Hanns Seidel Foundation

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MRTI
Myanmar Responsible Tourism Institute

RESPONSIBLE TOURISM AND HUMAN RIGHTS IN MYANMAR
GUIDELINE FOR HOTELIERS

Publisher

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Preface

This booklet was designed to support you to understand the meaning of adapting Human Rights principals into your daily business. It provides information on central aspects of responsible tourism as well as human rights and how they are connected with each other. In addition, examples of possible real life situations are given, including recommendations on how to deal with them. This booklet uses the scenarios of hotels and the hospitality sector.

The Myanmar Government has made a commitment to promote responsible tourism. This is reflected in the 2013 Tourism Master Plan, as well as in the Responsible Tourism Policy (2012) and the Policy on Community Involvement in Tourism (2013).

Turning these policy commitments into reality is now the challenge. This means dealing with the inevitable tensions that arise from competing interests and priorities, as well as with the lack of capacity and understanding of what 'responsible tourism' entails at a local level.

In 2015, the Myanmar Centre for Responsible Business and the Hanns Seidel Foundation organized a Multi-Stakeholder Workshop on Human Rights and Tourism. Conference participants were asked to identify their greatest concerns about the development of tourism in Myanmar. The issue at the top of the list was lack of local participation in planning at tourism destinations. Other central concerns were waste and water management, tourism's impact on children, human resource management and the cooperation with the local community. As a follow up to this conference, further workshops have been planned.

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1. Responsible Tourism in Myanmar

Imagine that tourism in Myanmar…

- Takes care of our unique and fragile natural environment.
- Does not harm children, women or communities.
- Allows the people of Myanmar to earn an income for their families, as owners of tourism businesses, employees of tourism companies, or selling products and services to the tourism industry.
- Offers every Myanmar person an equal opportunity to be a part of the tourism industry.
- Helps to protect and showcase our unique cultural heritage.
- Provides the people of Myanmar with a say in how tourism affects their lives and opportunities.
- Provides opportunities for tourists to interact with locals, encourages visiting our favourite places, and learning more about who we are, what makes us special, and what concerns us.
- Is accessible to people with disabilities, respects everyone's culture, and helps us celebrate our individuality.

(The City of Cape Town: Responsible Tourism Policy, adapted)

In short: tourism is organized in a responsible way, which maximizes the benefits for society, economy and nature while minimizing negative impacts. This way, responsible tourism can empower local communities, create livelihoods and support environmental sustainability.

Why Responsible Tourism?

There are several reasons why the implementation of responsible tourism practices can help your business:

- Risk detection and prevention: Minimizing and mitigating risks earlier will benefit the local community, the environment and your business.
- Cost saving: Hotel operators who can maximize their efficiency and reduce waste will be more cost-efficient than their competitors.
- Loyalty, motivation and support: Hotels operating in a responsible way gain customer loyalty, can motivate employees and get the support of their neighboring communities more easily.
- Competitive advantage: These – for the most part – voluntary activities are likely to become baseline requirements in the future. Implementing these practices today will give you a competitive advantage and lead to a good image.
- Apart from all these factors, responsible tourism is simply the right thing to do. As a person managing a hotel, you have the chance and responsibility to ensure dignity and fair and equitable treatment for staff, customers, suppliers and communities.

Responsible Tourism and Human Rights

Responsible tourism and human rights are closely linked. They are connected to everything you do: from the way your staff and guests are treated, the kind of working conditions you provide, how goods and services for the hotel are produced, how the local communities are involved and the way you manage the hotel.

> Info Box 1: What are human rights?
> Every person is entitled to certain fundamental rights, simply by the fact of being human. These are called "human rights", with the aim to secure dignity, freedom and equality for all people. Human rights ensure the protection of individuals or groups against more powerful people or institutions who might want to do harm.
> Myanmar voted in favour of the United Nation's Universal Declaration of Human Rights (UDHR) in December 1948. The Declaration consists of 30 articles, which define fundamental human rights, like the right to life, the right to liberty and security or the right to freedom of opinions, information and expression.
> Complete Universal Declaration of Human Rights: see: 4. References.

