

Humane Commerce

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Introduction

HART published a report in March, focusing on the detrimental effects large-scale developments are having on locals in the border areas of Burma.¹ This publication offers updates on issues dealt with in the March report, as well as exploring other matters of concern. Commerce can be a tool for obtaining improvement if conducted in a proper manner. However, law and policy tools are also suggested where suitable. This publication adds value by providing strategic and nuanced suggestions for how governments, commercial actors and the new Burmese government ought to act in order to promote the increased well-being and rights protection of the locals.

Indications of lessening freedom and increasing discrimination, outlined in this publication should be taken into account by both private actors and foreign governments when considering economic involvement in, and trade policy regarding, Burma. Depending on its manner of execution, investment or non-imposition of sanctions can express acquiescence or even support of abuse and discrimination suffered at the hands of the Burmese army and government. Indeed, some foreign countries appear to approach Burma with more caution. In April the EU extended its arms embargo against Burma until April 2016.² A month later the US extended sanctions on Burma, referring to ongoing conflict and human rights abuses.³ The western commercial sphere also seems to be approaching Burma with caution. Companies like Holloman Corp have pulled out of the country, concerned with local safety standards and risks to the company's reputation.⁴ Poor health and safety standards, working conditions, child labour, land grabs and human trafficking "*present a host of additional risks and indirect costs to business – including brand damage, investor alienation, and potential lawsuits*".⁵

Aims

This report aims to provide a comprehensive overview and increase understanding of:

- How the human rights situation in Burma has developed since March 2015.
- How the commercial sphere has responded to criticisms raised in relation to investment in Burma.
- How the attitudes of foreign governments have been affected by the uncovering of human rights issues.

The report will also recommend suitable courses of action for the future Burmese government, and for foreign governments and companies considering investments in Burma.

¹ HART, (2015), *Large Scale Developments in Burma*, Found at: <http://www.hart-uk.org/wp-content/uploads/2012/10/HART-Report-Large-Scale-Developments-in-Burma-Uncovering-Trends-in-Human-Rights-Abuse.pdf>

² EUR-lex, (2015), *Council Decision (CFSP) 2015/666 of 28 April 2015 amending Decision 2013/184/CFSP concerning restrictive measures against Myanmar/Burma*, Found at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.110.01.0014.01.ENG

³ The White House, (2015), *Continuation of the National Emergency with Respect to Burma*, Found at: <https://www.whitehouse.gov/the-press-office/2015/05/15/message-continuation-national-emergency-respect-burma>

⁴ Network Myanmar, (2014), *Buzz Over Post-Sanctions Myanmar Fades for Many U.S. Investors*, Found at, <http://www.networkmyanmar.org/images/stories/PDF20/WSJ-280815.pdf>

⁵ Verisk Maplecroft, (2015), *Labour costs lowest in Myanmar, Bangladesh and Cambodia, least competitive in Italy, France – Global ranking*, Found at: <http://maplecroft.com/portfolio/new-analysis/2015/02/04/labour-costs-lowest-myanmar-bangladesh-and-cambodia-least-competitive-italy-france-global-ranking/>

Post-March 2015

The Burmese Economy and Why it Matters

In contrast to the rapid increase in investment and economic growth reported in March, the last eight to nine months have featured economic deceleration. The slowdown appears to be recognized by the Burmese government as the Directorate of Investment and Company Administration has set a target to attract \$6 billion US dollars of foreign investment, though the period 2014-15 brought in \$8 billion.⁶ The World Bank Group predicted that the economy will regain its speed after the elections.⁷ However, recent forecasts suggest that the elections may be followed by months of political uncertainty, making a rebound in the economy less probable.⁸ Political turmoil would not only cause general uncertainty, but also delay the passing or discarding of legislation important to the legal certainty of investors, such as the Foreign Investment Bill and the Company Bill. Therefore, Burma may face a somewhat protracted slowdown.

Throughout 2015 there have been efforts to pass a new Foreign Investment Bill and a Company Bill. The Foreign Investment Bill is drafted to merge the Foreign Investment Law 2012 and the Citizens Investment Law 2013, thus reducing restrictions currently placed upon foreign investors.⁹ The draft company law also seeks to simplify regulatory requirements already in place, and would make it easier for companies to be considered national; something which is favourable when seeking a lease.¹⁰ Investors are waiting for the dust to settle since it cannot be known whether this or some other legislation will pass.¹¹ A number of construction projects in Yangon state have stalled for the same reason.¹² Apart from insecurity about election results, companies are uneasy due to the general dependence on government approval. This is highlighted in August when the ousting of Shwe Mann from the ruling party created turmoil in the commercial sphere. With Mann being connected with a large number of companies in different sectors,¹³ the closing down of certain enterprises connected to him demonstrated that the success of commercial enterprises in Burma is still to a significant extent dependent on the approval of the regime.¹⁴

⁶ The Nation, (2015), *FDI target set at \$6 billion for fiscal 2015-16*, Found at: [http://www.nationmultimedia.com/aec/FDI-target-set-at-\\$6-billion-for-fiscal-2015-16-30257844.html](http://www.nationmultimedia.com/aec/FDI-target-set-at-$6-billion-for-fiscal-2015-16-30257844.html)

⁷ Network Myanmar, (2015), *Buzz Over Post-Sanctions Myanmar Fades for Many U.S. Investors*, Found at, <http://www.networkmyanmar.org/images/stories/PDF20/WSJ-280815.pdf>

⁸ Burma News International, (2015), *Months of Uncertainty after November 8 Elections, Analyst Predicts*, Found at: <http://www.bnionline.net/news/mizzima/item/1027-months-of-uncertainty-after-november-8-elections-analyst-predicts.html>

⁹ Myanmar Times, (2015), *New Investment Laws in Limbo*, Found at: <http://www.mmmtimes.com/index.php/business/16244-new-investment-laws-in-limbo.html>; Burma Library, (2015), *Myanmar Investment Bill*, Found at: <http://www.burmalibrary.org/docs21/2015-Myanmar-Investment-Bill-V2-24-02-2015.pdf>

¹⁰ Luther, (2015), *Myanmar News: Update of the Myanmar Companies Law*, Found at: http://www.luther-lawfirm.com/fileadmin/user_upload/PDF/Newsletter/Myanmar/NL_Myanmar_07-2015-Updated_Draft_of_the_Myanmar_Companies_Law.pdf

¹¹ Network Myanmar, (2015), *Buzz Over Post-Sanctions Myanmar Fades for Many U.S. Investors*, Found at, <http://www.networkmyanmar.org/images/stories/PDF20/WSJ-280815.pdf>

