



# Myanmar's new minimum wage: What's next?

## Policy considerations for the way forward

Thomas Bernhardt, S Kanay De, Mi Win Thida and Aung Myo Min

JULY 2016



Centre for Economic  
& Social Development

**Centre for Economic and Social Development**

No. (27), Pyay Road, 6½ Mile,

Hlaing Township,

Yangon, Myanmar

**[www.myanmarcesd.org](http://www.myanmarcesd.org)**

July 2016

**Cover photo credit:** Lynn Bo Bo/EPA

**Disclaimer:** The views expressed in this document are those of the authors and do not necessarily reflect those of the International Development Research Centre (IDRC).

# **Myanmar's new minimum wage: What's next?**

## Policy considerations for the way forward

*Thomas Bernhardt , S Kanay De, Mi Win Thida and Aung Myo Min*

JULY 2016

# Myanmar's new minimum wage: What's next?

## Policy considerations for the way forward

Thomas Bernhardt<sup>1</sup>, S Kanay De, Mi Win Thida and Aung Myo Min

### Abstract

*In 2013, Myanmar's government passed a new minimum wage law. While enacting the law was an important first step, turning it into an effective policy tool requires further steps to be taken. This CESD working paper targets Myanmar policymakers with the objective of providing them with some considerations for the way forward. More precisely, it suggests that there are three key pillars of an effective minimum wage implementation system that Myanmar policymakers should address from here onwards. First, it will be important to promote compliance with and, if needed, enforce the minimum wage law in order to, on the one hand, ensure that workers earn a minimum income that allows them to meet their own and their families' basic needs and, on the other hand, to avoid a situation where non-compliant companies derive a competitive advantage from paying wages below the minimum. This will require efforts that incentivize compliance by employers, sanction non-compliance through penalties, and ensure proper monitoring through labor inspectorates. Second, monitoring and measuring the impacts of the minimum wage policy will be crucial to better understand the effects it has on various stakeholders, and to gauge whether the minimum wage is set at an appropriate level where the resulting benefits outweigh the costs of the policy. For such monitoring and evaluation exercises to be possible, the collection of reliable data will be essential, including through labor force and business surveys. The methodological approaches and empirical models for such impact assessments are well established – so Myanmar's efforts in this area can draw on them. Third, regularly reviewing and adjusting Myanmar's minimum wage system in the future will be vital to preserve its relevance by taking into account changes in the cost of living and wider economic conditions. This will require adequate institutional setups and governance mechanisms as well as decisions on the criteria to be used for such reviews and adjustments. Throughout, this working paper presents examples of approaches and practices in other countries, thereby offering valuable lessons and inspiration on the range of possible measures and mechanisms. Considering the three pillars delineated in this paper and learning from others will help Myanmar's policymakers turn the minimum wage into an effective policy tool that contributes to putting the country on a trajectory of inclusive economic growth and shared prosperity.*

---

<sup>1</sup> Corresponding author; email: [t.bernhardt.cesd@gmail.com](mailto:t.bernhardt.cesd@gmail.com)

The authors gratefully acknowledge helpful comments and inputs from Zaw Oo, Gordon Betcherman, Haroon Bhorat, Edgard Rodriguez, Andrea Smurra and Khai Zaw as well as from participants in a CESD roundtable event on Myanmar's minimum wage which took place in Yangon in February 2016. They also express their sincere thanks to the different stakeholders who accepted to be interviewed and who took their time to respond to questions from the CESD research team. Thanks are also due to Kerry Baker who edited the paper and made the last finishing touches. This research was made possible by the financial support of the International Development Research Center (IDRC), Canada.

## Table of Contents

<b>1.</b>	<b>Introduction .....</b>	<b>1</b>
<b>2.</b>	<b>Background: Myanmar’s minimum wage system .....</b>	<b>2</b>
<b>3.</b>	<b>Ensuring compliance with and enforcement of the minimum wage .....</b>	<b>5</b>
3-1	Promoting compliance .....	6
3-2	Sanctioning non-compliance .....	8
3-3	Monitoring and dispute settlement .....	9
<b>4.</b>	<b>Monitoring and measuring the impacts of the minimum wage policy .....</b>	<b>12</b>
<b>5.</b>	<b>Future reviews and adjustments of the minimum wage system .....</b>	<b>15</b>
<b>6.</b>	<b>Conclusion .....</b>	<b>18</b>
<b>7.</b>	<b>References .....</b>	<b>19</b>

## Acronyms

ALR	Action Labor Rights
CESD	Centre for Economic and Social Development
CPI	Consumer Price Index
DICA	Directorate of Investment and Company Administration
DoP	Department of Population, Myanmar Ministry of Immigration and Population
ESCAP	United Nations Economic and Social Commission for Asia and the Pacific
GDP	Gross Domestic Product
IDRC	International Development Research Centre
ILO	International Labour Organization
ILOSTAT	ILO database of labor statistics
LFS	Labor Force Survey
MGMA	Myanmar Garment Manufacturing Association
MOLIP	Ministry of Labor, Immigration and Population
NGO	Non Governmental Organization
NMWC	National Minimum Wage Committee
OECD	Organisation for Economic Co-operation and Development
SEZ	Special Economic Zone
UMFCCI	Union of Myanmar Federation of Chambers of Commerce and Industry
UNDP	United Nations Development Programme

# 1. Introduction

Myanmar is going through a period of significant change. Both the country's political system and its economy are transforming rapidly. In the spirit of liberalization, people have been given more voice and more rights while the economic system is becoming more and more market-oriented. On the economic front, prospects look bright: Myanmar's economy has expanded strongly over the past decade and this economic growth is forecast to continue in the coming years. At the same time, given high levels of poverty, one of the key challenges will be to ensure that economic growth generates economic opportunities and benefits for all segments of the population and that the dividends of increased prosperity are distributed equitably across society. It has, thus, been increasingly recognized by policymakers (but also other stakeholders) that to embark on a trajectory of inclusive and sustainable economic growth, the country will need stable industrial relations and productive workers.

One reflection of this is that Myanmar's last government embarked on an ambitious agenda to reform and update the country's labor-related legislation (see Park 2014). In fact, many labor laws were seriously outdated when the previous government took office. Moreover, part of the new reality has also been an increase in labor disputes, many of them motivated by workers' demands for decent wages. To address these issues and to update existing labor legislation, the government, amongst other things, enacted a new Labor Organization Law in 2011 (now allowing workers to form labor organizations and to peacefully carry out collective activities) and a new Employment and Skill Development Law in 2013 while a new Settlement of Labor Disputes Law became effective in 2012. Another centerpiece of the government's reform agenda was the passing of a new Minimum Wage Law in 2013. Around the globe, minimum wage policies are a popular redistributive policy tool to tackle poverty as they have no immediate budgetary consequences, increase the incentive to work and are rather simple to administer (Margolis 2014).

Research on Myanmar's labor market and related policies is still limited. It is in this context that the Myanmar Center for Economic and Social Development (CESD), with funding from the International Development Research Centre (IDRC), initiated a labor market reform research program with the objective of providing policymakers and other relevant stakeholders with research-based evidence that can inform the formulation and design of policies and measures that lead to a more efficient and equitable labor market that is conducive to inclusive economic growth.<sup>2</sup>

The present working paper is part of these efforts to fill existing knowledge and research gaps. It focuses on Myanmar's new minimum wage law and starts from the recognition that enacting the law was an important first step but, to turn it into an effective policy tool, further steps need to be taken. In fact, there are many developing countries where a large gap between regulations stated in the books (*de jure*) and their effective implementation (*de facto*) can be observed. To avoid such a situation, this working paper suggests to Myanmar policymakers that there are three key pillars of an effective implementation system that they must not lose sight of and that they should address on the way forward, namely:

1. Ensuring compliance with and enforcement of the minimum wage;
2. Monitoring and measuring the impacts of the minimum wage policy; and
3. Future reviews and adjustments of the minimum wage system.

---

<sup>2</sup> For more information, see <https://myanmarcesd.org/category/labour-market-reform/>.



In sum, this working paper targets Myanmar policymakers with the objective of providing them with some considerations for the way forward regarding the effective implementation of the country's new minimum wage law. For this purpose, it presents examples of how other countries have gone about it, thereby offering

valuable lessons and ideas on the range of possible measures and mechanisms. Considering the three pillars delineated in this working paper and learning from others will help Myanmar's policymakers to turn the minimum wage into an effective policy and achieve the objectives spelled out in the law.