As a person managing a hotel, you can make a major contribution to protect human rights and support responsible tourism. This can be achieved when actual and potential impacts in your core business are identified and steps to address them are taken. Looking after staff and the local communities in your neighborhood is fundamental. If you can demonstrate how you do that, you can also help convey a sense of place to guests.

The following pages will discuss five central aspects of responsible tourism and human rights for hoteliers in Myanmar. Examples of possible issues will be given, as well as possible ways of how to deal with these.

2. Examples of Responsible Tourism and Human Rights for Hoteliers

2.1. Local Participation in Tourism Planning and Access to Land

> Article 19, Universal Declaration of Human Rights
> "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers"

Each time you make a management decision as a hotelier, impacts on the local community are possible. If you, for example, decide to expand the business, it is highly likely you will need more resources such as land and water.
The consultation of communities in the decision making process is a strong tool for local participation. Therefore, if you discuss current issues with the community, you may get their approval and achieve an ongoing exchange of information.

The situation in Myanmar

- The Constitution of the Republic of the Union of Myanmar (2008) guarantees everyone the right to speak and the rights to freedom of expression, peaceful assembly and association. Nevertheless, the peace and tranquility of the community must not be disturbed while acting according to these rights.
- The Myanmar Tourism Master Plan (2013) and the Policy on Community Involvement in Tourism (2013) support community participation and consultation in the tourism process.

What can you do?

- Consult communities in meaningful ways in advance, especially if you plan anything that could affect their way of life. For example: planning a new hotel project, expanding your hotel or offering new daily tours to your guests.
- Discuss the preservation of nature and environmental impacts with the community. Many ethnic groups are attached to their land in a spiritual or traditional way.
- Support local culture. Give local culture essential part and value in your daily business.
- Support Free Prior and Informed Consent (FPIC), since the community has the right to self-determination, not only, but especially, in indigenous areas.

Access to land and relocation of communities

> Article 17, Universal Declaration of Human Rights
> "Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property"

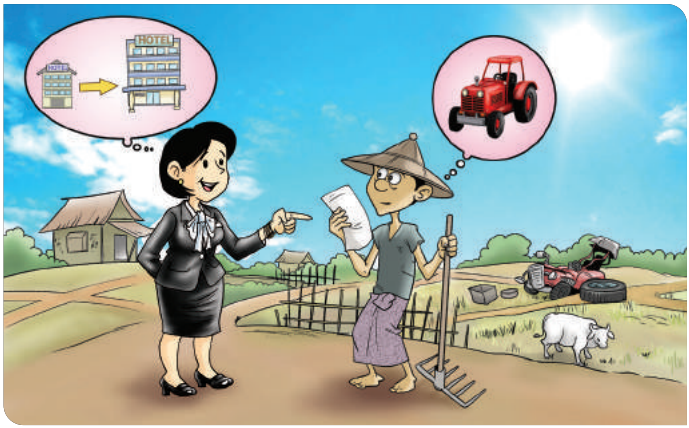
In Myanmar, land is a particularly sensitive topic. Whenever you plan to lease or buy a piece of land, certain aspects should be considered. Keep in mind, that land is the most significant asset of rural families. These families are depended on access to land for their livelihoods.

The situation in Myanmar

- According to the Constitution of the Republic of the Union of Myanmar (2008) the government is the ultimate owner of all land in Myanmar. Ownership and private land property rights are protected by the state.
- The Land Acquisition Act (1894) enables the government to acquire land for companies, without contacting the owner directly. This is possible as long as it is likely to be useful to the public, disclosed in the National Gazette and notice given to the public. At the same time, the government is responsible for a fair monetary compensation, paid for by the buyer.
- According to the Transfer of the Immovable Property Law (1987), foreign investors can only lease land, whereas a Myanmar investor can acquire land or land use rights.

