage.</p>

Table 4. Overview of the inactive social security schemes

Scheme name	Benefit package	Contribution level	Qualifying conditions
Disability benefit	<p>In installment or in lump sum:</p> <ul style="list-style-type: none"> • 15 months of the average wage received over the total period of contribution if contributions were paid for 180 months. • 40% of the amount of collected contributions (employer + worker) if contributions were paid for at least 12 months and less than 180 months. • Right to retrieve the amount of workers' contributions collected by the SSB if contributions were paid for less than 12 months in lump sum. <p>N.B.: the employer has the right to claim back 25% of collected contributions plus interest when the worker is granted disability benefit.</p>	<p>"Disability benefit, superannuation benefit and survivor's benefit fund."</p> <p>Worker: 3%. Employer: 3%.</p>	<p>Having contributed for at least 12 months and being registered to the SSB.</p> <p>Being subject to permanent inability to work certified by the SSB medical board due to any cause but work injury.</p>
Superannuation benefit (Old age pension)	<p>In installment or in lump sum:</p> <ul style="list-style-type: none"> • 15 months of the average wage received over the total period of contribution if contributions were paid for 180 months. • 40% of the amount of collected contributions (employer + worker) if contributions were paid for at least 12 months and less than 180 months. • Right to retrieve the amount of workers' contributions collected by the SSB if contributions were paid for less than 12 months in lump sum. <p>N.B.: the employer has the right to claim back 25% of collected contributions plus interests when the worker is granted superannuation benefit and has contributed for more than 12 months.</p>		<p>Having reached pensionable age: 60 years old.</p> <p>Having contributed for at least 12 months and being registered to the SSB.</p>

Scheme name	Benefit package	Contribution level	Qualifying conditions
Survivor's benefit	<p>In installment or in lump sum:</p> <ul style="list-style-type: none"> 15 months of the average wage received over the total period of contribution if contributions were paid for 180 months. 40% of the amount of collected contributions (employer + worker) if contributions were paid for at least 12 months and less than 180 months. Right to retrieve the amount of workers' contributions collected by the SSB if contributions were paid for less than 12 months in lump sum. <p>N.B.: the employer has the right to claim back 25% of collected contributions plus interests when the survivor's benefit is granted and the deceased contributed for more than 12 months.</p>		<p>Having contributed for at least 12 months and being registered to the SSB.</p> <p>Having designated a beneficiary for the survivor's benefit.</p>
Unemployment insurance	<p>In installment or in lump sum: 50% of the average wage received over the past year. Up to 6 months. Additional cash awarded if married with dependents. One additional month of benefit awarded for each additional years of contribution (over 36 months). Deductible from severance packages paid by the employer.</p> <p>N.B.: the employer has the right to claim back 25% of collected contributions plus interests when the unemployment benefit is granted.</p>	<p>"Unemployment benefit fund."</p> <p>Worker: 1%. Employer: 1%.</p>	<p>Having contributed for at least 36 months and being registered to the SSB.</p> <p>Being unemployed, excluding in case of voluntary resignation or dismissal for professional mistake.</p> <p>Being registered at the Township Labour Exchange Office.</p>

Additionally, the new Social Security Law, 2012, provides for the creation of a housing fund in which workers would be able to place savings and then would access rights to buy housing at subsidized rate and with subsidized loan.

The Social Security Law, 2012, contains provisions on the right to appeal. Establishments have the right to appeal if they are not satisfied with the decisions of the Board. Similarly, Insured workers who are not satisfied with the decisions of the Board have the right to appeal to the Appeal Tribunal (Social Security Law, 2012, chapter 10, article 89) which composition is detailed in the Rules, chapter XIII, article 207. No appeal was filed in front of the Appeal Tribunal yet.

2.1.3. Workmen compensation

Two mechanisms coexist in case of work injury:

- The Social security work injury scheme (see Social Security Law, 2012, above);
- The Workmen Compensation Act, 1924.

The former is a social insurance fund whereas the second one is an employer's liability.