## 2. Background: Myanmar's minimum wage system

In March 2013, Myanmar's Parliament passed a new minimum wage law, replacing the 1949 Minimum Wage Act. With that, Myanmar joined a club of over 100 countries around the globe with minimum wage legislation, including most countries in Southeast Asia. In fact, almost 60% of the world's low-income countries have a statutory minimum wage in place (Margolis 2014). The key objectives are spelled out in the preamble of the 2013 Minimum Wage Law where it says that the law is enacted in order to "meet the essential needs of workers and their families, who are working in commercial, production, service, agricultural and livestock breeding businesses, and with the purpose of increasing the capacity of workers and the development of competitiveness".<sup>3</sup>

Before that, there had been concerns that the low wages earned by many workers did not allow them to meet their basic needs. With their newly gained rights under the 2011 Labor Organization Law and the 2012 Settlement of Labor Disputes Law, workers expressed this through a rising number of protests. Than Win (2012) reports that the official number of labor disputes in Myanmar increased from 395 to 679 between 2009 and 2011. According to information provided by the Ministry of Labor for the year 2013, almost half of all labor protests in 2013 were motivated by dissatisfaction with wages. The garment industry was a particular hotspot. Myanmar's Department of Labor Records reported 447 garment worker strikes nationwide between 2012 and 2014 (cf. ALR 2016: 6). A study by CESD, based on a survey among food-processing and garment enterprises conducted in 2015, comes to similar findings. Almost a fifth of the firms in their survey sample have seen their workers going on at least one strike during the last three years; for garment producers the corresponding share is 35%. Moreover, a quarter of survey participants, and 44% of respondents in the garment sector, reported that they have been faced with at least one demand for wage increases during the last three years (Bernhardt et al. 2016).<sup>4</sup>

After the minimum wage law was enacted, a tripartite National Minimum Wage Committee (NMWC) was formed under the Office of the President in September 2013 and given the task to define an appropriate level for the minimum wage. The NMWC comprises representatives from employers' and workers' organizations, and responsible government departments. Independent experts, including from the International Labour Organization (ILO) as well as local and international non-governmental organizations (NGOs), also provided inputs. The NMWC served as a forum and platform for consultations, discussions and negotiations among the different parties for almost two years. In June 2015, the committee announced a proposed minimum wage rate

---

<sup>3</sup> An English translation of the law as well as of related rules and regulations is available for download from: [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=90652&p\\_classification=12.02](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=90652&p_classification=12.02).

<sup>4</sup> There is a possibility that these figures underestimate the real incidence of strikes and demands for wage increases as these are sensitive issues where responding firms may want to communicate socially desirable responses and, hence, cannot necessarily be expected to provide truthful responses.



of 3,600 Kyat for an 8-hour working day. Stakeholders then had two weeks to comment and submit objections. Numerous business owners and also various labor groups made use of this mechanism. However, in August 2015, the government of Myanmar accepted this proposed minimum wage rate which, thus, came into effect on 1 September 2015.

Taking a conversion rate of 30 days per month, the minimum wage rate of 3,600 Kyat corresponds to a monthly minimum wage rate of 108,600 Kyat, approximately 91 US\$ at the current exchange rate. At this level, Myanmar's minimum wage rate ranks among the lowest in Asia. In fact, as can be seen in Table 1, only Bangladesh's minimum wage rate (at around 66 US\$ per month) is lower than Myanmar's. By contrast, minimum wages are – in some cases even considerably – higher in Southeast and East Asian neighbors such as Cambodia, Laos, Vietnam, China and Thailand.

**Table 1: Monthly minimum wage rates in selected Asian countries (in US\$)**

Country	Monthly minimum wage rate in US\$ (as of 31 May 2016)
Bangladesh	66
Cambodia	140
China	126-276
Indonesia	81-227
Laos	108
Malaysia	194-219
Myanmar	91
Pakistan	94-113
Philippines	171-308
Thailand	251
Vietnam	105-154

*Note: In some cases, including Myanmar, monthly equivalents of daily minimum wage rates were computed using a conversion ratio of 30 days.*

*Source: Philippine Department of Labor and Employment, National Wages and Productivity Commission, [www.nwpc.dole.gov.ph/pages/statistics/stat\\_comparative.html](http://www.nwpc.dole.gov.ph/pages/statistics/stat_comparative.html)*

One key provision in Myanmar's minimum wage law and related notifications is that there shall be a uniform minimum wage rate across industries that applies nationwide. That is, there is no differentiation in the minimum wage rate across regions and/or sectors. This is different in other countries, including China, Indonesia, Malaysia, the Philippines and Vietnam, for which Table 1 accordingly does not show just one single minimum wage rate but instead a range of rates, reflecting the differentiation across regions and/or sectors.

Myanmar's minimum wage law also foresees a number of exemptions. First, companies with 15 or less employees are exempted from the obligation to pay at least the minimum wage rate. Second, exemptions are specified for newly hired unskilled workers.<sup>5</sup> Finally, in principle, companies operating in Special Economic

<sup>5</sup> Completely unskilled newly hired workers engaged in a training or induction program only need to be paid (at least) 50% of the minimum wage rate for up to a maximum of 3 months, while during their second 3 months of employment ("probationary period") their wage may be (no lower than) just 75% of the minimum wage.

Zones (SEZs) are also not bound by the minimum wage law; in fact, the regulations foresee that SEZ management committees shall submit proposed minimum wage rates to the NMWC which then, in turn, has to decide whether or not these are appropriate.

While comprehensive and representative data is currently not yet available, there are indications that the new minimum wage would “bite”. That is, many companies were paying (some of) their workers less than 3,600 Kyat per day before the minimum wage was put in force so that they would need to raise pay rates to be compliant with the new law. This can be seen, for example, in the data collected through a business survey carried out by the UN Economic and Social Commission for Asia and the Pacific (ESCAP), the Organisation for Economic Cooperation and Development (OECD) and the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) between late 2013 and early 2014 (see Soans and Abe 2015).<sup>6</sup> The average wages that the enterprises that participated in this survey were paying to their unskilled workers were far below the new minimum wage rate, and even those for skilled labor were slightly less than what is required by the new law.<sup>7</sup> Similarly, a large share of companies participating in the World Bank’s Enterprise Survey in early 2014 reported paying average wages that corresponded to less than 3,600 Kyat per day.<sup>8</sup> In the (non-representative) CESD survey mentioned above, which was conducted in 2015 pre-minimum wage law, the average wage paid to machine operators and plant workers was below the new minimum wage rate in 55% of responding firms, while this percentage was even higher at 64% for service and sales workers (Bernhardt et al. 2016).<sup>9</sup> In sum, there are indications that, before the minimum wage came into effect, a significant share of workers was earning wages below the newly required minimum, which also points to the possible challenges it implies for companies in terms of labor costs.

The low wages that many workers are earning force them to work long hours. Enterprises participating in the CESD survey indicated that, on average, their employees work 10.4 hours of overtime per week on top of 46 regular hours per week. Moreover, for workers employed in the companies surveyed, the basic wage on average makes up only a bit more than half of their total wage (51.8%). The rest, i.e. almost half of their income, is derived from additional payment items such as overtime payments or attendance, productivity, loyalty and skills bonuses. This pay slip composition implies a certain degree of insecurity for workers as benefits can often be withdrawn at the employer’s discretion. Another key issue in Myanmar’s labor market is high labor turnover rates. While it is not unusual that employees resign and leave a company, the CESD survey found an average labor turnover rate of more than 40%. That is, the average firm in their survey sample saw around two fifths of its workforce resign in 2014 (Bernhardt et al. 2016). These findings on working conditions and pre-law wage levels are further corroborated by information collected through small surveys among workers (ALR 2016, Oxfam 2015). If effective, the new minimum wage law could help to improve this situation: by increasing workers’ basic (minimum) wage rate, it can provide more income security to workers and also allow them to reduce working hours, while the resulting higher job satisfaction could contribute to lower labor turnover which, in turn, could create incentives for firms to invest in human capital for vitally needed productivity increases.

---

<sup>6</sup> While their survey sample is not entirely representative, by covering over 3,000 enterprises it is the most comprehensive enterprise survey for Myanmar to date.

<sup>7</sup> These calculations were kindly made available to the authors by UN ESCAP; special thanks are due to Masato Abe and Aaron Soans.

<sup>8</sup> Data from this survey, which is said to be based on a representative sample composed of 632 establishments, can be downloaded from [www.enterprisesurveys.org](http://www.enterprisesurveys.org).