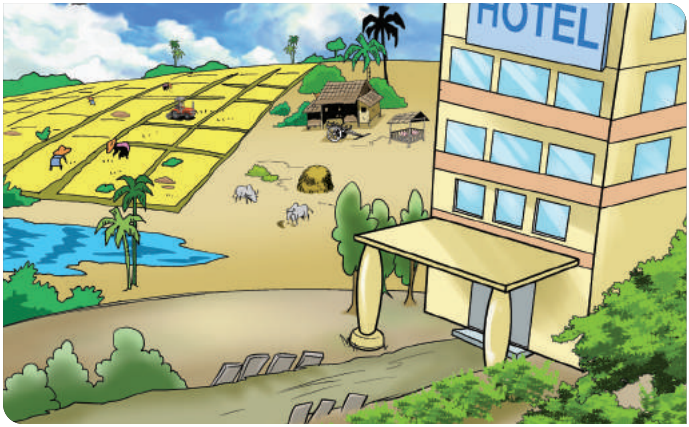
What can you do?

- Whenever you acquire land (from local people), consult the owner first – whether it is a single person or a community.
- Consult owners beforehand to understand what value is connected with the plot of land.
- Ensure that the land owner or lessor is paid an adequate monetary compensation.
- Confirm, that access to public spaces are still ensured for all.
- See Info Box 2: Ownership and land acquisition
- Abide the law and given frameworks.



Info Box 2: Ownership and Land Acquisition

- Consultation prior to land acquisition
  - Who are the former and current owners?
  - Do local residents have to be resettled?
  - What kind of advantages could be created for the owner apart from payment?
- Due process in land acquisition
  - Who has to be included into the decision-making and plans?
  - Who could be affected by your acquisition apart from the owner?
- Compensation for land acquisition and use
  - Can you ensure of adequate and fair compensation, or another piece of land, for physical and economic displacement and loss of livelihood is paid?



2.2. Waste and Water Management

Article 25, Universal Declaration of Human Rights
"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family", including the right to safe drinking water and sanitation.

The major goal of waste and water management is to identify and minimize the hotel's impacts on the environment. If waste or sewage water is not reduced or recycled in a proper way, it contributes to the destination's environmental problems. The same goes for the amount of energy or water used. Suitable water and waste management can prevent negative impacts on the livelihoods of the community, as well as on the guest's experience.

The situation in Myanmar

- The pollution of lakes and rivers, especially by sewage and littering in tourism destinations is a serious problem.
- According to the Environmental Conservation Law (2012) and the Environmental Conservation Rules (2014) prior permissions are needed for certain business activities that result in negative impact on the environment. These permissions affect tourism as well.

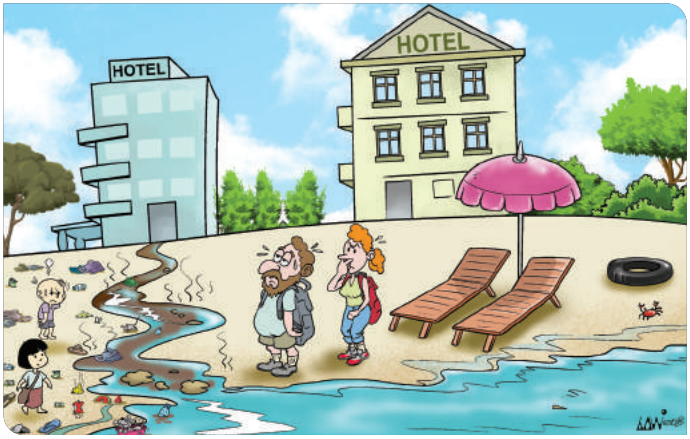
Waste

Waste management in hotels addresses several topics, like waste in general, but also waste water (produced for example in guest rooms, facilities, kitchens) or food waste (produced in kitchen). Approximately 30 % of waste in hotels could be reduced through reuse and recycling programs and there are many opportunities to act.

What can you do?

- What types (paper, plastic, glass, metal…) and how much waste is produced?
- Why and where is it generated (guest room, facilities for guests, office, kitchen, restaurant, purchase etc.)?
- What happens with it after being generated?

As soon as you are able to answer these questions, you can identify opportunities to reduce, reuse and recycle (see: Info Box 3). Encourage your guests and employees to use waste bins outside of the hotel and help to act as a good example for the community as a whole.