¹² Network Myanmar, (2015), *Buzz Over Post-Sanctions Myanmar Fades for Many U.S. Investors*, Found at, <http://www.networkmyanmar.org/images/stories/PDF20/WSJ-280815.pdf>

¹³ The Irrawaddy, (2015), *Turmoil at the top Prompts Business Uncertainty*, Found at: <http://www.irrawaddy.org/election/news/turmoil-at-the-top-prompts-business-uncertainty>

¹⁴ The Irrawaddy, (2015), *Turmoil at the top Prompts Business Uncertainty*, Found at: <http://www.irrawaddy.org/election/news/turmoil-at-the-top-prompts-business-uncertainty>

Attentive to the deceleration, the Burmese government has taken a number of steps to re-attract investment. On 23rd September, President Thein Sein opened the Thilawa Special Economic Zone (SEZ), which has an estimated capacity of hosting 400 companies and has investors from 47 companies in 13 countries including the United States, Sweden, Japan, China, South Korea, Australia and several Southeast Asian countries.¹⁵ It should be noted that 24 of the 47 companies are Japanese, and the project was realised with Japanese backing.¹⁶ *“The Japan-funded 1.5 billion U.S. dollars SEZ project is a manufacturing complex designed to lure investment and help the country compete in the global marketplace.”*¹⁷ The biggest investors in Burma are Asian countries. Therefore, pressure should not only be placed on western governments and companies to withdraw or reform. In order for such policies to have effect, pressure must also be put on Burma’s other financiers.

Favourable financial conditions must not be allowed to direct attention away from the reoccurring human rights abuses in Burma. The opening of the Thilawa SEZ, and efforts to change legislation in relation to investment may indeed improve the life of investors, but do not address the situation of the Burmese people. On the contrary, measures show that the regime is prepared to make sacrifices in relation to the local population. As reported in March *“the Thilawa SEZ has caused problems with relocation, loss of livelihoods with no alternative training and terrible living conditions”*. Moreover, Human Rights Watch has expressed concern about the new Foreign Investment Bill, stating that public consultations have been deeply inadequate and that the law may, if not carefully drafted *“make it difficult for the government to pass regulations to protect human rights and prevent environmental harm.”*¹⁸ The Burmese government must be made to understand that acting in the interests of economic growth involving foreign countries includes protecting the rights of the local population. Positive changes made by the Burmese government should be saluted. However, they must also be scrutinized and must never constitute reason for satisfaction, until the human rights of all people in Burma are adequately protected, respected and enforced.

Developments in Areas of Concern

Land Confiscation

Reports of forced evictions have continued to appear in various news outlets over the last nine months.¹⁹ The existing land law framework is deeply unsatisfactory and affords little protection

¹⁵ Network Myanmar, (2015), *Myanmar’s First SEZ Opens*, Found at: <http://www.networkmyanmar.org/images/stories/PDF20/GNLM240915.pdf>

¹⁶ Japan Times, (2015), *Special economic zone opens near Yangon, developed with Japanese support*, Found at: <http://www.japantimes.co.jp/news/2015/09/24/business/ceremony-marks-opening-japan-backed-special-economic-zone-myanmar/#.Vi5Z-bfhD3j>

¹⁷ Xinhua Net, (2015), *Opening of Myanmar’s first special economic zone marks new chapter of investment*, Found at: http://news.xinhuanet.com/english/2015-09/24/c_134655253.htm

¹⁸ Human Rights Watch, (2015), *Burma: Address Rights Impact of New Investment Law*, Found at: <https://www.hrw.org/news/2015/03/25/burma-address-rights-impact-new-investment-law>

¹⁹ Burma Link, (2015), *Interview with Karen Villager*, Found at: <http://www.burmalink.org/they-poured-petrol-around-my-house-and-burnt-down-my-house-khrg-interview-with-karen-villager/>; Kachin Human Rights Group, (2015), *Forced relocation and destruction of villagers’ shelters by Burma/Myanmar government officials and police in Hpa-an Township, Thaton District, June 2015*, Found at: <http://khrg.org/2015/08/15-14-nb1/forced-relocation-and-destruction-villagers%E2%80%99shelters-burmayanmar-government>; Network for Human Right, (2015), *To Recognize and Repair*, Found at: <http://nd-burma.org/reports/to-recognize-and-repair/>

to those who need it most. The reasons for the deficiencies are multiple and complex. For example, there is:

- a lack of information among land users of their rights and the ways in which these can be protected;
- a range of systemic issues, such as the unsatisfactory interaction between various pieces of legislation and customary law;
- is a lack of respect for customary law which, due to the complex registration system, is the main source of protection for most rural land users; and
- clarity from the 1894 Act on listing of factors to be considered when determining the amount of compensation, but the 2012 Act relating to farmland simply refers to “*suitable compensation*”.²⁰ Furthermore, the rate of enforcement of the compensation requirement is low.²¹

According to article 37 of the Constitution, the Burmese government is the “*ultimate owner of all lands and natural resources*”. This article is the basis for extensive and indeterminate confiscation rights granted to the government in various pieces of legislation. The Land Acquisition Act 1894 allows for land to be acquired by the government on the basis of it “*being needed or likely to be needed for a public purpose or for a company*”.²² The public notification process put in place for this kind of acquisition is a marginal reassurance, likely to be missed by the land users. “*Public purpose*” is defined non-exhaustively and the considerations for company acquisition are equally broad and general, resulting in flexibility for the government and further legal uncertainty for the average land user.²³ Though compensation is required under the Act, no reference is made to resettlement.