Table 5. Workmen Compensation Act, 1924

Legal framework	This compensation scheme was established by The Workmen's Compensation Act, 1923, and Rules, 1924. Amendments to the Act are under the Workmen's Compensation Act, 2005.
Target group	Wage workers, with the exception of those in the agricultural sector, are protected.
Compensation	Cash compensation in the case of occupational disease or work injury resulting in the disability or death of the worker. In the case of permanent disability or death, the benefit is a lump sum equal to 36 to 40 times the worker's salary. For permanent disability, the benefit is between 200,000 to 600,000 kyats (US\$ 206 to 618). In the case of death, the lump-sum benefit is between 150,000 to 450,000 kyats (US\$ 154 to 463). In the case of temporary disability, the first month's benefit is a partial income replacement (50 per cent of the last monthly salary) payable on the 16th day from the date of disablement. In the following months, the benefit is a smaller partial income replacement (33 per cent for adults) and remains the same for minors (50 per cent).
Responsible authority	Department of Labour, Ministry of Labour, Employment and Social Security.
Expenditure	Approximately 41.5 million kyats (US\$ 42,785) for the 2013-14 fiscal year.
Population covered	In 2013-14, 50 cases were settled (17 cases of death and 33 cases of injury). This accounts for 0.0001 per cent of the population age 15-65. ³

2.1.4. Civil servants pension scheme

Civil servants, military personnel and political personnel benefit from social protection pension schemes embedded in various legal documents. Their entitlements are detailed below:

Table 6. Social protection for civil servants, military personnel and political personnel

Legal framework	The pension scheme is embedded in the Constitution of the Union of Myanmar, 2008, article 26b; Civil Service Law (chapter 12, section7) and Rules, 2013; Political Pension Law and Rules; and the Law amending the Political Pension Law, 09/94, 07/00, and 02/01.
Responsible authority	Pension Department, Ministry of Finance.
Old Age pension	

³ Total population of Myanmar : 51.5 million (preliminary census data, 201), the calculation is based on UN DESA population age distribution projections, 2014.

Target group	The pension scheme covers retired civil servants, military personnel, political personnel, public enterprises, and their spouses in case of death.
Benefits	The target replacement rate for government employees is 50 per cent of their last monthly salary. In case of death, the spouse is entitled to the survivor's pension, which is three-quarters of the old-age pension. The average monthly benefit for old age is 46,438 kyats (US\$ 48) and 21,045 kyats (US\$ 22) for the survivor's pension (Ministry of Finance, 2014).
Eligibility	Civil servants can receive the pension upon reaching 55 years of age and 30 years of service. Political personnel can receive the pension upon reaching 60 years of age and four years of service. In case of death, the spouse is entitled to the survivor's pension.
Expenditure	The total cost for the pension scheme was 215,318 million kyats (US\$ 221,977,319) in fiscal year 2013-14.
Population covered	In 2013-14, the total of recipients was 643,414 ⁴ , of which 249,121 were civil servants, 197,230 were military pensioners, 46,218 were political pensioners, and 150,845 were public enterprise pensioners (Ministry of Finance, 2014). This accounts for approximately 9.5 per cent of the population 55 years old and over ⁵ (Ministry of Finance, 2014).
Invalidity and survivors' pension	
Target group	The scheme covers civil servants, military personnel, political personnel, public enterprise employees, as well as their dependents/heirs.
Benefits	The benefit is comprised of three components: 1) an invalidity and work injury pension for cases of permanent invalidity due to any cause or temporary invalidity caused by a work injury; 2) a survivor's pension in which the spouse is entitled to a pension in the case of a worker's death; and 3) a compensation pension covering job termination due to position suppression. For all components, the target replacement rate is 50 per cent of the last monthly salary. The average benefit level in 2013-14 is 26,149 kyats (US\$ 26.95) for invalidity and working injury pension and the average benefit level is 15,612 kyats (US\$ 16.10) for the compensation pension (Ministry of Finance, 2014). ⁶
Expenditure	The total cost for the scheme was 36,602 million kyats for the 2013-14 fiscal year. Specifically, 30,914 million kyats was used for the invalidity and work injury pension and 5,688 million kyats was used for the compensation pension (Ministry of Finance, 2014).
Population covered	In 2013-14, the scheme covered 160,795 beneficiaries, including civil servants, military personnel and public enterprise employees. ⁷ This accounts for 0.45 per cent of the active age population (aged 15-59 years). ⁸

The pension is non-contributory and is financed out of the government budget, but the civil servant pension scheme is under reform. The new system will progressively establish a contributory pension

⁴ This includes survivor's pension and old age pension.

⁵ Total population of Myanmar : 51.5 million (preliminary census data, 201), the calculation is based on UN DESA population age distribution projections, 2014.

⁶ The number of survivor's pension recipients are not included in this count. The available data did not differentiate between survivor's recipients in active age and in old age. Instead, we assume that the majority of survivor's recipients are in old age.

⁷ Only invalidity and work injury pension and the compensation pension. This excludes the survivor's pension and old age pension.