Info Box 3: Reduce, Re-use, Recycle

- Reduce
  - Encourage your guests to reduce the amount of water and energy used by setting up signs in guest rooms
  - Use refillable shampoo and body wash soap dispensers in the guest rooms and facilities
  - Reduce the number of plastic bottles by offering bigger bottles of water and glasses or water dispenser and glasses
  - Buy products with the least distribution packaging and in bigger bulk to reduce the amount of waste due to packaging
  - Present items on buffets in smaller containers and refill when required
  - Instead of paper place mats, paper doilies and cocktail napkins, use cloth placemats and permanent coasters
  - Return laundered clothes in reusable garment bags instead of single-use plastic bags for each piece
- Re-use
  - Encourage your guests to use towels for more than one day
  - Offer re-useable bottles (e.g. made out of glass)
  - Reuse paper that has been printed only on one side
  - Reuse old linen, towels and robes e.g. as cleaning cloths
  - If possible, rent items and equipment that are rarely used, instead of buying them
- Recycle
  - Provide recycling bins for separate collection of plastic, glass and metal
  - Recycled goods can be turned into craft items.

Water and Energy Usage

Hotels consume huge amount of resources, including water and energy. Always keep in mind that both local communities and tourists require a clean and dependable supply of water.

- Monitor the water consumption of your hotel. Address your guests directly to ensure that water is not wasted: Remind guests and employees to use water in a respectful and environmentally friendly way.
- The excessive use of energy can be expensive and resource intensive.
  Remind your guests and staff to turn off the lights and air-conditioning when leaving the room, install energy-efficient technologies. If possible, think about using renewable energies sources for at least some parts of your hotel.

2.3. Tourism's Impact on Children

> Article 6, Convention on the Rights of the Child
> "Children have the right to live a full life. Governments should ensure that children survive and develop healthily"
>
> Article 36, Convention on the Rights of the Child
> "Children should be protected from any activities that could harm their development"

Children are more vulnerable than adults to impacts from tourism. They are especially at risk to be exploited by forced work, forced begging or sexual exploitation. Children are frequently victims of economic exploitation, as employers generally pay them less.

Why are hotels more vulnerable when it comes to sex trafficking and labour trafficking?

- Traffickers can remain undetected more easily when using hotels as vehicles for sex trafficking.
- Employment practices and outsourcing strategies simplify undetected labour trafficking.

The situation in Myanmar

Several laws and frameworks protect the rights of the child:

- According to the Myanmar Law, any person up to 16 years old is defined as a "child", the minimum age for employment is set at 13 years.
- Myanmar signed the Convention on the Rights of the Child (1991), the Optional Protocol on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2012), as well as the Worst Forms of Child Labour Convention, No 182 (entered into force December 2014) (ILO Fundamental Convention).
- The Myanmar Anti Trafficking Law (2005) and the Penal Code (1861) additionally make the trafficking of children for sexual purposes a punishable offense.

What can you do?

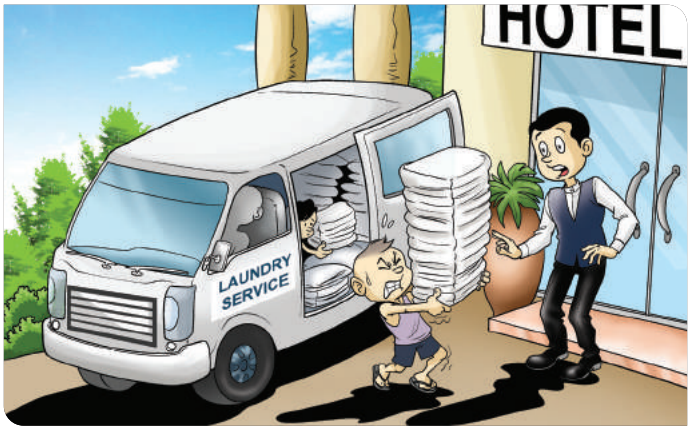
- Set up internal rules, policies or standard procedures (see: Info Box 4: Identify Tourism's Impact on Children).
- Support organizations concerning child labour and sexual exploitation of children and ask them for further information and training (e.g. The Code, ECPAT).
- An important factor are your employees. Train them how to notice possible signs and what to do in case of suspicion. A detailed list of possible indicators can be found in the "Combat Reference Guide for Hotel Staff" (see: 4. References).
- Abide the law and given frameworks.