The Farmland Law 2012 authorises the “*repossession of farmland either in the interest of the State or in the interest of the public*”, but omits to define the nature and scope of such interests.²⁴ Even more alarmingly, this statute does not even contain the notification-objection safeguards of the 1894 Act. S.12(c), which requires users to register their land in order to have legal right to use it. A lack of awareness among farmers, in combination with long and complex registration procedures, results in low registration rates. Further, as the Act does not recognize traditional upland shifting cultivation, 40% of farmers are barred from registering for protection under this law.²⁵ The land of shifting cultivators may fall under the Vacant, Fallow and Virgin Land Law 2012 that gives the Central Committee wide powers to use or authorise the use of land by other entities.²⁶

In May, the 6th draft of the National Land Use Policy (NLUP) was published. It was meant to address the many changes needed in relation to land law. On the basis of this policy, a new Land Law was expected to pass through parliament before the November elections. This aim has not

²⁰ Land Acquisition Act 1894, s 23; Farmland Act 2012, s 26

²¹ International Trade Union Confederation, (2015), *Foreign investment in Myanmar: What Impact on Human Rights?*, Found at: <http://www.ituc-csi.org/foreign-direct-investment-in>

²² Land Acquisition Act 1894, s 4 (1)

²³ Land Acquisition Act 1894, s 3 (f), s 40, s 4, s 5A

²⁴ Farmland Law 2012, s 26

²⁵ International Trade Union Confederation, (2015), *Foreign investment in Myanmar: What Impact on Human Rights?*, Found at: <http://www.ituc-csi.org/foreign-direct-investment-in>

²⁶ Vacant, Fallow and Virgin Land Law 2012

been realised, and the establishment of the new government will now have to be anticipated before it can be known whether the NLUP is part of the future of Burmese land law. The 6th version of the NLUP addresses criticisms of earlier drafts and is in many ways a very positive prospect.²⁷ The following paragraphs from the NLUP can be noted as indicative of progress:²⁸

- **Para 3:** land management policy should pay special attention to *“livelihood improvement of the citizens and sustainable development of the country”*.
- **Para 6:** objectives of the NLUP include:
 - **(a)** protection of the environment,
 - **(b)** the strengthening of *“land tenure security for the livelihoods improvement and food security”*,
 - **(c)** the recognition and protection of customary land tenure rights,
 - **(d)** the development of *“transparent, fair and independent dispute resolution mechanisms in accordance with rule of law”*.
- **Para 7(a),(h)-(k):**
 - **(a)** special protection should be afforded to the tenure of *“vulnerable groups such as smallholder farmers, the poor, ethnic nationalities and women”*
 - **(h)** *“develop and implement fair procedures relating to **land acquisition, compensation, relocation, rehabilitation, restitution, and reclaiming land tenure and housing rights** of internal displaced persons and returning refugees caused by civil war, land grabbing and natural disasters”*
 - **(i)** easy access to *“independent, fair and affordable judicial review”*.
 - **(j)** *“Prioritize the interest of public citizens over private companies in land use decision making”*
 - **(k)** *“Ensure equal opportunities for men and women over land resources, tenure rights and participatory decision making”*.
- **Para 16(b):** *“Legally recognizing and registering all long-term land use and land tenure rights that are recognized by the local community”*.
- **Para 19(i):** *“Establishing reserved land areas for allocation to landless citizens”*
- **Para 31(d):** *“Defining prohibitions relating to land grabbing and speculation, so that the case can be taken to court.”*
- **Para 35:** When land is acquired for *“social and economic development, sustainable land use for the future generations shall be taken into consideration”*.
- **Para 36:** *“When managing the relocation, compensation, rehabilitation and restitution related activities that result from land acquisition and allocation, unfair land grabbing or displacement due to the civil war, **clear international best practices and procedures shall be applied, and participation** by township, ward or village tract level stakeholders, civil society, representatives of ethnic nationalities and experts shall be ensured.”*
- **Para 40(a)-(b)**
 - **(a)** special courts with specially trained staff shall be established for hearing land cases.
 - **(b)** independent monitoring bodies shall be established, to observe settlement of land disputes;

²⁷ Transnational Institute, (2015), *Linking Women and Land In Myanmar Recognising Gender In The National Land Use Policy*, Found at: https://www.tni.org/files/download/tni-nlup-gender_0.pdf

²⁸ National Land Use Policy (6th Draft), Found at: http://www.burmalibrary.org/docs21/NLUP_6th_draft2015-06-en.pdf

- **Para 72:** *“For ethnic nationals who lost their land resources where they lived or worked due to civil war, land grabbing or natural disasters, that desire to resettle to their original lands, adequate land use rights and housing rights shall be systematically provided in accordance with international best practices”*
- **Para 73:** Men and Women shall have equal rights in relation to land use and tenure.

The Transnational Institute (TNI) points out that *“best practice”* should be changed to *“international human rights standard”*, in order to ensure the *“highest obligatory standard”*.²⁹ Further, the international instruments containing the practices that the policy seeks to refer to should be explicitly mentioned.³⁰ TNI also points out that the policy ought to explicitly refer to *“correcting past injustices and avoiding future injustices”*.³¹ An additional potential issue is the decentralisation of decision-making related to land, suggested in paragraph 7(n). Unless very carefully monitored, it is submitted that a decentralized system poses a risk to adequate enforcement of the rights of members of the ethnic minorities, due to the widespread animosity towards them.

In the light of the exceptionally broad powers current legislation affords the government, government powers should be limited and defined even more clearly in any future land law. Recent research carried out by the TNI also highlights the benefits of promoting women’s access to and ownership of land, as it contributes to the independence and security of women, as well as increasing productivity, stability and peace. Though equal rights are promoted by the NLUP, an additional recommendation for a future reform is the further facilitation, promotion and incentivising of women in relation to land management.

The issue of compensation was touched upon in Part V of the NLUP, however a future law needs much greater specificity and clarity regarding the factors to be taken into account when determining the amount of compensation. These factors must explicitly include not only the value of the land and any property attached to it, but also loss of livelihood and costs of resettlement. As was made clear in the March report, the lack of compensation and forced relocation has caused much suffering among the ethnic minorities in Burma. For this reason, retrospective compensation must be explicitly addressed in a future bill and made readily accessible with the burden of proof on the state to rebut a presumption of compensation upon application. Independent monitoring organs should also be provided for, not only in relation to land disputes as suggested by the NLUP, but also for general monitoring of compensation enforcement.

Crucially, it must be noted that the government is not the only threatening body for land users. The Burma Army and both foreign and local investors are frequently responsible for land grabs and forced evictions.³² The Karen Human Rights Group reported in July that land theft is a

²⁹ The Transnational Institute, (2015), *Assessment of 6th draft of the National Land Use Policy (NLUP)*, Found at: https://www.tni.org/files/publication-downloads/nlup-6-key_points.pdf

³⁰ The Transnational Institute, (2015), *Assessment of 6th draft of the National Land Use Policy (NLUP)*, Found at: https://www.tni.org/files/publication-downloads/nlup-6-key_points.pdf

³¹ The Transnational Institute, (2015), *Assessment of 6th draft of the National Land Use Policy (NLUP)*, Found at: https://www.tni.org/files/publication-downloads/nlup-6-key_points.pdf

³² The Burma Partnership, (2015), *Land Confiscation Continues Unabated Across Southeastern Burma*, Found at: <http://www.burmapartnership.org/2015/07/land-confiscation-continues-unabated-across-southeastern-burma/>

growing problem in Karen state.³³ Among the forcibly relocated, food insecurity, malnutrition, loss of livelihoods, lack of clean water and sanitation continues to claim lives.³⁴ As correctly pointed out by the TNI, the NLUP and especially section 31, do not address these issues with sufficient vigour. Defining prohibitions relating to land grabbing and speculation is a first step, which should be followed up with the establishment of criminal offences for such actions and subsequent sentencing guidelines. The land-grabbers, not the land rights activists, should be arrested.³⁵ Moreover, dealing in wrongly confiscated land should be made a criminal offence to discourage corruption, such as the Ministry of Defence confiscating land for payment, as addressed in the March report.