⁸ Total population of Myanmar : 51.5 million (preliminary census data, 201), the calculation is based on UN DESA population age distribution projections, 2014.

fund for civil servants. A new formula is under consideration for the defined benefit system. Gradually the income replacement will rise to 60 per cent of the last monthly salary.

Additionally, the Families of Disabled or Deceased Soldiers Supporting Act was adopted in 2012 to offer additional invalidity and survivors' benefit to families of military personnel. The rules are being developed currently and no detail on specific entitlement is available yet.

2.1.5. Social protection national strategic plan

Following the ABND exercise conducted in 2014, the Government of Myanmar adopted a national social protection strategic plan in December 2014. This plan is not yet implemented and the programmes are not yet embedded in the law but it aims at creating the following new programmes:

Table 7. Social protection strategic plan flagship programmes – new benefits

Benefits	Target population
Maternity and new born benefit	All pregnant mothers and new born children until 2 years old.
Universal child allowance	All children until 15 years old.
Universal disability allowance	All disabled persons.
Public Employment Programme	Seasonally unemployed in rural areas.
Social pension	All people above 90 years of age.

2.1.6. Access to vocational training

One of the major concern of workers and employers representatives during the ABND exercise was the lack of access to vocational and lifelong training. The legislative framework provides a few scattered measures in that direction which were reviewed by the Comprehensive Education Sector Review (CESR) in 2014. The below extract of the TVET assessment commended by the ILO provides some insights on the existing legal framework and its possible amendment (ILO, 2014b):

“According to the CESR Phase 1, Rapid Assessment, whose findings are supported by our field research, a comprehensive TVET policy does not exist. TVET falling under the MOST is regulated by the Agricultural, Technical, and Vocational Education Law of 1974.⁹ A new TVET Law, however, is currently being developed under the MOST. According to this law, “agricultural, technical, and vocational education” includes all types of vocational education offered by agricultural, technical, and vocational training schools and institutes under the supervision of the Department of Agriculture, Technical, and Vocational Education of the MOE, with the aim of fulfilling the objectives of agricultural, technical, and vocational education. The law set outs the following objectives:¹⁰

- a) to nurture technicians and specialists required for the establishment of industries;
- b) to nurture luminaries required for the effective utilization of sophisticated technology for the development of agriculture and livestock activities;
- c) to expand or increase vocational education courses that are in line with the country’s political, economic, and social systems; and

⁹ Amendments in 1983 and 1989.

¹⁰ CESR, Phase 1, Rapid Assessment, 2013. TVET Subsector Analysis – Policy, Legislation, Management and Service Delivery. Draft confidential.

- d) to nurture technicians and intellectuals who have a positive attitude and strong nationalist sentiments.¹¹

This is complemented by the Science and Technology Development Law of 1994, which has been promulgated by the MOI with the aim of engendering technicians and specialists to fulfil the requirements of industrial-sector development.

The fact that the legal background is outdated creates discrepancies between reality and law. The JICA report advises that the amendment of Agricultural, Technical, and Vocational Education Law should be completed as soon as possible, to solve the problem of inconsistency between the law and actual conditions.¹² The amended law should reflect a broader discourse between the MOST and other ministries that offer courses related to vocational education.”

“The Employment and Skills Development Law¹³ was approved by Parliament in August 2013. This law proposes a number of bodies to take over responsibility for the development, adoption, assessment, and supervision of the skills system, and thus formalizing the temporary set-up of the NSSA. It will hold the leading role in the accreditation, assessment, and certification of public and private providers and evaluators. The NSSA is also viewed as an organization based on public-private cooperation, due to the role of the UMFCCI. In practice, there is little involvement of the private sector or other ministries. The guidelines are being prepared to implement the law.

The government will establish a central body to implement the law. This body will have at least seven members. Included are the mayors of Nay Pyi Taw, Yangon, and Mandalay cities; the chair of the UMFCCI; and the chairs of Myanmar’s employers’ and labour organizations. Further, this body will form two committees: a Skills Standards Committee and a Skills Standards, Certification, and Assessment Committee.¹⁴ Its role is to regulate, lead, establish competency standards, and conduct assessments for workforce development in Myanmar. It is also responsible for developing the national continuing education and training infrastructure, to deliver training to meet the manpower development in each economic sector in Myanmar. The other important development under the law is the creation of a training fund based on a levy system on employers, and by donations from workers.^{15”}

At this stage, there are no mechanisms coordinating social protection and TVET interventions, either within the legal framework or in practice.