Info Box 4: Identify Tourism's Impact on Children

1. Inform yourself
   How can you detect possible acts of violence and human trafficking?
2. Identify any key risk areas
   E.g. Is your hotel located in a region known for sex tourism?
   Do you collaborate with labour agencies?
3. Develop a plan
   Who do you need to involve concerning your staff? What kind of information do they need? What has to happen in the case of suspicion?
4. Record any incidents
   Analyze how and why they happened to draw conclusions for the future

Focus 1: Child Labour

"Not all work done by children should be classified as "child labour". For example, helping parents around the home, assisting in a family business or earning money outside school hours and during school holidays does not normally constitute child labour. "Child labour" is work that: 1) is mentally, physically, socially or morally dangerous and harmful to children; and 2) interferes with their schooling" (MCRB 2015: 158). Monitor your suppliers and collaboration partners. If you detect any kind of child labour, report the issue and communicate it with the authorities and the other company to solve the problem.



Focus 2: Sexual Exploitation of Children

Sexual exploitation, including prostitution, regardless of age, is forbidden in Myanmar. As a hotelier, you can help by reporting any kind of sexual exploitation of children to the local authorities.

2.4. Human Resource Management

> Article 23, Universal Declaration of Human Rights
> "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment"

Your employees are one of your biggest assets. Nevertheless, not everyone engaged in the tourism sector has the chance to work in a fair environment like the one you can provide your employees. Often, they are endangered to be forced to work under unfair and difficult circumstances.

The situation in Myanmar

Several legal frameworks define the working conditions in Myanmar:

- Minimum Wage Law (2014)
  - Salaried workers have the right of one day off per week with pay, over-time has to be paid if a salaried worker works on the day of leave.
  - The minimum wage rate (based on 8 hours per and 6 days work week, any enterprise from 15 employees) is MMK 3.600 per day and MMK 450 per hour.
- Myanmar Leave and Holiday Act (2014)
  - The law provides every employee with public holidays with full wages or pay. Sunday is a paid day off.
  - Altogether there are up to 26 official holidays in a year.
  - After one year, employees are permitted by the law to take 10 days earned leave, six days casual leave, 30 days medical leave.
  - Maternity and Paternity leave are included.

- Social Security Law (2015)
  - Enables individual Social Security card issuance.

- Shops Security Law (2012)
  - Regulates working time, wages.
  - Safeguards the safety and health of workers in shops and establishments.

What can you do?

- Provide formal working contracts, written and formulated in an understandable, fair and transparent way. This way you can also ensure that both the employer and the employee adhere to all agreements.

- Contracts should - amongst other factors - include details on working hours, fair and equal wages, holiday entitlement and rest. These aspects are defined within several legal frameworks in Myanmar (for more information see: 4. References).
  When you collaborate with subcontractors, informal work may be difficult to avoid. Prevent this problem by establishing internal rules for the relationship. These could include the request of written contracts or background checks on labour agencies.
  See Info Box 5: Checklist Employment

Info Box 5: Employment Checklist
- Are the contracts transparent & written down?
- Do staff get paid to current law?
- Does your staff work within the lawfully set amount of hours per week?
- Do employees get paid over-time if they work on the day of leave
- Can you ensure that employees get an appropriate amount of rest per week within the legal framework?
- Are facilities and working equipment (including uniforms etc.) provided by your hotel?
- Do you offer in-house training?
- Do you encourage your employees to speak freely? Do you enable them to form and be part of a union organisation, and to associate? Have you implemented grievance mechanisms?

Education is very important:
Offer in-house trainings to ensure that employees are trained well and according to your

- expectations.
  Enable promotions to your staff for the purpose of motivation and to retain good
- employees.
  Other aspects concerning employment

Safety, security, and health

- Provide health and safety trainings on how to respond to in situations of emergency, violence or threats.
- Prevent health issues affecting employees during and after the employment relationship by avoiding the use of material dangerous to health, like hazardous cleaning materials used by the housekeeping staff.

Employee's rights

- Employees quite often lack awareness concerning labour rights and safeguards. Support them by providing information about these topics.
- Inform employees about their lawfully fixed freedom to associate, to form and be part of a union organisation, as well as their freedom of speech.

