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Lessons from the
Bangladesh and Myanmar
garment sectors on
working conditions

The project 'Clothes, Chocolate and Children: Realising the Transparency Dividend', led by University of Liverpool in partnership with Focus on Labour Exploitation (FLEX) and funded by the British Academy with the Department for International Development, assessed how transparency in supply chains for chocolate and clothes can help to protect human rights, including children's rights, and the wellbeing of workers in low and middle-income countries.

This briefing examines the findings from research into the garment sector in Myanmar and Bangladesh which represent established and emerging sources of production, to provide key policy recommendations for businesses and governments.

When considering the impact of the UK Modern Slavery Act 2015's Section 54 requirement for large companies to report on steps taken to tackle modern slavery in their supply chains, it is essential to understand labour exploitation in the context of a continuum from decent work, through poor working conditions and labour abuses, to forced labour and slavery. Labour abuses are breaches of national or international labour law (e.g. failure to pay minimum wage, unpaid overtime, unfair dismissal) that do not prima facie constitute labour exploitation. However, particularly serious labour abuses or an accumulation of labour abuses may be severe enough to constitute labour exploitation, or may create the conditions in which labour exploitation occurs. Transparency reporting thus requires a full review of how businesses are faring in preventing labour abuses across the 'abuse to exploitation' continuum.

This project, rather than looking solely for victims of the crimes of modern slavery, therefore assesses the treatment of workers in supply chains more broadly, the risks of exploitation that exist and the mechanisms for preventing exploitation available.

Key Findings and Recommendations

The findings from Myanmar and Bangladesh paint a picture of a work environment characterised by overwork, under-payment, insults and abuse and a lack of responsible engagement by buyers. This is within a context of a failure to implement labour laws and hostility towards worker organising, for example through trade unions. It is evident that, without addressing these two factors, problematic working conditions will not be resolved in a sustainable, long-term way. Despite high-profile 'anti-slavery' activities carried out by major brands in their supply chains, there is limited reference to the enhancement and responsible enforcement of local labour laws as part of this work. The UK government has a pivotal role to play in focusing overseas development work on supporting efforts to ensure the coverage and enforcement of labour law.



Key issues identified in the research

Labour laws are not being properly enforced

Labour laws are described as not being enforced in practice in both Bangladesh and Myanmar and many respondents described wanting laws to be implemented properly. For example, one respondent in Bangladesh noted that "workers' rights and protection are mostly guaranteed under Bangladesh Labour Act 2006 and Bangladesh Labour Rules 2015. However, in practice, rights and protection guaranteed under these laws are frequently violated." This is echoed in Myanmar: "some laws are only on paper and employers are not punished if they violate [them]" and "no factory follows the existing labour law, much less international standards."

Much of the focus on corporate transparency and responsibility measures has been on the role of businesses in effecting positive change in working conditions. However, these findings suggest more focus needs to be placed on in-country labour laws and how these are or are not being implemented and enforced. This would also demonstrate recognition that labour exploitation, including forced labour, does not occur in a vacuum but is a product of systemic factors; therefore, addressing general labour protections will support a fairer labour market overall and help to protect workers from exploitation on a long-term basis.

In Myanmar, the failure to observe labour law is described as problematic in two directions - both with employers not abiding by labour law and also with workers who are not following regulations relating to industrial action:

"The labour law is very young and because there is not much institutional capacity to support workers or employers to work within the barriers of the law – you've seen a lot of protests and a lot of strikes and for many suppliers they say – this is not what the law says. There are definitely cases where workers are breaking the law or their employment contract in terms of strikes. They are right, equally suppliers are not following the law in terms of how workers are dismissed or honouring arbitration councils' decisions. So both sides can point to examples of not following the law."

¹ Quote from an interview with a Bangladeshi respondent.

² This research project ran from November 2017 – March 2019. The full research report is available at: <https://www.liverpool.ac.uk/politics/research/research-projects/ccf/>
The research team were: Alex Balch, Jennifer Johns, Leona Vaughn, Samantha Currie, Helen Stalford, and Caroline Robinson



Hostility towards worker organising hampers attempts to improve conditions

Workers described some positive experiences of trade unions achieving improvement in policies and practices. For example, in Bangladesh one respondent noted that in unionised factories, termination benefits are paid whereas in non-unionised factories they are not. Another described successfully altering the point within the month when workers receive payment due to union activism.