2.2. Challenges and opportunities

2.2.1. Limited coverage and implementation of the legal framework

At this stage, though the legal and policy framework on social protection in Myanmar has experienced substantial development (adoption of a new Social Security Law in 2012, adoption of a social protection strategic plan in 2014, etc.), the enforcement of those instruments remains limited. This has for direct consequence that most social protection programmes have limited coverage and that workers and their families effectively benefit from little protection.

¹¹ The Agricultural, Technical, and Vocational Education Law of 1974, with amendments in 1983 and 1989.

¹² JICA, PADECO Co., Ltd., IC Net Limited, 2013. Data Collection Survey on the Education Sector in Myanmar, Final Report.

¹³ The Pyidaungsu Hluttaw, 2012. Draft law, 15 May 2012.

¹⁴ Lythe, David, Industry leadership in HRD in Myanmar, December 2013.

¹⁵ Khin Mar Aye, 2012. STC, Yangon. Presentation.

Overall, the vast majority of the population does not enjoy adequate social protection coverage. Put together, the social security scheme and the civil servants pension scheme cover about 3% of the population of the country. Below are a few coverage rates of the various existing social protection programmes in the country (only available for programmes which have a monitoring system), as calculated through the social protection assessment-based national dialogue exercise (UNCT Myanmar, forthcoming). In appendix one the population table used for the below calculation is produced (it is based on UNDESA population projections from 2014 since the age-desegregated census data is not yet available).

Exchange rate: 1 USD = 1,083.5 MMR Kyats¹⁶.

Table 8. Coverage for health

Scheme	Coverage
Social Security Medical Care Scheme	710,000 workers (January 2014) - 1 per cent of the total population is covered by the SSB scheme. ¹⁷
Maternal and Child Health Voucher Pilot Scheme	0.015 per cent of the female population aged 15-45 years is covered. ¹⁸
Free Medicine Programme for HIV/AIDS	54 per cent of the target group is covered.
Free National Nutritional Programmes	A consolidated number on beneficiaries is not yet available.
Expanded Programme on Immunizations	62 per cent of newborns received all immunizations.
National Malaria Control Programme	0.47 per cent of the total population was treated for malaria and 1.64 per cent of the total population was tested for malaria (total population: 51.5 million).
National Tuberculosis Programme	77 per cent of people living with tuberculosis were assisted in 2012, representing 0.27 per cent of the total population (Ministry of Health, 2013).
Consolidated data on total number of beneficiaries is not yet available for the following programmes:	
<ul style="list-style-type: none"> - Free Care to Children Under Five - Free Institutional Delivery - Free Emergency Operation - (Hospital) Trust Fund - Hospital Equity Fund 	

Table 9. Coverage for children in 2013-14

Scheme	Coverage
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¹⁶ Market exchange rate, 06/05/2015.

¹⁷ Total population of Myanmar : 51.5 million (preliminary census data, 2011), the calculation is based on UN DESA population age distribution projections, 2014.

¹⁸ Total population of Myanmar : 51.5 million (preliminary census data, 2011), the calculation is based on UN DESA population age distribution projections, 2014.

Support to compulsory primary education	5.2 million children or 100% of primary school aged children. ¹⁹
National School Stipends Programme	11,022 children or 0.11% of all school aged children (i.e. school-aged children: about 5.2 million).
Free preschool and day care centres	10,917 children or 0.25% of children aged 0- 4 years. ²⁰
Institutions for orphans	1,420 orphans or 0.011% of children aged 0-14 years. No data available on the total number of orphans in Myanmar.
Free Training Institutions for People with Disabilities	No data available on the total number of beneficiaries.
Social Security Family Benefit Scheme	No data available specifically on Family Benefit recipients.

Table 10. Coverage for the working age group in 2013-14

Scheme	Benefits	Coverage
Social Security Schemes	Sickness benefit; maternity benefit; paternity benefit; work injury; and family benefit	710,000 workers (January 2014) - Two per cent of the active age population (Ministry of Labour, Employment and Social Security, 2013).
Civil Servant Pension Scheme, Military Pension Scheme, Political Pension Scheme	Invalidity/work injury pension; survivor's pension; and compensation pension	997,000 or 2.65 per cent of the active age population. ²¹
Disabled and Deceased Soldiers Benefit	Rules currently being drafted.	No data available yet as the notes to complement the law are currently under review by Parliament.

Table 11. Coverage for the elderly in 2013-14²²

¹⁹ Total population of Myanmar : 51.5 million (preliminary census data, 201), the calculation is based on UN DESA population age distribution projections, 2014.