Employee consultation

- Employees are aware of issues occurring in the day to day business of the hotel, due to the fact they are in daily and direct contact with your customers and suppliers. Use this chance to enable consultation from their side and provide opportunities for (anonymous) grievance.

2.5. Cooperation with the Local Community in your Neighborhood

Article 25, Universal Declaration of Human Rights
"Everyone has the right to an adequate standard of living"

Article 27, Universal Declaration of Human Rights
"Everyone has the right freely to participate in the cultural life of the community"

Tourism including communities into your daily business and creates livelihoods. This aspect of cooperation is closely linked to your supply chain (see Info Box 6: Supply Chain) and handles the question of how to work together. This should not be confused with the consultation of communities, which seeks the answer of how to live together in a respectful way.
Additionally, tourism is a labour intensive industry which leads to the conclusion that well trained staff is crucial. Tourism can improve the community's livelihood by generating jobs and economic opportunities. Or by giving a chance to opportunity to present and preserve their culture and strengthen the position of vulnerable groups.

The situation in Myanmar

- The development of tourism has lead to competition for resources and rising costs in housing, land and food. Cultural and social traditions are also affected.
- Additionally, the Policy on Community Involvement in Tourism (2013) underlines the importance of cooperation
- The Small and Medium Business Development Law (2015) sets the framework for the development of businesses.
- The Rights of ethnic groups are protected under the Indigenous Person's Rights and Protection Law (2015).

Info box 6: Supply chain in hotels
A supply chain is a system of people, activities, resources or businesses involved in moving a product or service from the hotel to the guest.

- Example: Hotel restaurant: The purchase of food and the production of meals, which are sold to the guest
- Example: Souvenir shop in the hotel: The purchase of souvenirs from local people, which are then sold in the shop
- Example: Beds, interior, people who clean and maintain the room…

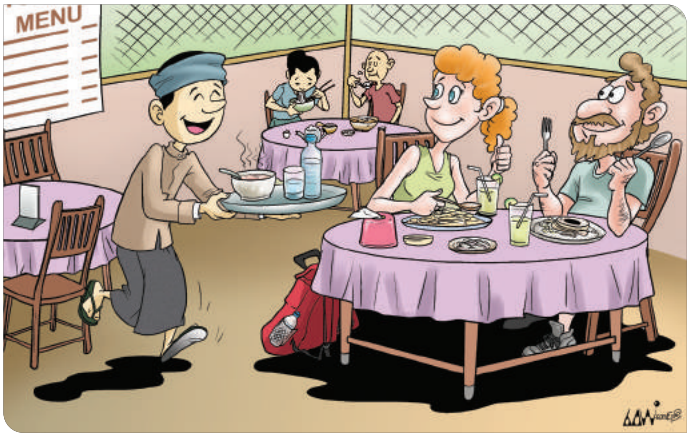
- which in combination result in accommodation for guests.

- Example: Excursions: Activities offered by local guides to explore the destination.

What can you do?

- Create job opportunities for locals.
- Prioritize local staff and offer tourism skill trainings.
- Look for local artists who can provide their services.
- Train your employees so they can inform your guests about the culture of the region.
- Promote and buy as much local products as possible.
- These could, for example, include food and beverages, or handicraft.
- Support small and medium enterprises in the community.
- If you decide to include any kind of cultural performance in your services, make sure that the respective culture is presented in an accurate and non-stereotypical way, e.g. by asking members of ethnic groups for advice.

Consider buying goods from local farmers.



If your guests want to eat outside of the hotel, recommend local restaurants.

If you offer souvenirs, make sure that they are locally produced and that the producers are paid fair.

3. Glossary

2.5 Tourism's Impact on Children

Human trafficking: The use of a more powerful position to achieve the control over a person for the purpose of exploitation. It includes the movement of people through force, fraud, abduction or threat.

2.4 Human Resource Management

Equal wages: To pay the same amount of money for the same amount of work, regardless of who performed it.

Fair treatment: To treat any employee equally, regardless of their gender, ethnicity, race, language, sexual orientation, religion or creed.