A final limitation of the NLUP is its weak treatment of environmental protection. Paragraphs 45 and 69 refer to environmental protection as a point of consideration for land management policy and a cause to be supported, respectively. Considering the effects on rural communities reported by pollution and other environmental miscarriages reported in March, the protection of the environment must be placed at the forefront of a new Act. Clear guidance is needed on how the interests of environmental protection are best assessed in relation to land management policy. Furthermore, additional legislation, besides the land law reform must be put in place to define corporate offending in relation to the environment. As pointed out by the Myanmar Centre for Responsible Business, an accessible, easy and speedy complaints procedure must be put in place for locals to report effects on their “*health, their ability to obtain food or water, or their livelihoods*”.³⁶ This could be an opportunity for foreign companies establishing themselves in Burma to contribute to the local population. Putting in place clear action plans for the minimisation of impacts on the local environment and continual consultation of people living in the area could speed up redress of health hazards and the enforcement of rights.

On the whole, however, the NLUP is a strong step in the right direction and it is unfortunate that the law was not put in place. Depending on the outcome of the elections, and how results are received by the population, the land law framework may stay in its dysfunctional state for significantly longer. Not only is it vital for the international community to advocate for legal change following the Burmese elections, it is also essential that foreign governments and NGOs inform companies investing in Burma of the continuing need for consultation of land users. Companies requiring land in Burma need to have in place a robust policy, the diligence of which goes beyond the requirements of the law or the satisfaction of the government. Yet, as is highlighted by a report from the Institute for Human Rights and Business, obtaining free, prior informed consent is difficult as the government has used coercion and even violence during confiscations and people fear punishment if found talking to ‘outsiders’.³⁷ That does not mean that companies can be excused for not trying to uphold the human rights of the local population,

³³ Karen News, (2015), *Land Theft Continues to Rise in Karen State*, Found at: <http://karennews.org/2015/07/khrg-land-theft-continues-to-rise-in-karen-state.html/>

³⁴ The Borgen Project, (2015), *Malnutrition in Myanmar*, Found at: <http://borgenproject.org/malnutrition-myanmar/>

³⁵ Karen News, (2015), *Jailed Land Rights Activists are Political Prisoners says Human Rights Watch*, Found at: <http://karennews.org/2015/08/jailed-land-rights-activists-are-political-prisoners-says-human-rights-watch.html/>

³⁶ Myanmar Responsible Business, (2015), *Human Rights and Business Fact Sheet Environment & Ecosystem Service*, Found at: http://myanmar-responsiblebusiness.org/pdf/fact-sheets/FS-03_en.pdf

³⁷ The Institute for Human Rights and Business, (2012), *Responsible investment in Sheet Environment & Ecosystem Service*, Found at: http://myanmar-responsiblebusiness.org/pdf/fact-sheets/FS-03_en.pdf

³⁷ The Institute for Human Rights and Business, *Myanmar: The Human Rights Dimension*, Found at: <http://www.ihrb.org/pdf/Occasional-Paper-1-Burma-Myanmar-FINAL.pdf>

but it does make the careful drafting and implementation of policies in relation to land users even more important.

Land acquisition for large-scale projects in conflict areas should be directly avoided “until durable peace agreements are established”.³⁸ This is because “large-scale resource development is likely to amplify rather than reduce the chance or severity of conflict” as “the resources and the revenues they generate may be something for belligerents to fight over”. A ‘do no harm’ policy may not be enough to ensure that conflict is not fuelled. As a result, companies must develop an understanding for “the ethnic dimensions and be alert of the potential of exacerbating conflict through their presence”.³⁹

Labour Related Issues

The issue of forced labour was raised in the March report, and remains a concern as nothing appear to have been done to address the issue. Forced labour is still ongoing in Rakhine State with the army using members of the ethnic minorities, especially Rohingya, living in the border areas close to Bangladesh, for heavy labour.⁴⁰ The ILO and the Burmese government have agreed to a supplementary understanding that enables resident citizens to lodge complaints of forced labour.⁴¹ Obviously, this supplementary agreement is of limited use as ethnic minorities such as the Rohingya are not officially recognized as Burmese citizens. Even so, the average number of complaints per month during 2015 has been 24.5.⁴² The ILO suggests that the number of complaints has remained high in spite of reports that there has been a decrease in forced labour. This could be an indication of increasing confidence in the system.⁴³ However, the complaints procedure is closed to a substantial number of persons likely subjected to forced labour. A likely accurate observation, however, is that occasions of forced labour are lessening in areas covered by recent ceasefire agreements.⁴⁴ A growing number of complaints are coming from persons involved in the private sector.⁴⁵ Instances of bonded labour, excessive overtime and other grievances could be addressed as part of a general effort to raise standards in the workplace. Trafficking for forced labour must however be addressed separately, by united efforts with bordering countries.

As stated, working conditions are generally in need of higher standards. Health and safety, child labour, and extremely low wages make living very hard. From 1st September 2015 the minimum

³⁸ International Trade Union Confederation, (2015), *Foreign investment in Myanmar: What Impact on Human Rights?*, Found at: <http://www.ituc-csi.org/foreign-direct-investment-in>

³⁹ International Trade Union Confederation, (2015), *Foreign investment in Myanmar: What Impact on Human Rights?*, Found at: <http://www.ituc-csi.org/foreign-direct-investment-in>

⁴⁰ Reuters, (2015), *Forced labor shows back-breaking lack of reform in Myanmar military*, Found at: <http://www.reuters.com/article/2015/07/02/us-myanmar-rohingya-forcedlabour-idUSKCN0PC2L720150702>

⁴¹ The International Labour Organisation, (2015), *Forced labour complaint mechanism*, Found at: <http://www.ilo.org/yangon/complaints/lang--en/index.htm>

⁴² The International Labour Organisation, (2015), *Follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013)*, Found at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_413794.pdf