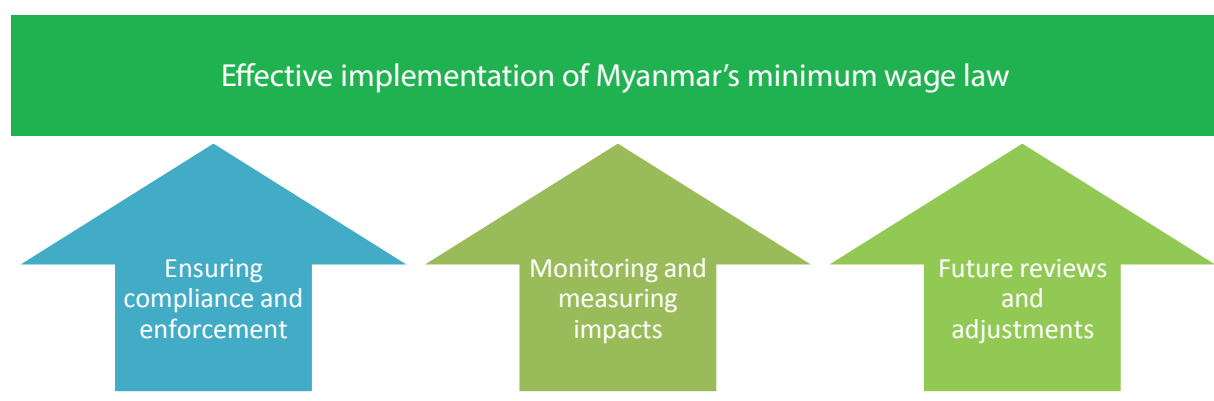
<sup>9</sup> Two important things have to be highlighted: First, these average wages refer to take-home wages for workers, including overtime pay as well as different bonuses and benefits, while the minimum wage refers just to the basic wage rate. Second, the survey sample and these percentages include micro firms with 15 or less employees which, as noted above, are exempted from the minimum wage law.

In this context, enacting the law was an important first step. However, the story does not end here for Myanmar policymakers. In fact, there are some important next steps that lie ahead which they should be aware of. The main purpose of this CESD Working Paper is to highlight three of the most important issues that they will have to reflect on and, crucially, address on the way forward, namely:

1. Ensuring compliance with and enforcement of the minimum wage law;
2. Monitoring and measuring the impacts of the minimum wage policy;
3. Future reviews and adjustments of the minimum wage system.

The effective implementation of Myanmar's minimum wage law will strongly rest on these three pillars. Figure 1 provides an illustration of the contours of such an effective implementation system. The remainder of this working paper will elaborate on each of these three issues.

**Figure 1: Three pillars for an effective implementation of Myanmar's minimum wage law**



### 3. Ensuring compliance with and enforcement of the minimum wage

Having enacted a Minimum Wage Law was an important first step. However, to what extent it is put in practice (as opposed to just being a document) will depend on levels of compliance by employers and enforcement measures by the government. In fact, whether or not the minimum wage policy can achieve its objectives and lead to the intended effects will depend to a significant extent on the management and implementation of the policy. Ensuring compliance with and, if necessary, enforcing the law is a crucial part of this for two reasons: On the one hand, to ensure that workers earn the minimum income that they have been promised in order to allow them certain living standards, and, on the other hand, to maintain the conditions of fair competition among market participants and to avoid a situation where non-compliant companies derive a competitive advantage from paying wages below the minimum wage rate.

Myanmar's law spells out penalties for violation of the law and related rules and orders, ranging from monetary fines of up to 500,000 Kyat (less than 450 US\$) to imprisonment of up to one year, or both. Moreover, Notification 64/2013 stipulates that, in case of being found guilty of non-payment of the minimum wage, employers have to pay the accrued shortfall of remuneration within 30 days to underpaid workers. It also instructs the Department of Factories and General Labor Laws Inspection under the Ministry of Labor, Immigration and Population (MOLIP) to assign an inspection officer to prosecute the employer at the relevant court, if the employer fails to pay the minimum wage within a specified period of time. While one year of

imprisonment seems quite a harsh punishment, a fine of 500,000 Kyat is really low and unlikely to act as an effective deterrent. Therefore, a revision of this part of the law may be desirable.

However, this might not be enough. The key question that policymakers should ask themselves is what else they can do to promote compliance with and enforcement of the minimum wage. Looking at other countries can help to identify additional practices, measures and institutional mechanisms that could be adapted to the Myanmar context. In fact, there is a wide range of strategies and practices, and different mixes thereof, applied in other countries,<sup>10</sup> some of which might work in Myanmar as well.

### 3.1. Promoting compliance

Broadly speaking, one can distinguish between strategies that aim at promoting compliance on the one hand, and penalties to punish non-compliance on the other hand (see Bhorat 2014, ILO 2014, Benassi 2011).<sup>11</sup> Government measures that fall under the former category include:

- **Ensure appropriate minimum wage setting and adjustment mechanisms:** The effective participation of the social partners, i.e. employer and employee representatives, in decision-making processes is important to create a sense of ownership among them regarding the minimum wage system that was agreed, thereby increasing the probability of its application in practice. Bipartite or tripartite decision-making mechanisms also promote a common interpretation of the minimum wage law, helping to avoid misinformation, confusion and non-compliance due to rule ambiguity. In general, shared rules that result from discussions and negotiations are much more likely to be complied with than top-down regulation. Moreover, a minimum wage regime that is simple facilitates awareness by employers and workers of the applicable rules and rates, thereby contributing to greater compliance. Myanmar's minimum wage system actually does well on these fronts. However, it will be important to ensure that all relevant stakeholders, and not just some dominant players, are represented in the process. This means that the social partners should be expanded to ensure broader representation, or at least that the government considers the interests of non-represented parties in making the final decision.
- **Information dissemination** through public campaigns but also official gazettes, government web-sites, press, radio, television, electronic media, and other publications.<sup>12</sup> Information should be disseminated widely and in languages or dialects understood by different types of workers, especially those in need

---

<sup>10</sup> For detailed overviews, see ILO (2014) or Benassi (2011).

<sup>11</sup> There is a voluminous academic literature on the factors determining and explaining the level of compliance with minimum wage (see, for example, Kanbur and Ronconi 2016; Bhorat 2014; Ronconi 2014, 2012; Rani et al. 2013; Basu et al. 2010; Skidmore 1999). One idea developed in this literature is that two broad models of enforcement can be distinguished: One model views non-compliance with minimum wage legislation as an outcome of rational, profit-maximizing behavior of individual employers who try to balance out the benefits of non-compliance with its costs. It, thus, adopts a punitive approach to violations to incite compliance. The other model treats non-compliance less as a calculated decision by firms and more as the result of different possible factors such as limited capabilities or knowledge of employers to which regulators and inspectors best respond by encouraging and assisting non-compliant firms to improve compliance over time (Bhorat et al. 2015, Bhorat 2014, Piore and Schrank 2008). The discussion here presents policy considerations that relate to both models. The core idea of this literature is that effective enforcement must take into account country-specific factors such as institutional structures, labor market dynamics, sectoral composition of the economy, or firm strategies. In general, however, if both the benefits from compliance and the costs (and risks) of non-compliance are small, then it can be expected to be widespread. The reality in many developing countries, in any case, is that significant proportions of workers earn sub-minimum wages (Bhorat et al. 2013, Rani et al. 2013).

<sup>12</sup> For example, in an analysis of the impact of a comprehensive public awareness campaign on Costa Rica's minimum wage implemented by the country's government in 2010, Gindling et al. (2015) find evidence that the campaign led to an increase in compliance with minimum wage laws in Costa Rica.

of protection. In some countries, including India, Japan, Korea and Thailand, employers are required to inform their workers about applicable minimum wage rates, e.g. by posting notices. That is actually also mandated by Myanmar's law. Since knowing and understanding their rights forms the base for defending themselves against non-compliant employers, access to information also contributes to empowering workers. Additionally, such public campaigns could also target international companies, possibly in collaboration with international NGOs, to discourage them from sourcing from non-compliant firms, e.g. by providing information at trade fairs, in the "Myanmar Investment Guide" published by the Directorate of Investment and Company Administration (DICA) and/or journals issued by the Ministry of Commerce.

- **Capacity-building measures**, such as training seminars, so that both employers and labor are informed about minimum wage stipulations and know how they are to be applied. Capacity-building for the staff of relevant government agencies, especially the labor inspectorate, is also important so that their knowledge is accurate and up-to-date and they feel confident to apply and disseminate it.
- **Persuasion strategies** to build public support and encourage employers to comply voluntarily, for example through dialogue and interaction between labor inspectors and company managers or through highlighting possible benefits to firms (e.g. access to orders from Western buyers who emphasize social compliance). In Myanmar, this strategy could be particularly applied in the garment industry, through dialogue with the Myanmar Garment Manufacturing Association (MGMA) and factories that target Western markets. Further support could be sought from international organizations, e.g. international NGOs<sup>13</sup> or the ILO through its "Better Work" program.
- **Empowerment of workers and their representatives** to enable them to enforce their wage rights through both individual complaints and collective action: In fact, allowing individual workers and labor representatives to report non-compliant employers is a form of monitoring that can complement labor inspections.<sup>14</sup> For this self-monitoring to work properly, certain structures need to be in place. First, it is important that workers have easy and safe access to complaint procedures. Some countries, such as the UK, have established confidential hotlines, online complaint systems, and decentralized labor inspectorate services through which workers can report violations of labor laws, including on minimum wages. Second, there needs to be adequate protection of workers against victimization. A number of countries, including Japan and the Philippines, have legislation that prohibits employers from intimidating or penalizing employees who exercise their right to the minimum wage by making a complaint or a claim for recovering unpaid amounts. Labor unions can also play a role in protecting workers against possible retaliation. In some countries, like India, labor representatives or trade unions are allowed to initiate proceedings on behalf of workers whose minimum wage rights have not been respected, for example to make claims for the recovery of wages due or to bring underpayment cases to court on behalf of workers. In the UK, labor unions can represent claimant workers during conciliations and before the Employment Tribunal. In Myanmar, a simple first step could be the establishment of an online ombudsman system, including an anonymous complaint scheme that is also accessible through a mobile phone app.
- **Offering incentives for compliance:** Access to lending by state-owned banks, to subsidized loan programs, and/or to public procurement contracts can be made contingent on beneficiary companies being compliant

<sup>13</sup> For example, the Ethical Trading Initiative and the Fair Labor Association in 2015 sent letters to the government of Myanmar to express their support for Myanmar's minimum wage and to dispel concerns that it would deter foreign buyers and investors; see: [www.ethicaltrade.org/blog/eti-supports-calls-new-myanmar-minimum-wage-apply-garment-sector](http://www.ethicaltrade.org/blog/eti-supports-calls-new-myanmar-minimum-wage-apply-garment-sector) and [www.fairlabor.org/report/17-fla-affiliates-oppose-unfair-minimum-wage-exemption-myanmar-garment-workers](http://www.fairlabor.org/report/17-fla-affiliates-oppose-unfair-minimum-wage-exemption-myanmar-garment-workers).