Despite positive examples of union action, respondents across both contexts described hostility towards unionisation. In Bangladesh, a respondent stated that “when the workers complain about the abuse, they are terminated” and another noted that “if anyone participates in any workers’ demonstration, our supervisor warns us not to get involved in union activities.” Structural constraints to unionising are also present, as described by this respondent in Myanmar: “At the moment to set up a trade union in a factory, workers need the owner’s permission, and 10% of workers’ signatures have to be collected recommending the union. It is very difficult to get that.”

Workers are underpaid and overworked

Extremely long working hours are described in both contexts. In Bangladesh, the government is described as allowing workers to work up to 72 hours per week which is in violation of International Labour Organisation (ILO) standards. Workers described a lack of limits on overtime and the inability to refuse overtime, with one reporting that if a worker does refuse overtime, they “will not receive benefits and will not be promoted” (Myanmar) and another stating “that I can say no one or two days in a month. But if I say it repeatedly, they will fire me from job” (Bangladesh).

Equally many workers also report needing to work overtime because their pay is too low to cover basic living costs. Thus, in Bangladesh, one worker states that they work overtime “because, the salary we draw is not sufficient to avail my regular needs. So if we can add more money to our salary, it is good for us. That’s why I work overtime. I feel tired, but I have nothing else to do.” This is echoed by workers in Myanmar: “my salary is not sufficient to meet all daily needs. I can earn extra money working overtime.”

Workers also report not having contracts or payslips and some describe themselves as illiterate. This suggests a knowledge gap and a high degree of informality in what is expected of workers, placing power in hands of managers and leaving workers at risk of abuse or exploitation. The family and children of workers also experience negative impacts on their quality of life.

Absence of appropriate sickness policy and procedures

Absenteeism due to sickness is penalised financially and is treated as problematic by management. In both contexts, workers described not being able to leave work when unwell or even when a doctor had prescribed rest:

“We have no medical leave. We have to work till 5pm even if we have high fever. If we suffer from diarrhea, our bosses usually rebuke us that what sort of food we eat which causes diarrhea. If anybody remains absent due to sickness, authority withholds salary for few days as a punishment.” (Myanmar)

“A five-month pregnant worker, few days ago, fell ill. Her leg was swelled up. Then we took her to a doctor. The doctor prescribe her to take rest. But our management didn’t let her go home.” (Bangladesh)

³ International Labour Organisation. ‘International Labour Standards on Working Time.’ <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/working-time/lang-en/index.htm>

Factory workers experience insults and abuse at work, some of which is gender-base

High rates of insulting language and some physical abuse are described in the garment sectors of both Myanmar and Bangladesh. In Myanmar, a worker reported this being consequential on failing to meet targets: "I get being shouted and swear at because I don't meet the target productivity... they sometimes call or compare us with animals."

Insults at work also frequently take on a gendered/sexualized tone, with women in both contexts describing being called prostitutes or asked whether they are in the sex industry: "there are many reports [by female workers] of bullying and harassment by floor level management. Often they want women to give them sex for money."

Pregnancy discrimination

Gender-based discrimination is not only present in work place interactions; maternity discrimination was also reported in both contexts. This may involve: termination upon notification of pregnancy; attempts to prohibit workers becoming pregnant; and failure to observe legal requirements regarding maternity rights.

"There are lots of problems in non-unionised factories. They try to fire pregnant women. Production managers sometimes refuse to sign resignation letters (don't want to pay termination fees) but it doesn't happen that often. Factories are trying to keep good workers. Often women hid their pregnancy for as long as possible." (Bangladesh)

[when asked about whether allowed to get pregnant]
"Certainly there is an impediment. My office will not allow it. Our GM [General Manager] has made a new law that office will not pay the workers for maternity leave. Even I had to fight for my payment of my maternity leave." (Myanmar)