⁴³ The International Labour Organisation, (2015), *Follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013)*, Found at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_413794.pdf

⁴⁴ The International Labour Organisation, (2015), *Follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013)*, Found at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_413794.pdf

⁴⁵ The International Labour Organisation, (2015), *Follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013)*, Found at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_413794.pdf

wage for an eight hour workday is 3600 kyat (£1.82), as approved by the National Minimum Wage Committee on 25th August 2015.⁴⁶ The Ethical Trading Initiative states that the change will encourage new investment, rather than harm Burma's competitive position.⁴⁷ The move was supported by a number of companies in the garment sector such as M&S, Primark and H&M.⁴⁸ Though true, the world of commerce has not quite earned the ethics badge. The minimum wage set is one of the lowest in the world, and although

*“the rate may be good for workers in Yagon or Mandalay areas, but for workers in the States, it's a joke...It will not be enough to cover the costs for a single individual in this area for their daily living cost –it's even worse for people with family. A meal cost 1,500 Kyat and two meals is already 3,000 Kyat – the remaining 600 Kyat will not cover other expenses.”*⁴⁹

Though set low, the minimum wage will be an improvement for some, yet the stringency of enforcement of the minimum wage remains to be demonstrated. The amount of overtime work is likely to remain high, as there will for most be a need to supplement the insufficient minimum wage. It is therefore very unfortunate that the new policy put in place makes no provision for overtime minimum hourly payment.

Concern for low wages is amplified by the context of inflation. *“Although there's an increase in salary, it cannot cover the rising prices”*.⁵⁰ Costs both of housing and commodities are on the rise.⁵¹ The inflation, the elections and the recent floods damaging 40% of sown farm land, as well as fish ponds, have all contributed to the increase.⁵² Moreover, there is a lack of public services in Burma. Access to healthcare is poor and inconsistent, especially for women, and *“many people die of common and treatable diseases and health problems, such as snakebites and malaria, because of inaccessible or unaffordable services.”*⁵³ The World Economic Forum ranked Burma 131/140 in terms of access to healthcare and primary school. The poor ranking is attributable to an infrastructure deficit and tuition fees set above many parents' can afford.⁵⁴ The new wage policy is therefore not effective enough in light of increasing living costs and the cost of services not provided by the state.

In addition to low wages and long hours, workers face safety issues, a lack of knowledge of their rights, and an inability to enforce them. Interviews conducted by Oxfam in June and July 2015

⁴⁶ Burma News International, (2015), *Burma's New Minimum Wage —Workers Claim It's Still Not Enough To Cover Basic Living Expenses*, Found at: <http://www.bnionline.net/news/karen-state/item/769-burma-s-new-minimum-wage-workers-claim-it-s-still-not-enough-to-cover-basic-living-expenses.html>

⁴⁷ Ethical Trading Initiative, (2015), *ETI supports calls for new Myanmar minimum wage to apply to garment sector*, Found at: <http://www.ethicaltrade.org/news-and-events/news/ETI-supports-calls-for-Myanmar-minimum-wage-to-apply-to-garment-sector>

⁴⁸ The Guardian, (2015), *Burma's minimum wage pledge welcomed by UK retailers* Found at: <http://www.theguardian.com/business/2015/aug/31/burma-minimum-wage-uk-retailers>

⁴⁹ Karen News, (2015), *Burma's New Minimum Wage —Workers Claim It's Still Not Enough To Cover Basic Living Expenses*, Found at: <http://karennews.org/2015/09/burmas-new-minimum-wage-workers-claim-its-still-not-enough-to-cover-basic-living-expenses.html/>

⁵⁰ The Irrawaddy, (2015), *Government Approves 2.80 Minimum Wage*, Found at: <http://www.irrawaddy.org/business/government-approves-2-80-minimum-wage.html>

⁵¹ Myanmar Times, (2015), *NLD economic adviser uses World Bank report to slate government*, Found at: <http://www.mmmtimes.com/index.php/business/16850-nld-economic-adviser-uses-world-bank-report-to-slate-government.html>

⁵² Myanmar Times, (2015), *Floods destroy fish and shrimp ponds*, Found at: <http://www.mmmtimes.com/index.php/business/16334-floods-destroy-fish-and-shrimp-ponds.html>; Network Myanmar, (2015), *Buzz Over Post-Sanctions Myanmar Fades for Many U.S. Investors*, Found at: <http://www.networkmyanmar.org/images/stories/PDF20/WSJ-280815.pdf>

⁵³ Asia Justice and Rights, (2015), *Opening the Box: Women's Experiences of War, Peace and Impunity in Myanmar*, Found at: <http://www.burmapartnership.org/wp-content/uploads/2015/09/Opening-the-Box-English.pdf>

⁵⁴ Action Aid, (2015), *Investigating the cost of “free” primary education*, Found at: <http://www.actionaid.org/2015/07/investigating-cost-free-primary-education>

indicate that a large proportion of workers feel unsafe at their factory workplaces.⁵⁵ 80% of workers lacked fire safety training and reported blocked exit doors. Many interviewees reported employers demanding unreasonable overtime affecting their wellbeing and health, and receiving little or no pay for overtime. Though 60% knew of a factory complaints process, many refrained from reporting out of fear of scolding or dismissal, especially since some companies are reported to share lists of workers, making it difficult to get a new position elsewhere. 66% did not know about protection afforded to them by fundamental rights or labour law. 33% had not signed a contract with their employer and 64% did not know the duration of their employment. Only one of the interviewees knew anything about a code of conduct for the company.

Governments and NGOs can assist by advising on acceptable salaries and standards for working conditions. Governments can additionally demand more from companies registered in their jurisdiction by implementing strong transparency in supply chain legislation, building on the California Transparency in Supply Chains Act.⁵⁶ Apart from adhering to such potential measures, companies can develop their own policies of fair pay and safe work environments and monitor and enforce these strictly. Doing so will be beneficial to their reputation and to local communities.

The creation of a top list of human rights friendly companies, (as opposed to a dirty list for companies operating in Myanmar) could help to encourage this change. Potentially the fastest way of improving conditions for workers is through economic incentive. If foreign companies can add a competitive element among employers for workers, the improved standards may spread. Investors can help by making future investment dependent on improved standards. For obvious reasons, pioneer companies and investors who work to improve working conditions throughout their production chain will be at a competitive disadvantage compared to other companies that lower costs by neglecting workers. Improvements to national legislation are therefore vital.