<sup>14</sup> See Randolph and Panknin (2015) or Benassi (2011) for some examples.

with the minimum wage law. The Dutch government, for example, has developed a policy on “sustainable public procurement” whereby Dutch public authorities purchase certain products (including coffee, tea

and textiles) only from suppliers who meet specified social standards. In Brazil, the legislation allows for the suspension of all lines of public and private credits for companies who have been blacklisted because they were found guilty of employing slave labor. That is, by introducing labor clauses in bidding documents or in terms and conditions, payment of the minimum wage can be made a prerequisite for the award of loans and public procurement contracts. In Myanmar, the four state-owned banks could be involved in this, for example.

### 3.2. Sanctioning non-compliance

Imposing adequate sanctions in the event of violation of minimum wage provisions is another means of enforcement (Del Carpio and Pabon 2014, ILO 2014, Benassi 2011). Sanctions should be structured such that they constitute an effective deterrent to non-compliance. Broadly speaking, this implies that the costs of penalties should outweigh the benefits of non-compliance and that it is very difficult to escape sanctions. In most countries, the legislation defines penalties for employers failing to comply with applicable minimum wage provisions. Very often, these penalties are financial. Moreover, in various countries, legislation provides that a fine is to be applied for each violation and/or that applicable penalties are incremental, i.e. they increase in the case of repeated offences (in South Africa and Sri Lanka, for example). In some countries, including India, Indonesia, Korea, Pakistan, and the Philippines, violators of minimum wage provisions are liable not only for a fine but in some cases also imprisonment or both. However, criminal proceedings and imprisonment are typically reserved for the most serious violations of labor laws.

There are also other penalties that may be imposed. In Vietnam, for example, non-compliance with labor laws can lead to severe administrative penalties, including the withdrawal of the company’s operating license, depending on the nature and seriousness of the offence. Similarly, in other countries, including Nicaragua, Portugal and Russia, non-compliant companies may be sanctioned with administrative suspension of activities, temporary closure of the enterprise, or prohibition of operations. Meanwhile, in Hungary, violators of minimum wage legislation may be prohibited from applying for state subsidies while in Italy and Portugal, enterprises paying wages below the minimum wage may be excluded from calls for tenders for public contracts. Finally, there is a practice of “naming and shaming” in some countries, including Israel and the UK, where infringements of minimum wage legislation are published on the website of the labor inspectorate or the responsible ministry.

The signing of employment contracts between labor and employers and the issuance of pay slips play an important role for government efforts to verify and enforce compliance with the minimum wage law. Both are documents that ensure transparency and accountability in industrial relations. Yet, there is quite some controversy around this topic in Myanmar, especially since the introduction of the minimum wage. In August 2015, the Ministry of Labor issued a notification stipulating that by the end of September 2015 companies had to employ their workers on official contracts containing information on, inter alia, wage rates, working hours, days off, benefits and a termination date. This was a clear enforcement of section 5 of the Employment and Skill Development Law which had been enacted in 2013. However, the use of employment contracts is not yet universal. Less than three quarters of the firms participating in CESD’s enterprise survey indicated that they sign employment contracts with their workers, and only about 80% reported issuing pay slips to their workers (Bernhardt et al. 2016). Therefore, government endeavors to ensure compliance and enforcement should also involve measures to promote the usage of pay slips and employment contracts with the latter being important legal documents that help to regulate labor relations and working conditions.

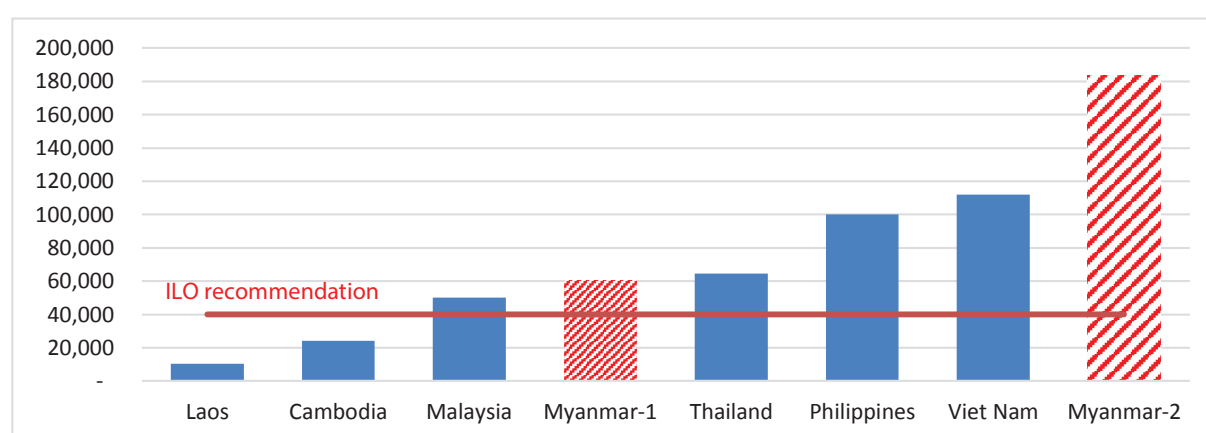


### 3.3. Monitoring and dispute settlement

At the core of minimum wage implementation regimes is typically a monitoring system which aims to detect instances of non-compliance, thereby serving both to promote compliance but also to trigger sanctions where applicable. In most cases, the task of monitoring is entrusted to the labor inspectorate, usually composed of officials with a special status in the civil service. Indeed, adequate labor inspections are widely considered as necessary to ensure the effective application of provisions relating to minimum wages; they are provided by law in around 100 countries. The transparency generated by inspections is expected to prevent free riding. However, the effective supervision of the application of labor legislation requires the employment of a sufficient number of adequately trained inspectors equipped with the powers and resources needed to carry out their duties (ILO 2014, Del Carpio and Pabon 2014). Therefore, labor inspectors are granted extensive powers by legislation in most countries. They are typically authorized to enter workplaces at any reasonable time and without prior notice to carry out inspections, examinations and inquiries deemed necessary. They generally are entitled to require employers and employees to produce and explain records about wage payments and other relevant topics in accordance with what is prescribed by the labor legislation. In many countries, they have discretionary power as to whether or not to issue a warning or a violation report, or to just make suggestions to the employer. In some cases, labor inspectors are even allowed to impose penalties or to take employers to court in the event of violations of labor laws.

In practice, the effectiveness of labor inspections is often undermined by two key problems. First, they are quite costly. Governments in many countries, especially poorer ones, struggle to allocate sufficient funds to labor inspectorates which, as a result, are often understaffed, under-equipped, and under-trained. The ILO (2006) has developed benchmarks for the desirable number of labor inspectors per worker. For developing countries it recommends a ratio of one labor inspector per 40,000 workers (compared to ratios of 1/10,000 for industrialized countries and 1/20,000 for transition economies). In reality, many countries, including Myanmar (see below), have ratios far below these benchmarks. Still, Myanmar's government could aim at taking this benchmark as point of reference and, if deemed necessary, introduce a multi-year plan to gradually increase the number of labor inspectors and train them accordingly.