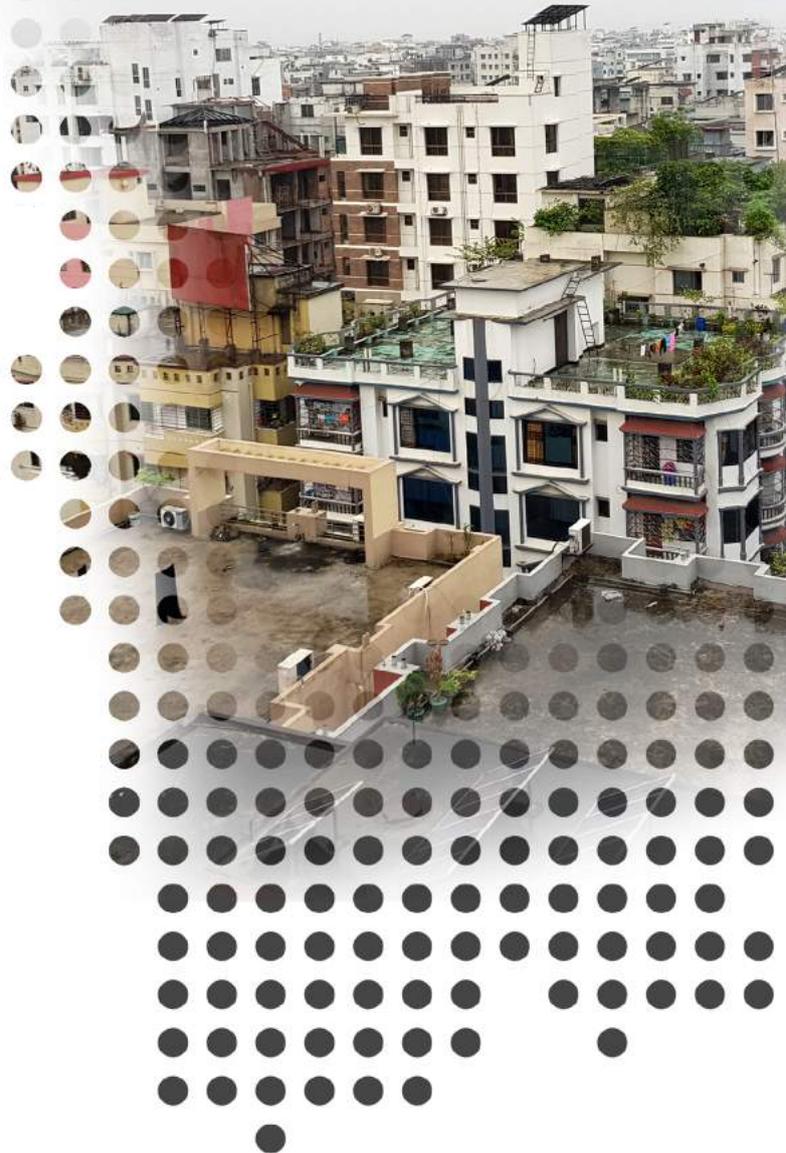
In Bangladesh, employers were described as clearly circumventing the law: Bangladesh law says that after six months of continuous service you are entitled to maternity benefits. To circumvent this, employers are asking women workers not to become pregnant within two years of service. Pregnancy testing at recruitment and randomly during employment has been reported in Myanmar.

Employers are taking steps to circumvent minimum wage laws

The introduction of legal minimum wage rates is widely regarded as a positive step in ensuring worker's livelihoods needs are met, depending on the rates set. However, both contexts reported loopholes for younger workers, and employers off-setting minimum wage increases by raising production targets or reducing other benefits. In addition, production targets are negotiated without the presence of workers or workers' representatives.

Another thing is after the change in the minimum wage several months ago – after that they increased the targets projected in order to compensate. These targets should be negotiated with employees' representatives but this never happens and is imposed. (Bangladesh)

I have to work more, the factory increase the target, they tell me off if I can't meet the target. (Myanmar)



Buyers are focused on price and product, not working conditions

The role of the buyer is seen as problematic: it is focused on profit and on product quality without due attention paid to the wages and conditions of the workforce. This is described by respondents thus: "the buyers aren't interested in the salary and benefits of the workers, only profit for the company" (Bangladesh) and "as far as I know, when the audit comes from the buyers they only come to look at the quality of the product they normally don't go to talk with the workers" (Myanmar).

When buyers, or auditors contracted by them, do speak with workers or provide trainings to them, respondents report workers being cherry-picked to present a rose-tinted view of the factory. This is described in Myanmar as auditors speaking "to the Workplace Coordinating Committee – composed of workers and employers – but this will not tell you anything" and "sometimes brands come to give trainings. Factory owners send their men but not the real supervisors or workers." It is therefore impossible to be certain that child labour is not present as they are normally hidden or removed during inspections.

Basic needs are not being met

Stakeholders from Myanmar and Bangladesh described some factories having a lack of drinking water for workers, unclean toilets with no hand soap and also reported toilet breaks being strictly monitored to minimise time away from working activities.

In Bangladesh, there is uncertainty over the role and activities of the Industrial Police

The Industrial Police (IP) in Bangladesh were established in October 2010 in response to a period of worker activism. There is uncertainty of the role and interests of the IP which may present a missed opportunity for resolving disputes between workers and factory owners and upholding labour laws.