It is not only within the workplace that people are finding it difficult to protest against the treatment they face. The Labour Organisation Law and Labour Dispute Settlement Law were well received when they came into force in 2012, as they made it possible for workers to form trade unions.⁵⁷ Though the law was an improvement, the nature and scope of requirements for the creation of trade unions make it a complicated process.⁵⁸ Unions still have little power in negotiations and there is still a great lack of awareness among workers as to the usefulness of trade unions. Article 44(b) of the Labour Organisation Law prohibits the dismissal of a worker for involvement with trade union activities or for going on strike. Yet workers in association with trade unions still suffer from exercising their rights for a number of reasons. Firstly, the law does not prevent employers from discriminating or retaliating against workers who choose

⁵⁵ Oxfam, (2015), *In Work But Trapped in Poverty: A summary of five studies conducted by Oxfam, with updates on progress along the road to a living wage*, Found at: <http://policy-practice.oxfam.org.uk/publications/in-work-but-trapped-in-poverty-a-summary-of-five-studies-conducted-by-oxfam-wit-578815>

⁵⁶ Senate Bill No. 657, Chapter 556

⁵⁷ International Trade Union Confederation, (2015), *Foreign investment in Myanmar: What Impact on Human Rights?*, Found at: <http://www.ituc-csi.org/foreign-direct-investment-in>

⁵⁸ Labour Organizations Law, article 4

to exercise their rights.⁵⁹ Forced transfers have therefore become a recurring problem. Secondly, the penalties on employers for violating the law are low, with a maximum fine of 100,000 kyats (£51) and/or one year in prison. The fine is insufficient to deter employers, and as it has never been administered, neither has the prison sentence. As a result, dismissals are common. Thirdly, enforcement is unsatisfactory and employers are used to “traditional ways of dealing with worker dissent”.⁶⁰ Fourthly, the law does not protect workers at the stage of trade union formation and does not prohibit blacklisting of employees.⁶¹

The Burmese government has repeatedly been criticised for its treatment of worker strikes and protests. A majority must approve the strike action, but it is unclear it is a majority of workers or voting authority. Article 40 of the Settlement of Labour Dispute Law (SLDL) requires dispute resolution to be pursued before lockouts or strike action. If negotiation, conciliation, and arbitration through the arbitration body have not been carried out, a strike is illegal. This effectively limits strikes to the employer-employee scenario in the industrial sector, and hinders sympathy strikes, protest strikes and strikes over government policy. The SLDL also requires the strike organiser to provide information of the date, location, time, number of participants and duration of a proposed strike. Non-compliance renders the strike illegal. Strikes interfering with essential services including water, electricity, fire, health and telecommunications are also illegal. To further limit the right to strike, non-essential services can be reclassified to render strikes illegal if exceeding certain durations. The lack of limitation of which services can be reclassified and the lack of definition of “certain duration” creates legal uncertainty to add to the already repressive nature of this law. Unsurprisingly, arrests of protesting workers are recurring.⁶²

Both the Labour Organisation Law and Labour Dispute Settlement Law should be repealed and replaced with comprehensive legislation that extends and facilitates workers’ rights.

Lack of Freedom

Assembly & Protest

The Burmese Constitution considerably limits basic civil liberties such as freedom of movement, expression, association, press and assembly. Article 354 gives *citizens* the right to exercise such liberties if not contrary to “*law and order, community peace and tranquillity, or public order and morality*”. This formulation is problematic. Firstly, because residents who are not considered citizens are excluded. Secondly, the law does not define neither the meaning of “*contrary*” nor the scope of “*law and order, community peace and tranquillity, or public order and morality*”. Under the Peaceful Assembly and Peaceful Procession Law 2014, authorities can deny applications for permission to demonstrate on these undefined grounds, or impose conditions

⁵⁹ International Trade Union Confederation, (2015), *Foreign investment in Myanmar: What Impact on Human Rights?*, Found at: <http://www.ituc-csi.org/foreign-direct-investment-in>

⁶⁰ International Trade Union Confederation, (2015), *Foreign investment in Myanmar: What Impact on Human Rights?*, Found at: <http://www.ituc-csi.org/foreign-direct-investment-in>

⁶¹ International Trade Union Confederation, (2015), *Foreign investment in Myanmar: What Impact on Human Rights?*, Found at: <http://www.ituc-csi.org/foreign-direct-investment-in>

⁶² *The Burma Campaign*, (2015), *Drop The Charges: Labour Activists Arrested For Demanding A \$1 Pay Rise*, Found at: <http://burmacampaign.org.uk/drop-the-charges-labour-activists-arrested-for-demanding-a-1-pay-rise/>; The Irrawaddy, (2015), *Police Arrest Protesting Garment Workers*, Found at: <http://www.irrawaddy.org/burma/police-arrest-protesting-garment-workers.html>

which on many occasions have included moving the protest to a remote, out of sight location.⁶³ It also confers powers of arrest and sentencing of protestors without a permit (up to six months imprisonment), or allegedly breaking the terms of such a permit (up to three months).⁶⁴ People participating in unlawful assembly face longer sentences of between six months and two years.⁶⁵ Free expression is also hampered by the prohibition of insulting religion or religious belief, which can be punished with up to two years in prison.⁶⁶ The same penalty is imposed on persons who incite the public to commit offences “*against the State or the public tranquility*”.⁶⁷ Also notable is the Official Secrets Act 1923, which makes it an offence to possess, control, receive or communicate any document or information which could be prejudicial to the safety or interests of the state.

These legislative measures present the regime with wide and undetermined powers of oppressing free expression, association and assembly. As illustrated in March, when police cracked down on student protests in Letpadan, Pegu Division, arresting 127 and injuring more than 100, the government does not hesitate to use its power.⁶⁸ Throughout the last 9 months, persons participating in peaceful protests and associations have been arrested and sentenced.⁶⁹ So have persons considered to offend the Buddhist religion.⁷⁰ As of September, there were 96 political prisoners, and 466 activists awaiting trial for political actions.⁷¹ The UN Special Rapporteur also reported that private speech among activists is suppressed through monitoring, surveillance and phone tapping.

Press Freedom

Reporters Without Borders ranks Burma as the 144th worst country for press freedom with only 36 countries being considered less free. In relation to freedom of the press, the UN Special Rapporteur conveyed a worrying testimony, of worsening conditions since her visit in 2014. The new Printing and Publishing Enterprise Law constitutes an improvement in that it extends the duration of the publication licence. However the requirement of a licence from the Ministry of Information remains a problem. There is a risk that political incentives might influence the granting of publication licences. Moreover, the News Media Law subjects investigative media and broadcasting to rules and regulations that are not defined.