**Figure 2: Labor inspection rate (employed persons per inspectors) in selected Asian countries**



*Note: Myanmar-1 shows the number of private sector employees per labor inspector while Myanmar-2 displays the number of all employed persons per labor inspector*

*Source: MOLIP information, DoP (2016), ILOSTAT database, World Development Indicators database, US Department of Labor (2015a, 2015b), US Department of State (2015, 2016)*



According to information provided by the Factories and General Labor Laws Inspection Department of the Ministry of Labor, it currently employs 122 labor inspectors. Depending on which concept of workers one takes as a denominator, the resulting ratio for Myanmar is closer or further away from the ILO-recommended ratio of one labor inspector per 40,000 workers for developing countries. According to the 2014 Myanmar Population and Housing Census, the total number of people in employment is around 22 million, including 1.3 million of government employees and 7.4 million of people employed in the private sector (see DoP 2016: 13).<sup>15</sup> This means that at present there is one labor inspector per 183,734 people employed in Myanmar. However, if one just looks at the number of government and private sector employees (thus leaving aside employers, own account workers and unpaid family workers as other constituents of the group of the employed), the ratio is much lower at one labor inspector per 71,571 employees (and it is, in fact, down to 60,537 if one counts only people employed in the private sector). While all these ratios are above the level recommended by the ILO, they are not so far off from the ratios seen in other Southeast Asian countries. Figure 2 shows that there is one labor inspector per 10,000 employed persons in Laos, per 24,000 in Cambodia, per 50,000 in Malaysia, and per 65,000 in Thailand while in the Philippines and Vietnam the ratio is much higher, lying at around 100,000 and 112,000 workers, respectively. That is, the smaller regional neighbors possibly provide a model for Myanmar in terms of coverage and deployment of labor inspectors.

Since limited resources for inspections will not allow full coverage of the labor market, the government can resort to prioritization of inspections as a strategy to improve their effectiveness. This is also done in other countries, with different criteria applied for prioritization. In the UK, for example, the labor inspection system

particularly targets sectors that are considered at high risk of non-compliance. Meanwhile, in the US, labor inspections are to a significant extent guided by workers' complaints to competent authorities. An important area to monitor in Myanmar is the exemptions from the minimum wage law, in particular the category of newly hired unskilled workers, i.e. employees in training or induction programs or on employment probation. It will be important to make sure that these exemptions are applied where appropriate and that companies do not avoid payment of the minimum wage by classifying all newly hired workers, even if skilled, under this category.

A second problem is that labor inspectors are at risk of corruption, not least because many of them are underpaid. One obvious solution for this problem is to offer adequate pay to labor inspectors, possibly by including performance-based rewards. However, in Myanmar, this would need to be in line with the Civil Servant Law which currently has strict stipulations on bonuses. Additional measures are possible as well. In Brazil, for example, inspectors are assigned to a sub-region for a limited period only in order to avoid the creation of cliental relationships susceptible to corruption. Myanmar already practices a rotation policy according to which inspectors are sent to different townships. Meanwhile, in Indonesia and Poland, workers' organizations are allowed to participate in supervising the application of minimum wages. Similarly, in the Philippines, labor inspectors are always accompanied by trade union or other labor representatives and these representatives, moreover, have the right to submit their own findings to the officials inspecting their enterprise.

Inspections help to detect cases of non-compliance. The key question is what happens next. In some countries, inspection is fairly good and cases of violation are identified but then there is no cheap, efficient process for dispute resolution or for workers to have their claims adjudicated. Dispute settlement systems can play an important role by providing an arena where rules can be discussed and clarified among all parties concerned

---

<sup>15</sup> The other categories of the employed, in addition to government and private sector employees, are employers, own account workers and unpaid family workers. Together, they make up 13.7 million people.

(Benassi 2011). It is important that dispute settlement institutions are seen as unbiased so that their decisions are accepted by all parties.

In Myanmar, the legal framework is provided by the Settlement of Labor Disputes Law which was promulgated in 2012 and repealed the 1929 Trade Disputes Act. Under this law, employers with more than 30 employees are required to establish a Workplace Coordinating Committee. These bipartite committees are mandated to play a central role in resolving workplace disputes. For cases where negotiations in the Workplace Coordinating Committee fail, the law foresees the dispute to be referred to the Township Conciliation Body. If the case is still unsettled, it is handed over to the Regional/State Arbitration Body to take a decision which, however, can be appealed against to the Arbitrary Council for a Tribunal, which are set up and administrated by the central government. However, the decision in these processes is not legally binding and any party dissatisfied with the decision can begin a litigation process by bringing the case to the Supreme Court, as Myanmar currently does not have specialized labor courts (Than Win 2012).

While Myanmar's legislation on labor dispute settlement has improved, its implementation remains a challenge. First, not all companies with more than 30 employees have already installed Workplace Coordinating Committees, as required by law (ALR 2016). Second, only few disputes are resolved within the period stipulated by law, with delays mostly caused at the Township Conciliation Body level. The main bottleneck appears to be the lack of human resources available for effective dispute resolution so that arbitration bodies are regularly overburdened. Third, two recent studies looking at labor issues from workers' perspective report that employers frequently disregard orders from arbitration bodies since their rulings are non-binding and employers can get away with paying insignificant fines and without being sued at court (ALR 2016, Oxfam 2015, see also Park 2014). Moreover, anecdotal evidence suggests that decisions of conciliation and arbitration councils are not always taken by strictly sticking to the letter of the law but they are also driven by the desire of council members to come to a solution that is considered ,or perceived as "fair" and that helps ease tensions between parties. Finally, companies tend to send low-ranking cadres without much decision-making power (and not the owner or a senior manager) to tribunals, often leading to skewed decisions that are difficult to implement.

These findings point to the importance of providing capacity-building and sufficient resources/staffing to conciliation and arbitration bodies to enable them to resolve labor disputes in a timely manner and in accordance with the law. Establishing specialized labor courts could be another measure to improve the dispute resolution process in Myanmar; this would require the training and building up of a sufficient number of qualified labor law experts, adjudicators and judges.

In practice, countries often apply a mix of different measures to promote compliance with, and enforcement of, the minimum wage, involving a mixture of incentives and penalties. Experience has shown that the most effective systems for implementing minimum wage legislation typically combine different types of approaches, including "soft" mechanisms such as awareness-raising and "hard" mechanisms such as sanctioning. In view of other countries' experiences, Myanmar policymakers could ask themselves a number of questions, for example: Which government measures, practices and mechanisms can be effective to incentivize and ensure compliance with the minimum wage? How can the minimum wage be enforced most effectively? What institutional setups would be advisable? Who should be in charge of enforcement? Is there a need for labor courts? Can existing mechanisms to settle labor disputes peacefully be improved? Are there enough labor inspectors, are they sufficiently trained, and do they have the powers and resources they need? What else can be done to improve the monitoring of the actual application of the minimum wage? Are legal provisions and procedures simple enough to enable workers to effectively exercise their rights under minimum wage provisions? What can be

done to facilitate the reporting of cases of non-compliance and underpayment? Is enough done in terms of disseminating knowledge and raising awareness?

Addressing these questions will help Myanmar policymakers in their endeavor to ensure widespread compliance with, and enforcement of, the minimum wage. A review of the current setup may lead them to revise certain minimum wage stipulations and implementation practices, and can help them to identify priorities for reform and future action in the face of limited resources.

#### 4. Monitoring and measuring the impacts of the minimum wage policy

Experiences with minimum wages differ across the globe. The impacts of introducing a minimum wage, or changing existing minimum wage rates, are not the same for all countries and for all stakeholders. Evidence from other countries shows that firms of different sizes or operating in different sectors have been affected differently. The same is true for workers with different ages, gender, or skills. To better understand how exactly Myanmar's minimum wage regime affects various stakeholders, it will be important for the government to dedicate resources to monitoring and measuring the impacts of its minimum wage policy. The methodological approaches and empirical models for such impact assessments are actually well established and have been applied to a range of countries. There is, in fact, a fast growing body of literature and studies on monitoring and measuring the impacts of minimum wage policies – so Myanmar's efforts in this area can draw on the lessons from other countries. While the early literature was mainly on developed economies, recent years have seen more and more research on developing countries, with a certain focus on Latin America. Different empirical frameworks and techniques have been used to measure the consequences of minimum wage promulgation or adjustments on variables such as formal jobs, informal employment, wage levels, wage distribution, poverty, and social welfare; see, for example: Betcherman (2014, 2015); Leckcivilize (2015); Del Carpio and Pabon (2014); Gindling (2014); Neumark (2014); Magruder (2013); Wang, J. and M. Gunderson (2012); Lemos (2009); Neumark and Wascher (2008); or Maloney and Nuñez Mendez (2004).

However, for such monitoring and evaluation exercises to be possible, the availability of reliable data is essential. The implementation of a Myanmar Labor Force Survey (LFS) in early 2015, undertaken by the Government of Myanmar and ILO, was important progress in this regard.<sup>16</sup> Since data collection for this LFS happened before the introduction of the minimum wage, it can serve as a baseline for comparisons between the situation before and after the minimum wage.<sup>17</sup> However, for such impact assessments it will be necessary to repeat the LFS in future years and, more generally, to regularly collect comprehensive and reliable data on Myanmar's labor market. Such data collection will require sufficient government funding. Indeed, the importance of conducting periodic surveys for the purpose of systematically collecting information on countries' economic and social situation is widely recognized in the international community. ILO Recommendation No. 135 on Minimum Wage Fixing, for example, provides that, to the extent possible in national circumstances, adequate resources should be devoted to the collection of sufficiently disaggregated statistical data needed for analytical studies of relevant economic factors and their probable evolution. This recommendation stems from

---

<sup>16</sup> However, the data collected has not yet been made publicly available.