²⁰ Total population of Myanmar : 51.5 million (preliminary census data, 201), the calculation is based on UN DESA population age distribution projections, 2014.

²¹ Total population of Myanmar : 51.5 million (preliminary census data, 201), the calculation is based on UN DESA population age distribution projections, 2014.

²² Total population of Myanmar : 51.5 million (preliminary census data, 201), the calculation is based on UN DESA population age distribution projections, 2014.

Scheme	Coverage
Civil Servant Pension Scheme, Military Pension Scheme, and Political Personnel Pension Scheme	643,313 pensioners or 9.5% of the population 55 years old and over. ²³
Voluntary homes for the elderly	2,282 elderly or 0.05% of the population 60 years old and over. ²⁴
Older People's Self-Help Groups	5,123 elderly or 0.10% of the population 60 years old and over. ²⁵
Village Development Committee	5,197 elderly or 0.11% of the population 60 years old and over. ²⁶
Home Care Programme	Consolidated data is not yet available as there are six implementing organizations.
Social Security Old-age Superannuation Scheme	The scheme is not yet active.

There are a number of factors that explain this limited effective coverage and implementation of the legal and policy framework, among those we can mention here:

- Large informal economy, with at this stage no large scale policy for the formalization of the economy (many legal instruments are not yet adopted and operational capacity is limited).
- Lack of enforcement of labour laws in general due to the lack of resources and capacities allocated to labour and social security inspection.
- Limited resources allocated to the implementation of social protection programmes, which is especially problematic as regards non-contributory schemes.
- Lack of internal capacities within ministries to implement, manage and deliver efficiently social protection programmes.
- Limited awareness of intended beneficiaries of their social protection entitlements and limited capacities of social partners and civil society organizations to disseminate the information.

2.2.2. Need for resource mobilization and capacity building on social protection

As mentioned in the previous section, limited human and financial resources explain the low coverage of existing social protection programmes, even though the legal and policy framework has been developing in recent years.

The ILO conducted a preliminary fiscal space analysis on the basis of the Rapid Assessment Protocol costing tool adapted to Myanmar (UNCT Myanmar, forthcoming). It indicates the necessary fiscal

²³ There may be double counting between military personnel pensions and civil servants' pensions.

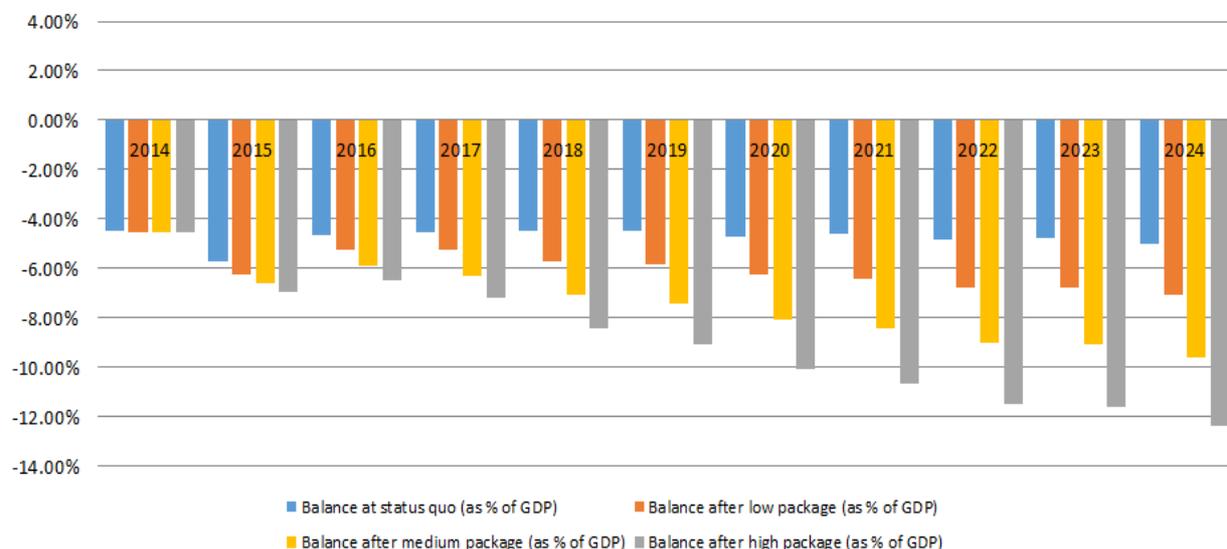
²⁴ Total population of Myanmar : 51.5 million (preliminary census data, 201), the calculation is based on UN DESA population age distribution projections, 2014.