Political pressure must be placed on the new Burmese government to improve conditions for free expression. Economic pressure of sanctions may also benefit this cause.

⁶³ The United Nations, (2015), *Report of the Special Rapporteur on the situation of human rights in Myanmar*, Yanghee Lee, Found at: <http://www.ohchr.org/EN/HRBodies/SP/CountriesMandates/MM/Pages/SRMyanmar.aspx>

⁶⁴ The Peaceful Assembly and Peaceful Procession Law 2011, article 19

⁶⁵ The Penal Code, articles 143, 145 and 147

⁶⁶ The Penal Code, article 295(a)

⁶⁷ The Penal Code, article 505(b)

⁶⁸ The Irrawaddy, (2015), *Scenes of Indiscriminate Violence in Letpadan as Police Attack Ambulance Workers, Students*, Reporter, Found at: <http://www.irrawaddy.org/burma/scenes-of-indiscriminate-violence-in-letpadan-as-police-attack-ambulance-workers-students-reporter.html>

⁶⁹ The Irrawaddy, (2015), *Activist Gets 6 Months for Protest Against Journalist's Killing*, Found at: <http://www.irrawaddy.org/burma/activist-gets-6-months-for-protest-against-journalists-killing.html>; Burma Net, (2015), *Democratic Voice of Burma: Nine sentenced for plough protest in Meikhtila*, Found at:

<http://www.burmanet.org/news/2015/06/03/democratic-voice-of-burma-nine-sentenced-for-plough-protest-in-meikhtila-naw-noreen/>

⁷⁰ The Express Tribune, (2015), Myanmar jails writer for 2 years for 'insulting religion': lawyer, Found at:

<http://tribune.com.pk/story/896369/myanmar-jails-writer-for-2-years-for-insulting-religion-lawyer/>

⁷¹ Assistance Association for Political Prisoners (2015), *AAPP-B Monthly Chronology of September 2015*, Found at: <http://aappb.org/2015/10/aapp-b-monthly-chronology-of-september-2015/>

Minority Groups

The situation for ethnic minorities has worsened since the last report due to a combination of political and legislative measures, as well as increased public expression of racial hatred.

The government maintains that the Rohingya are Bengalis with no right to live in Burma.⁷² A large proportion of the Burmese population shares this view, and extremist Buddhist groups have strengthened. Following violent demonstrations by Buddhist extremists, thousands of temporary ID cards were prematurely confiscated by Arakan State immigration officials.⁷³ The Rohingya community in particular was affected by this decision (83% of cardholders are Rohingya⁷⁴). Without the cards, access to certain public services is prevented and voting is not possible. Furthermore, most of the candidates that were disqualified by the Election Commission were Muslim.⁷⁵ Similarly, border guards have been applying a selective toll, only demanding payment from members of the Rohingya community.⁷⁶ As revealed by reports from the UNHCR and Amnesty International, the number of Rohingya attempting to leave Burma via boat has increased this year.⁷⁷ Amnesty's report is based on over 100 interviews with Rohingya refugees, and uncovers the treatment many face at the hands of their traffickers:⁷⁸

"People were beaten with metal or plastic batons - sometimes for several hours - simply for begging for food, moving or asking to use the toilet"

"Many Rohingya who spoke to Amnesty said that they had seen crew members kill people when their families failed to pay ransoms"

About 370 are believed have lost their lives at sea, by severe beatings, killings, illness, starvation and sinking boats, during the first six months of this year.⁷⁹

On 26th August 2015, Thein Sein approved the Religious Conversions Bill and the Interfaith Marriage Bill. The former states that anyone wishing to convert must fill out an application giving reasons for their conversion and attend an interview. Conversion without approval may result in two years imprisonment and/or a 200,000 kyat fine. The latter requires permission from local authorities to marry someone of another religious belief. A couple violating this law may face 3 years imprisonment and/or a 50,000 kyat fine. The Population Control Bill, passed on the 27th of April 2015, applies in designated areas, where women in some areas may be required to wait 36 months between pregnancies. Amnesty International and Physicians for Human Rights expressed concerns that the Population Control law may entrench discrimination

⁷² The Institute For War & Peace Reporting, (2015), *IWPR Launching Anti Hate Speech Drive for Burma*, Found at: <https://iwpr.net/global-voices/iwpr-launching-anti-hate-speech-drive-burma>

⁷³ Myanmar Times, (2015), *More than 300,000 white cards returned: government*, Found at: <http://www.mmmtimes.com/index.php/national-news/14171-more-than-300-000-white-cards-returned-government.html>

⁷⁴ The United Nations, (2015), *Lauding Myanmar's Exemplary Resolve towards Achieving Peace and Stability*, *Secretary-General Says Much More Hard Work Lies Ahead*, Found at: <http://www.un.org/press/en/2015/sgsm16699.doc.htm>

⁷⁵ The Business Mirror, (2015), *Religious intolerance threat to Myanmar unity*, Found at: <http://www.businessmirror.com.ph/religious-intolerance-threat-to-myanmar-unity/>

⁷⁶ Burma News International, (2015), *Burma BGP Force Rohingyas to Pay Tolls*, Found at: <http://www.bnionline.net/news/kaladan-press/item/914-burma-bgp-force-rohingyas-to-pay-tolls.html>

⁷⁷ Amnesty International, (2015), *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia*, Found at: <http://www.amnesty.org.uk/sites/default/files/deadlyjourneysasa2125742015webversion.pdf>; The United Nations, (2015), *South-East Asia: Mixed Maritime Movements*, Found at: <http://www.unhcr.org/554c6a746.html>

⁷⁸ Amnesty International, (2015), *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia*, Found at: <http://www.amnesty.org.uk/sites/default/files/deadlyjourneysasa2125742015webversion.pdf>;

⁷⁹ The United Nations, (2015), *South-East Asia: Mixed Maritime Movements*, Found at: <http://www.unhcr.org/554c6a746.html>

and cause setbacks for maternal health.⁸⁰ These discriminatory laws encourage segregation and should be repealed.

Religious intolerance appears to have intensified in Burma. In view of the rise of hate speech, the Institute for War and Peace Reporting (IWPR) launched a monitoring and reporting program for Burma.⁸¹ IWPR's Asia director expresses the link between democracy and unity well:

"There is no way Burma can develop into a democratic state if it promotes ethnic discrimination. It's therefore crucial to change the mainstream traditional and social media narratives around the Rohingya."