Some interviewees reported viewing the IP as co-opted by employers, for example stating that they “are there to protect the property and owners” or that they are perceived as “batons of the entrepreneurs.” Others noted that there is nuance in their role: “they are not like the other police and do receive some training. They are reaching out to large trade unions to help train them and give guidance on labour rights.”

In Myanmar, buyers need to align with labour law on age thresholds

In Myanmar numerous respondents noted that buyers will only pay people aged over 18 but this contradicts Myanmar law which has 16 as the working age. School leaving age was reported as 14 and legislation as stating that 14 to 16 year olds should not undertake “dangerous work and should only work four hours a day”. This puts brand requirements in direct conflict with national legislation and may push impoverished families to seek false documentation.



Recommendations

For the government of the United Kingdom

- The UK government should ensure the Department for International Development funding and aid is being used in a strategic and sustainable manner to support freedom of association activities and workers' rights groups.
- More attention should be paid to how market forces can work with, and shape, national legislation and regulation, rather than acting as an outside and separate force. For example, this would mean brands working with UK government to ensure overseas development and trade policies advocate for, and implement, best practice in terms of workers' protections and freedom of association.

For the governments of both Bangladesh and Myanmar

- Governments must adequately resource labour inspection in line with the International Labour Organisation's (ILO) recommended ratio for the type of economy in question.
- Governments should ensure social security is implemented and healthcare is available free at the point of use for all workers, including migrant workers.
- Governments should set a maximum working week in accordance with ILO standards.
- Governments should stipulate that employers may not offset minimum wage increases via increased productivity targets, compulsory overtime or reduced benefits, and undertake enforcement activity to that effect.
- Governments should undertake an investigative review to understand the extent to which maternity provisions are being violated and identify key steps for improvement.
- Governments must ensure basic hygiene standards are met in all workplaces and workers have access to potable water.
- Governments should prohibit the termination of contracts because of workers' complaints.
- Governments should lower the requirements for forming a union, reducing unnecessary procedures and unreasonably high thresholds.

For the government of Bangladesh only

- The Bangladesh government should undertake a review of the Industrial Police to assess the extent to which they are independent of employers in practice and how the nature of this relationship may be impacting relations with workers.

For the government of Myanmar only

- The Myanmar government should ratify ILO Convention 98: Right to Organise and Collective Bargaining Convention.
- National labour laws and corporate expectations should be aligned with the best interests of children as the focal point. In Myanmar, this may mean lowering the age for workers which brands will accept to sixteen.

For brands

Supporting decent work

- Brands must turn their focus and resources towards supporting the coverage and enforcement of labour laws as a long-term solution to exploitation and abuse.
- Brands should consider hiring on-site local social managers to oversee workplace conditions and provide continuous real-time reports in consultation with workers and independent of management.
- Audits undertaken or commissioned by brands must randomly sample workers for interview, rather than interviewing those presented to them by management.

Unionisation

- Brands should communicate their support of unionisation to suppliers and use supplier contracts, codes of conduct and auditing to prohibit and prevent management from using threats to prevent workers forming or joining a trade union.
- Brands should undertake mapping of their supply chain to understand where independent unions are present and where they are missing. They should use this analysis to guide engagement in support of genuine worker representation.

Labour practices

- Brands should ensure overtime is genuinely freely chosen as part of their worker-centred auditing.
- Brands should ensure workers are able to access sickness absence and maternity benefits fairly as part of their supplier codes of conduct and worker-centred audits.
- A mechanism should be established and available within all workplaces to consider complaints of gender discrimination, sexual harassment and abuse in the workplace and findings should be shared with brands to enable the latter to assess working conditions and supplier practices. Mechanisms should be independent of management, provided by entities such as unions, independent worker committees or independent non-governmental organisations.
- Brands should require suppliers to provide a notice period for all workers regardless of contract type.
- Brands should require access to potable water and provision of basic hygiene standards within all contracts and codes for suppliers and should include consideration of these factors in worker-centred auditing.

Commercial practices

- Brands should review purchasing practices to ensure that orders are not being made or changed with such short notice that it will necessitate obligatory overtime for workers. Where this is part of the brand's core business model, this must change in order to have a responsibly managed supply chain.
- Brands should price local living wage rates or the local statutory minimum wage rate into contracts, whichever is higher. They should undertake worker-centred audits to ensure these rates are being received by workers for core hours.



Clothes,
Chocolate &
Children

realising the transparency dividend

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