<sup>17</sup> One caveat is important to be pointed out, though: This 2015 LFS provides a benchmark of pre-minimum wage law payment levels only to the extent that firms had not already adjusted their wage levels in anticipation of the new law. In some cases, companies preemptively raise the pay to their workers when the introduction or increase of a minimum wage is announced. In such a scenario, the pre-reform measurement may not actually represent a very accurate counterfactual.

the conviction that accurate and recent data with comprehensive coverage are essential for evidence-based policy-making and evaluation. Such data usually come from either labor force surveys or enterprise surveys. Analyses using both types of sources tend to be the most informative and accurate. In Vietnam, for example, the General Statistics Office publishes an annual living standards survey while the Ministry of Labor, Invalids and Social Affairs carries out an annual survey on production and incomes of workers among more than 1,000 enterprises.

Conducting such surveys regularly in a robust way is not an easy task and, moreover, typically quite costly. However, there are various international development agencies that are willing and able to support such data collection efforts. Myanmar's government could, thus, turn to bilateral and multilateral donors and development organizations to seek both funding and technical assistance on the design and implementation of labor force and enterprise surveys, at least for pilots or initial rounds of such surveys. The ILO, for example, has supported various countries in conducting national LFSs and, through its *LFS Pilot Study Programme*,<sup>18</sup> provides guidance to national statistical offices and other agencies involved in data collection on how to follow best practices and international standards; indeed, the ILO also assisted in the implementation of the 2015 LFS in Myanmar.<sup>19</sup> There is also a range of international development agencies that have provided support on the implementation of enterprise surveys which are important to capture the perspective of employers. Importantly, such external support should primarily be used to build the necessary technical and institutional capacity in Myanmar so that at some point these surveys can be conducted independently by local institutions.

However, generating such comprehensive and repeated datasets on the Myanmar labor market will take some time. A longer-term and rigorous research agenda relying on these datasets may be useful eventually, but might not yield much in the shorter run. Therefore, in the interim, more attention could be given to smaller-scale and more qualitative data collection exercises, such as limited and quick firm surveys and interviews, and similar exercises with workers.

Ideally, the data collected through such larger surveys as well as smaller qualitative exercises is analyzed by government entities themselves (e.g. a research unit within Myanmar's Ministry of Labor and/or the Central Statistical Organization) but also made available to non-government research organizations for additional, independent studies.

More specifically, this data should be used to measure and monitor the impact of the minimum wage on key variables, addressing questions such as the following which are important in the context of Myanmar's labor market: First of all, how widespread is compliance with the minimum wage law, or, asked differently, how common are violations?<sup>20</sup> Has employment been affected positively or negatively? Have actual wages and incomes of workers increased? How are female, young and old workers affected?<sup>21</sup> What are the impacts

---

<sup>18</sup> See [www.ilo.org/stat/Areasofwork/Standards/lfs/lang--en/index.htm](http://www.ilo.org/stat/Areasofwork/Standards/lfs/lang--en/index.htm).

<sup>19</sup> See [www.ilo.org/global/about-the-ilo/newsroom/features/WCMS\\_378029/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_378029/lang--en/index.htm).

<sup>20</sup> The answer to this question has an important bearing on the need for government enforcement measures which were discussed in section 3. Typically, non-compliance with minimum wage legislation is measured by counting the number of violations and calculating the percentage of workers who are paid sub-minimum wages. Additionally, a family of violation indices has been developed that allow to gauge the depth of violations (see Bhorat 2014, Bhorat et al. 2013, Kanbur et al. 2013); they are powerful policy tools for guiding where and how to channel enforcement resources most effectively.

<sup>21</sup> One particularly useful thing is to monitor the profile of workers whose income is at or around the minimum wage by taking into account factors such as sector of employment and firm size but also gender, age, and family role.

experienced by small enterprises or by firms operating in labor-intensive sectors? To what extent are companies trying to compensate for higher wage costs by reducing non-wage benefits or other labor-related costs? What about labor productivity? Has it increased thanks to better labor relations and company investment in trainings and skills (aimed at countering rising labor costs)? Can some observations be made about labor turnover rates and industrial relations; have they improved thanks to higher worker satisfaction? Have working conditions changed? For example, have average daily and weekly working hours decreased because workers are able to earn enough for a living even if working fewer hours? Or, conversely, has labor supply increased because higher wages make it more worthwhile to work more hours? Have poverty rates improved? Have exports and/or economic growth been affected?

Moreover, the monitoring should also include the exemptions from the minimum wage foreseen by the law, i.e. the small enterprises with 15 or fewer workers, the newly hired unskilled workers, and the companies operating in SEZs: How big are these segments not covered by the minimum wage, and how does this change over time? Related to this, a big question for any monitoring and evaluation would be coverage of the minimum wage and whether there are any spillovers into the informal (uncovered) sector which is significant in Myanmar.<sup>22</sup> That is, how is informal employment affected; does it grow or shrink? Can one observe a rise in informal sector wages?<sup>23</sup> Finally, a comprehensive monitoring agenda could additionally involve international comparisons, especially with the most relevant comparator economies, to track changes in other countries' minimum wage levels and to assess possible effects on Myanmar's international competitiveness.

Analyses on these questions will allow policymakers to identify and quantify the benefits that the different stakeholders are reaping. They will also help them to better understand the challenges that different constituencies are experiencing. Empirical evidence has shown that for a minimum wage policy to achieve its objectives with minimal negative effects, it is crucial that the minimum wage rate is set at an appropriate level (Rani et al. 2013, Andalón and Pagés 2009). Proper monitoring and evaluation are, thus, also vital to understand whether the current minimum wage level is appropriate, and whether the resulting (economic and social) benefits outweigh the costs of the policy (Del Carpio and Pabon 2014).

---

<sup>22</sup> According to UNDP (2011), own-account workers represented 40% of total employment in 2009-10 while casual laborers made up another 18% and unpaid family workers another 15%. "Thus, a rough estimate of the informal sector in 2009-10 would be 73 percent of the total labor force." (World Bank 2014: 15)

<sup>23</sup> Even though minimum wages are not enforced in the informal sector, they can still affect it. For example, based on standard economic theory, one would expect the introduction or an increase of the minimum wage to shift employment to the informal sector, due to raising relative labor costs in the formal sector. However, the empirical evidence on this hypothesis is mixed (Betcherman 2014). An interesting observation from various studies, mostly on Latin American countries, is that increases in the minimum wage often also lift wages in the informal sector. This "has usually been attributed to the (...) 'lighthouse effect' whereby the minimum wage is seen as a benchmark wage for unskilled labor throughout the economy, including the informal sector where it is not binding". (Betcherman 2015: 133)



## 5. Future reviews and adjustments of the minimum wage system

The minimum wage rate for Myanmar was determined to be 3,600 Kyat per work day in June 2015. However, as the country's economy develops and transforms, it will become necessary to adjust the minimum wage rate, and possibly also the minimum wage system more generally, to be appropriate for the new economic and social conditions. Indeed, ILO Convention No. 131 on Minimum Wage Fixing stipulates that States which ratify the Convention<sup>24</sup> shall create and/or maintain machinery whereby minimum wages can be reviewed and adjusted from time to time. On the one hand, there is the risk that, if minimum wage rates are not adjusted sufficiently to keep pace with rising living costs, the purchasing power of workers' incomes will be eroded. On the other hand, a minimum wage rate that is too high in light of the country's economic and social situation is at greater risk of non-compliance. Accordingly, Myanmar's minimum wage law requires the minimum wage rate to be reviewed at least once every two years, and then reconfirmed or amended upon government approval.

On the way forward, it will, thus, be an important task for Myanmar policymakers to think about how such reviews and adjustments of Myanmar's minimum wage system could and should be done, and by whom. First of all, this implies reflecting on desirable and feasible institutional setups and governance mechanisms. Currently, Myanmar's minimum wage law puts the NMWC in charge of these reviews. However, its agreements and suggestions are not legally binding but have to be approved by the central government. That is, the ultimate decision-making power lies with the government, which, however, takes into account the NMWC's inputs. In other countries, there is actually a wide range of different setups (Dickens 2015, Randolph and Panknin 2015, Del Carpio and Pabon 2014, ILO 2014, Margolis 2014). In some countries, the social partners are not involved at all in the government's decision-making related to setting and adjusting minimum wages, while in others changes in minimum wage rates are entirely left to collective bargaining between employers' and employees' representatives. Moreover, some countries (e.g. Brazil) use automatic adjustment mechanisms (mostly in response to changes in price or living cost indices, and often based on a certain adjustment formula) with the objective to de-politicize the process (ILO 2014; Randolph and Panknin 2015). There are advantages and disadvantages to each of these approaches and they deserve additional study to find out what best suits the local circumstances.