The UN Special Rapporteur emphasizes the importance of *"formal rejection of hate speech by high-level public officials and the condemnation of the hateful ideas expressed"*.⁸² Such condemnations must not, however, be used to restrict freedom of expression not classified as hate speech. In relation to this suggestion, it is especially alarming that Aung San Suu Kyi's approach to ethnic minorities remains vague, if not slightly negative. It remains to be seen if this is simply an election strategy, designed to avoid deterring conservative voters or to keep the regime from obstructing the election process. Her silence may also be out of fear of fuelling tension between the Buddhist and Muslim communities. It should be noted however that Nyan Win, spokesperson for the NLD stated that the Rohingya *"should be entitled to human rights"* and have their right to citizenship acknowledged.⁸³ Nyan Win also said that *"the problem needs to be solved by the law. The law needs to be amended. After one or two generations [of residence] they [the Rohingya] should have the right to be citizens"*.⁸⁴ However, there is a possibility that the position for ethnic minorities may not improve, even under an NLD government.

Formal rejection and *"monitoring of discourses in the traditional and social media"* exposing narratives of hate speech are important tools for change.⁸⁵ However, the rise in hate speech should be addressed also through legislative measures. Laws against hate speech should be drafted in a manner rendering them applicable equally to all religions and ethnic groups. At this point, insulting the Buddhist religion is punished harshly, but there is no corresponding offence in relation to other religions. The selective protection of Buddhism, as well as laws complicating conversion and marriage between religions, provides a basis for discrimination and segregation and debases any potential of unity among the many ethnic groups and beliefs making up the Burmese population.

⁸⁰ Amnesty International, (2015), *Open Letter on the Four Proposed Laws Aimed at "Protecting Race and Religion"*, Found at: <https://www.amnesty.org/en/documents/asa16/1456/2015/en/>; Physicians for Human Rights, (2015), *Burma's Population Control Bill Threatens Maternal Health Progress*, Found at: <http://physiciansforhumanrights.org/press/press-releases/burmas-population-control-bill-threatens-maternal-health-progress.html?referrer=https://www.google.co.uk/>

⁸¹ The Institute For War & Peace Reporting, (2015), *IWPR Launching Anti Hate Speech Drive for Burma*, Found at: <https://iwpr.net/global-voices/iwpr-launching-anti-hate-speech-drive-burma>

⁸² The United Nations, (2015), *Report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee*, Found at: <http://www.ohchr.org/EN/HRBodies/SP/CountriesMandates/MM/Pages/SRMyanmar.aspx>

⁸³ The Guardian, (2015), *Why is Aung San Suu Kyi silent on the plight of the Rohingya people?*, Found at: <http://www.theguardian.com/world/2015/may/19/why-is-aung-san-suu-kyi-silent-on-the-plight-of-the-rohingya-people>

⁸⁴ <http://blogs.cfr.org/asia/2015/06/08/small-steps-forward-on-the-rohingya-crisis/>

⁸⁵ The Institute For War & Peace Reporting, (2015), *IWPR Launching Anti Hate Speech Drive for Burma*, Found at: <https://iwpr.net/global-voices/iwpr-launching-anti-hate-speech-drive-burma>

Conclusions

A cautious approach is advisable for both foreign investors and governments. Human rights protection in Burma is significantly lacking. Extensive legislative changes and effective enforcement mechanisms are greatly needed, as well as education programs informing residents of their rights. Although investment in conflict areas should be directly avoided, other investment, which is well managed, need not be advised against at this point. The new government of Burma must have the chance to address the situation of its people and demonstrate its stance in relation to the issues addressed in this report. If economic pressure is placed prematurely, it may hamper efforts for improvement. If human rights protection is not improved and applicable to the Rohingya community, within a reasonable time period, it may be appropriate to advise companies to avoid Burma or to impose sanctions.

What is continually needed is advocacy and political pressure for change, as well as detailed, tailored policies and monitoring programs within companies active in Burma.

Recommendations

The Burmese Government

- Land:
 - Burmese land law needs reform and consolidation in the form of a new land law. The following matters ought to be addressed and incorporated into a new land law:
 - Government powers to confiscate land should be limited and defined more clearly in any future land law.
 - Further facilitation, promotion and incentives for women to be involved in land management issues are encouraged.
 - Retrospective compensation for loss of land and livelihood must be explicitly addressed in a future bill, and made readily accessible, with the burden of proof on the state to rebut a presumption of compensation upon application.
 - Independent monitoring organs should be provided to monitor land disputes as suggested by the NLUP, and for general monitoring of compensation enforcement.
 - Protection against land-grabbing and speculation should be extended.
 - Dealing in wrongly confiscated land should be made a criminal offence.
 - Protection of the environment must be placed at the forefront of new legislation. Clear guidance is needed in relation to how the interests of environmental protection are best assessed in relation to land management policy.
 - Additional legislation, besides the land law reform, must be put in place to define corporate offending in relation to the environment.
- Both the Labour Organisation Law and Labour Dispute Settlement Law should be repealed and replaced with comprehensive legislation which extends and facilitates workers' rights.
- Hate speech must be formally rejected.
 - Laws against hate speech should be drafted in a manner rendering them applicable equally to all religions and ethnic groups.

Foreign Governments

- Pressure should be placed on governments and companies to reform or withdraw.
- Make clear to the Burmese Government that acting in the interests of economic growth involving foreign countries includes protecting the rights of the local population.
- Inform companies investing in Burma of the continuing need for consultation of land users.
- Advise companies on acceptable standards for salaries and work conditions.
- Governments should demand more from companies registered in their jurisdiction by implementing strong transparency in supply chain legislation, building on the California Transparency in Supply Chains Act.
- Pressure must be placed on the new Burmese government, to make Burma a freer country. Economic pressure from sanctions may also benefit this cause.

NGOs

- Inform companies investing in Burma of the continuing need for consultation of land users.
- Advise companies on acceptable standards for salaries and work conditions.
- Create a list of top human rights friendly companies in Burma.
- Pressure must be placed on the new Burmese government to make Burma a freer country.

Companies & Investors

- Should develop own policies of fair pay and a safe work environments and monitor and enforce these strictly.
- Companies requiring land in Burma need to have in place robust policies, ensuring that:
 - Land is not obtained in conflict areas.
 - No investments are made into large scale developments in conflict areas.
 - Any acquisition of land is consensual and adequately compensated.
 - The rights of local populations are respected.
 - The impact of the local environment is minimised.
 - The local population are continually consulted as to any health hazards, or Other side effects of new developments.
 - Such eventualities are addressed in a responsible manner.
- The efficacy of such policies must be continually reviewed.

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