Informal worker: Any worker or business who is not under the protection of legal frameworks or formal associations. Possible results are forced labour, including reduced job security, lower incomes, no access to social benefits and limited access to formal training programs.

2.5 Cooperation with the Local Community in your Neighborhood

Outsourced services: To hire a supplier for the purpose of obtaining goods or services that are part of your daily business, for example laundry.

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4.2. Legal Framework in Myanmar

Tourism and Human Rights in Myanmar

- Universal Declaration of Human Rights, 1948
  - English: http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng. pdf
  - Myanmar Language: http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/bms.pdf
- Convention on the rights of the child

Natlex - Database on national labour, social security and related human rights legislation - Myanmar

- http://www.ilo.org/dyn/natlex/natlex4.countrySubjects?p_lang=en&p_country=MMR

2.1 Local Participation in Tourism Planning and Access to Land

- The Constitution on Myanmar, 2008

Land

- Transfer of the Immovable Property Law, 1987
- Land Acquisition Law, 1894
- Notification No. 39 of 2011 on the Right to Use of Land
- Vacant, Fallow and Virgin Land Law, 2012
- Vacant, Fallow and Virgin Land Rules, 2012
- Farmland Law, 2012
- Notification No. 11 of 2013, Foreign Investment Rules

2.2 Waste and Water Management

- Environmental Conservation Law, 2012
- Environmental Conservation Rules, 2014

2.3 Tourism's Impact on Children

Human trafficking

- Criminal and penal law
  - The Law Amending the Suppression of Prostitution Act, 1949 (Law No. 7/98).
  - Penal Code, 1861.

Forced labour

- Elimination of forced labour
  - Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-region.
  - Order supplementing Order No. 1/1999.

Children

- Elimination of child labour, protection of children and young persons
  - Law Amending the Myanmar Maternal and Child Welfare Association Law (No. 12/1993).
  - The Child Law (Law No. 9/93).
  - Myanmar Maternal and Child Welfare Association Law (No. 21/90).
  - Convention on the Rights of the Child, 1991
  - The Myanmar Anti Trafficking Law, 2005
  - Optional Protocol on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2012
  - Worst Forms of Child Labour Convention, No 182 (entered into force December 2014)

2.4 Human Resource Management

Employment status

- Conditions of employment/ wages
  - Minimum Wages Act, 2013.
  - Minimum Wages Rules (Notification No. 64/2013).
- Conditions of work, hours of work, weekly rest and paid leave
  - The Leave and Holiday Act, 1951 (No. 58).
- Education, vocational guidance and training
  - Employment and Skill Development Law, 2013 (Law No. 29 of 2013).
- Freedom of association, collective bargaining and industrial relations
  - Labour Organization Law (No. 7 of 2011)
- Specific categories of workers
  - Shops and Establishment Law, 2015

Safety and security, health

- Social security (general standards)
  - Social Security Law, 2012 (Pyidaungsu Hluttaw Law No. 15 of 2012)
  - National Human Rights Commission Law, 2014 (21/2014)
- Right to a standard of living adequate for the health

Non-discrimination

- Employment policy, promotion of employment and employment services
  - The Rights of Persons with Disabilities Law, 2015 (30/2015).
- Education, vocational guidance and training
  - Employment and Skill Development Law, 2013 (Law No. 29 of 2013).

Associate and collective bargaining

- Freedom of associate and collective bargaining
  - Right to Peaceful Assembly and Peaceful Procession Law, 2011 (Pyidaungsu
  - Hluttaw Law No. 15/2011)
  - Regulations relating to the Right to Peaceful Assembly and Peaceful Procession, 5 July 2012 (Order No. 364/2012).

2.5 Cooperation with the Local Community in your Neighborhood

Economic opportunities

- Economic and social policy
  - Small and Medium Business Development Law, 2015 (23/2015)

Culture

- Protection of Cultural Heritage
  - Protection and Preservation of Cultural Heritage Regions Law, 1998 (Amended by Law No. 1 of 2009)

Community Involvement

- Policy on Community Involvement in Tourism Policy, 2013

Indigenous and tribal peoples

- Indigenous and tribal peoples
  - Indigenous Persons' Rights Protection Law, 2015 (8/2015)

Notes