For Myanmar, tripartite negotiations under the NMWC actually seem quite an appropriate setup which, at least for now, may be better than collective bargaining because Myanmar still does not have mature workers' and employers' associations and there is not yet a culture and tradition of collective bargaining. However, considering a shift towards giving greater importance to collective bargaining agreements as a vehicle for adjusting minimum wages may be something that the NMWC wants to put on the agenda for future reviews.

Anyway, in the current setup, it is crucial that policymakers are aware of the importance of the NMWC's composition. To ensure the NMWC's representativeness, acceptance and effectiveness, it is essential that no party is over-represented or dominating the process in practice. The issue of representation should, therefore, be regularly reviewed to see if the key representatives from all sides are involved and have enough voice; if needed, a re-balancing in the NMWC's composition should be undertaken. One question to address for policymakers in this context is whether the working of the NMWC could benefit from inviting more external technical experts (e.g. labor economists or other academics) for consultation during committee meetings. This might contribute to making decision-making processes less politicized and driven more by technical approaches

---

<sup>24</sup> Myanmar has not ratified this ILO Convention.

and considerations and by empirical evidence. In any case, it is also important that the NMWC holds regular meetings to allow stakeholders to exchange information and discuss relevant issues in a timely manner. There seems to be some room for improvement here: While NMWC meetings were held frequently until a decision was taken on the minimum wage rate in June 2015, no meeting was convened for a long time afterwards (mostly due to the change of government which involves a peculiarly long transition period in Myanmar). Finally, as mentioned, Myanmar's legislation requires the minimum wage rate to be reviewed at least once every two years. Policy makers could reflect about whether this is an appropriate frequency. In fact, there are other countries where legislation stipulates shorter intervals for such reviews, for example once every year (including in Indonesia, Korea, and Vietnam) or even half-yearly (e.g. in the Netherlands, Costa Rica and Nicaragua). There are also countries (e.g. Argentina) where the social partners may request the adjustment of minimum wages at any time. In any case, reviews and adjustments have to be sufficiently periodical to ensure that the minimum wage system remains in line with the socio-economic realities of the country.

Apart from the institutional setup, a second important question to be addressed by Myanmar policymakers relates to the choice of criteria to be used for adjusting the minimum wage. ILO Convention No. 131 refers to three broad groups of such criteria, including the needs of workers and their families, employers' capacity to pay, and other economic factors. In practice, countries across the globe look at various indicators and apply a spectrum of different criteria to determine if and by how much the going minimum wage rate is to be modified (ILO 2014; Dickens 2015; Del Carpio and Pabon 2014). The most frequently used criterion is the cost of living, with the aim of guaranteeing workers a certain purchasing power to allow them to cover their needs and those of their families. There are different approaches of how changes in the cost of living are measured: The legislation in some countries (including Indonesia and the Philippines) refers to the consumer price index (CPI). In other countries (e.g. Thailand), the legislation uses the (past or forecasted) inflation rate as relevant indicator. As mentioned, ILO Convention No. 131 also suggests economic factors be taken into consideration in determining the level of minimum wages. Productivity is one important criterion in this context, and is referred to in the legislation of many countries, including Thailand. One underlying reasoning is that changes in productivity will affect employers' capacity to pay. Moreover, adjusting minimum wage rates by using productivity indicators helps to ensure that workers receive a fair share of the fruits of economic growth. In practice, productivity indicators employed for minimum wage adjustments range from measures of labor productivity, GDP per capita or simply (forecasted) GDP growth rates. In a number of cases, broader considerations relating to the requirements of economic development also enter the equation. One such consideration refers to the desirability of attaining and maintaining high levels of employment. This concern is expressed in various forms in the legislation in several countries, for example New Zealand, the Philippines, the UK and Vietnam.

Overall, striking the right balance between meeting the objective of social protection (i.e. allowing workers and their families to meet their basic needs by guaranteeing them minimum wages) and taking into account economic factors is almost never an easy task. That's why a measured and careful approach, relying on studies and analyses, is required. Indeed, Myanmar's minimum wage law requires the NMWC to base its decisions on possible amendments of the minimum wage rate on thorough research and assessments of the changing conditions in the country. Looking at the approaches in other countries can serve as inspiration for Myanmar to further refine its own practices, if deemed necessary. In any case, these deliberations, once more, emphasize the importance of regular data collection so that the calculation of indicators used as criteria for minimum wage adjustments can be based on reliable information.

A third issue that Myanmar policymakers should consider is the scope of minimum wage reviews and amendments. Should such adjustments only affect the minimum wage rate or also the coverage and/or the



complexity of the minimum wage system more broadly? As mentioned above, there are some exemptions to the coverage of the minimum wage (for very small firms, newly hired workers, SEZs) – should these exemptions be reconsidered, or the list extended, in future reviews? Moreover, Myanmar currently has a uniform minimum wage that applies nationwide and across all sectors. Should future reviews allow for discussions about different minimum wage rates for different sectors and/or for the different states and regions? The minimum wage law, in fact, appears to hint towards this possibility, demanding that the research which the NMWC has to carry out (or commission) before suggesting amendments to the minimum wage rate is sensitive to differences between industries and regions. There are countries where minimum wage levels differ between sectors and/or regions. However, if such a differentiation – which, in principle, is allowed by the minimum wage law – is considered in Myanmar, it is important that it triggers a thorough discussion among stakeholders about the possible advantages and disadvantages.<sup>25</sup> That is, the potential benefits of such amendments should be weighed against their potential costs – which is, in fact, a rule that should be applied to any amendment more generally.

---

<sup>25</sup> Possible advantages of differentiated minimum wage rates include that they allow to take into account regional differences in living costs and regional / sectoral differences in productivity developments, and that they might serve as a means of attracting investment in underdeveloped regions. On the other hand, possible disadvantages are that they might contribute to cementing regional disparities, incentivize large internal migration flows, make the minimum wage regime more complex and harder to administrate and enforce, and that they may lead to non-compliance because of confusion among employers, workers and labor inspectors (Dickens 2015, Margolis 2014).

## 6. Conclusion

The success of a minimum wage policy, and its impacts, are partly contingent on the country's specific economic and social circumstances and labor market conditions but to a large degree they also depend on the management and execution of the policy. That is, the extent to which the minimum wage system is respected in practice and leads to the desired results can be significantly influenced by its design and implementation. Myanmar has taken a first step by installing its own minimum wage system. This CESD Working Paper highlighted three areas that will be important for Myanmar policymakers to address on the way forward in terms of policy implementation:

1. Effecting compliance with and, if needed, enforcing the minimum wage will be essential in order to, on the one hand, ensure that workers earn a minimum income that allows them to meet their own and their families' needs and, on the other hand, to avoid a situation where non-compliant companies derive a competitive advantage from paying wages below the minimum; and
2. Monitoring and measuring the impacts of the minimum wage policy will be crucial to quantify and better understand the effects it has on various stakeholders, and to gauge whether the minimum wage is set at an appropriate level where the resulting benefits outweigh the costs of the policy;
3. Regularly reviewing and adjusting the minimum wage system in the future will be vital to preserve its relevance by taking into account changes in the cost of living and wider economic conditions.

Efforts in these areas will require adequate government funding and probably also the upgrading of existing capacities. They would also benefit from improvements in the availability of reliable and sufficiently disaggregated data, collected through regular surveys, thereby facilitating evidence-based rather than politicized decision-making.

A minimum wage law is a powerful policy. It creates new labor market conditions and stakeholders are required to adapt to them. Some might struggle to do so. The government, thus, may also want to think about what complementary policies it could adopt to support a smooth implementation of the minimum wage. This could involve thinking about measures to reduce the costs of doing business, to promote skills development (e.g. through improving the quality and supply of public education and training), to increase labor productivity (e.g. by promoting both private and public vocational and technical training initiatives), or to support improvements in industrial relations. More generally, it will be important to embed the implementation of the minimum wage policy in broader reform initiatives, coordinating and attuning it not only with other labor market policies (e.g. related to the Social Security Law or the Employment and Skill Development Law) but also with policy efforts in other areas such as the National Export Strategy or educational reform.

Sometimes it is useful to look abroad for inspiration and ideas on good practices. This working paper, therefore, pointed to approaches, mechanisms and practices in other countries. Not all of them will be applicable or relevant for the context of Myanmar but, in some cases, there is an opportunity to learn from the experience of other countries. Many of them have faced questions similar to the ones Myanmar is facing now.

This working paper presented a number of important questions related to the implementation of Myanmar's minimum wage law that policymakers will face on the way ahead. Addressing these issues and preparing to tackle them will help Myanmar policymakers ensure that the minimum wage is an effective policy tool on the country's journey towards a future with inclusive economic growth and shared prosperity.