²⁵ Total population of Myanmar : 51.5 million (preliminary census data, 201), the calculation is based on UN DESA population age distribution projections, 2014.

²⁶ Total population of Myanmar : 51.5 million (preliminary census data, 201), the calculation is based on UN DESA population age distribution projections, 2014.

space to be created in order to ensure the progressive implementation to all of a social protection floor inclusive of existing programmes. It also suggest ways in which fiscal space can be mobilized.

Figure 1. Fiscal balance under status quo, low, medium, and high packages implemented over a 10-year period financed through government budget (percentage of GDP)



The report mentions: “The IMF mentions in its last Article IV consultation staff report that “tax revenues are very low and the tax base remains narrow, in part due to widespread exemptions, while social spending need to rise” (IMF, 2014b). In comparison to the other countries of the ASEAN community, tax revenue in Myanmar is still low.

[...] there should be space for increasing taxes. However, a more detailed analysis of potential additional fiscal space created through an increase of tax rates or an extension of the present tax base is required to establish a detailed future taxation and social protection financing strategies in Myanmar. Since this has to be undertaken in conjunction and compatibly with the scenario of the privatization of SSEs that is pursued by the government, an overall review of the structure of government revenues is necessary and should be integrated in the current tax and revenue reform. That does not mean, however, that crucial coverage gaps cannot be closed at this stage.

[...] There might be also additional fiscal space for the financing of social protection through expenditure reallocation within the current expenditure envelope. There are some indications of possible expenditure imbalances compared to international standards of expenditure distribution. [...], in 2012 the Government of Myanmar allocated 12 per cent of its budget to social ministries and (largely public sector) pension awards, representing over three per cent of GDP. In OECD countries, the average social spending amounts 22 per cent of GDP in 2014 (OECD, 2014). [...] Such progressive reallocation could happen over time in Myanmar where social protection may benefit from the dividends of the peace process the country has engaged in. As mentioned earlier the IMF conclusions from its budget analyses culminate in the statement: “increases in social spending need to resume”, which means that options to create fiscal space for social spending through budget reallocations may exist. Budgetary reallocations should be pursued after a thorough overall public expenditure review.”

Another issue is the limited availability of capacitated human resources and infrastructures for the enforcement and effective implementation of the legal and policy framework. Since at this stage there is no large-scale social protection programme running in the country, line ministries have limited internal capacities on this matter. Putting existing programmes to scale in order to ensure laws and

policies are effectively implemented will entail substantial investment in infrastructure building and training. The main points that would need to be addressed are:

- Delivery mechanisms at township and below township level: many line ministries do not have presence at township level and many areas in Myanmar remain hard to reach. The use of information technology is limited within government services at township level. Additionally, most of the population does not have a bank account. Those elements indicate that an important work of infrastructure building needs to be done, in the meantime innovative mechanisms and partnerships with civil society organizations in the delivery may have to be envisaged.
- Information technology: the Myanmar government recently launched an e-government initiative and a number of institutions are switching from paper-based management to IT systems (i.e. the Social Security Board recently bought an IT system and implementation started in April 2014). Still, a lot of the work remains paper-based and the development of information technology will be key for the development of scaled-up efficiently delivered social protection programmes.
- Staff capacity building: human resources to roll-out social protection programmes will be needed. Their capacities on social protection principles and delivery mechanisms and constraints will need to be built accordingly.

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<http://www.ilo.org/dyn/ilossi/ssimain.home>

Appendix: Population table

Table 12. Total population of Myanmar by sex and age group (in thousands)

Age	Female	Male	Total
0-4	1938	1968	3907
5-9	2172	2197	4369
10-14	2219	2239	4458
15-19	2339	2345	4684
20-24	2381	2352	4732
25-29	2455	2371	4826
30-34	2467	2332	4799
35-39	2238	2084	4322
40-44	2004	1848	3851
45-49	1768	1609	3377
50-54	1507	1337	2843
55-59	1275	1094	2369
60-64	990	817	1807
65-69	627	514	1141
70-74	448	350	798
75-79	306	219	525
80-84	171	111	282
85+	83	47	130
Total	27386	25834	53221

Source: UN DESA population projections, 2014.

N.B.: The total population of Myanmar is about 51.5 million people according to the preliminary results of the 2014 national census. The final results and disaggregation by sex and age should be available by the end of 2015.