## 7. References

- ALR (Action Labor Rights) (2016): “Under Pressure. A Study of Labour Conditions in Garment Factories in Myanmar which are wholly Korean owned or in a Joint Venture with Korean Companies”, Yangon: ALR.
- Andalón, M. and C. Pagés (2009): “Minimum Wages in Kenya”, in: Kanbur, R. and J. Svejnar (eds.): *Labor Markets and Economic Development*, Abingdon: Routledge.
- Basu, A.K., Chau, N.H. and R. Kanbur (2010): “Turning a Blind Eye: Costly Enforcement, Credible Commitment and Minimum Wage Law”, *The Economic Journal*, Vol. 120, Issue 543, pp. 244–269.
- Benassi, C. (2011): “The implementation of minimum wage: challenges and creative solutions”, *Global Labour University working papers* No.12, Geneva: ILO.
- Bernhardt, T., S Kanay De and M. W. Thida (2016): “Myanmar labor issues from the perspective of enterprises: Findings from a survey among food and garment manufacturers”, Myanmar Centre for Economic and Social Development (CESD) *Labor Market Reform Working Paper* No. 2.
- Betcherman, G. (2015): “Labor Market Regulations: What do we know about their Impacts in Developing Countries?”, *World Bank Research Observer* Vol. 30, Issue 1, pp. 124-153.
- Betcherman, G. (2014): “Designing labor market regulations in developing countries”, *IZA World of Labor* 2014: 57.
- Bhorat, H. (2014): “Compliance with minimum wage laws in developing countries”, *IZA World of Labor* 2014: 80.
- Bhorat, H., Kanbur, R. and B. Stanwix (2015): “Partial minimum wage compliance”, *IZA Journal of Labor & Development*, Vol. 4, Issue 18.
- Bhorat, H., Kanbur, R. and N. Mayet (2013): “A note on measuring the depth of minimum wage violation”, *Labour: Review of Labor Economics and Industrial Relations* Vol. 27, Issue 2, pp. 192–197.
- Del Carpio, X. and L. Pabon (2014): “Minimum Wage Policy: Lessons with a Focus on the ASEAN Region”, Washington DC: World Bank.
- Dickens, R. (2015): “How are minimum wages set?”, *IZA World of Labor* 2015: 211.
- DoP (Department of Population) (2016): “The 2014 Myanmar Population and Housing Census - The Union Report: Occupation and Industry”, Census Report Volume 2-B, Nay Pyi Taw: Department of Population, Ministry of Immigration and Population.
- Gindling, T.H. (2014): “Does increasing the minimum wage reduce poverty in developing countries?”, *IZA World of Labor* 2014: 30.
- Gindling, T.H., Mossaad, N. and J.D. Trejos (2015): “The Consequences of Increased Enforcement of Legal Minimum Wages in a Developing Country: An Evaluation of the Impact of the Campaña Nacional de Salarios Mínimos in Costa Rica”, *Industrial and Labor Relations Review*, Vol. 68, No. 3, pp. 666-707.
- Government of the Republic of the Union of Myanmar (2013); *The Minimum Wage Law*, 2013 (The Pyidaungsu Hluttaw Law No. 7/2013), The 11th Waxing Day of 1374 M.E. (22nd March, 2013). Nay Pyi Taw.

- ILO (International Labor Organization) (2014): “Minimum Wage Systems”, *International Labour Conference*, 103rd Session, 2014, Geneva: ILO.
- ILO (2006): “Strategies and practice for labour inspection”, Committee on Employment and Social Policy, *Governing Body document* GB.297/ESP/3, November 2006, Geneva: ILO.
- Kanbur, R. and L. Ronconi (2016): “Enforcement Matters: The Effective Regulation of Labor”, *CEPR Discussion Paper* No. 11098.
- Kanbur, R., Ronconi, L. and L. Wedenoja (2013): “Labour law violations in Chile”, *International Labour Review*, Vol. 152, Issue 3-4, pp. 431–444.
- Leckcivilize, A. (2015): “Does the minimum wage reduce wage inequality? Evidence from Thailand”, *IZA Journal of Labor & Development*, Vol. 4, Issue 21.
- Lemos, S. (2009): “Minimum Wage Effects in a Developing Country”, *Labour Economics*, Vol. 16, Issue 2, pp. 224-237.
- Magruder, J. (2013): “Can minimum wages cause a big push? Evidence from Indonesia”, *Journal of Development Economics*, Vol. 100, Issue 1, pp. 48-62.
- Maloney, W. and J. Nuñez Mendez (2004): “Measuring the Impact of Minimum Wages: Evidence from Latin America”, Chicago: Chicago University Press.
- Margolis, D. N. (2014): “Introducing a statutory minimum wage in middle and low income countries”, *IZA World of Labor* 2014: 52.
- Neumark, D. (2014): “Employment effects of minimum wages”, *IZA World of Labor* 2014: 6.
- Neumark, D. and W. Wascher (2008): “Minimum Wages”, Cambridge: MIT Press.
- Oxfam (2015): “Made in Myanmar. Entrenched poverty or decent jobs for garment workers?”, *Oxfam Briefing Paper* No. 209.
- Park, J. (2014): “Labour Laws in Myanmar”, Asian Labour Update No. 83; Hong Kong: *Asia Monitor Resource Centre*.
- Piore, M., and A. Schrank (2008): “Toward managed flexibility: The revival of labor inspection in the Latin World”, *International Labor Review* Vol. 147, Issue 1, pp. 1–23.
- Randolph, G. and K. Panknin (eds.) (2015): “Global Wage Debates. Politics or Economics?”, New Delhi and Washington DC: JustJobs Network.
- Rani, U., Belser, P., Oelz, M., and S. Ranjbar (2013): “Minimum wage coverage and compliance in developing countries”, *International Labour Review*, Vol. 152, Issue 3–4, pp. 381–410.
- Ronconi, L. (2012): “Globalization, Domestic Institutions, and Enforcement of Labor Law: Evidence from Latin America”, *Industrial Relations: A Journal of Economy and Society*, Vol. 51, Issue 1, pp. 89-105.
- Ronconi, L. (2010): “Enforcement and Compliance with Labor Regulations in Argentina”, *Industrial and Labor Relations Review*, Vol. 63, Issue 4, pp. 719-736.

- Soans, A. and M. Abe (2015): “Myanmar Business Survey. Data Analysis and Policy Implications”, Bangkok: UNESCAP and Mekong Institute.
- Skidmore, P. (1999): “Enforcing the Minimum Wage”, *Journal of Law and Society*, Vol. 26, No. 4, pp. 427-448.
- Than Win (2012): “The New Legal Framework (Labour Organization Law, Industrial Dispute Settlement and Collective Bargaining)”, PowerPoint presentation, Department of Labour Relations, Ministry of Labor, available from [www.mol.gov.mm/mm/wp-content/plugins/download-monitor/download.php?id=53](http://www.mol.gov.mm/mm/wp-content/plugins/download-monitor/download.php?id=53) (retrieved on 19 January 2016).
- UNDP (United Nations Development Programme) (2011): “Integrated Household Living Conditions Survey in Myanmar (2009-2010) - Poverty Profile”, Yangon: UNDP Myanmar.
- US Department of Labor (2015a): “Findings on the Worst Forms of Child Labor – Cambodia”, 30 September 2015, Washington DC: US Department of Labor’s Bureau of International Labor Affairs.
- US Department of Labor (2015b): “Findings on the Worst Forms of Child Labor – Thailand”, 30 September 2015, Washington DC: US Department of Labor’s Bureau of International Labor Affairs.
- US Department of State (2016): “2015 Country Reports on Human Rights Practices – Laos”, 13 April 2015, Washington DC: US Department of State’s Bureau of Democracy, Human Rights, and Labor.
- US Department of State (2015): “2014 Country Reports on Human Rights Practices – Vietnam”, 25 June 2015, Washington DC: US Department of State’s Bureau of Democracy, Human Rights, and Labor.
- Wang, J. and M. Gunderson (2012): “Minimum Wage Effects on Employment and Wages: Dif in Dif estimates from Eastern China”, *International Journal of Manpower*, Vol. 33, Issue 8, pp. 860-876.
- World Bank (2014): “Myanmar: Ending poverty and boosting shared prosperity in a time of transition. A systematic country diagnostic”, Yangon: World Bank Office Yangon.







The Centre for Economic and Social Development is Myanmar's leading think tank supporting evidence-based policy making.

The Centre undertakes participatory policy research studies related to economic reform, poverty-reduction, sustainable development, and good governance in Myanmar. It also provides training and education services for key institutions and organizations contributing to the ongoing process of reform in Myanmar.



**Centre for Economic and Social Development**

No.(27), Pyay Road, 6 ½ Mile, Hlaing Township, Yangon,  
Myanmar.

[www.myanmarcesd.org](http://www.myanmarcesd.org)

T : (+95-1) 654768 ~ 70

F : (+95-1) 654771

E : [myanmarcesd@gmail.com](mailto:myanmarcesd@gmail.com)

Financial support by :



International Development Research Centre  
Centre de recherches pour le développement international

Canada 