

# WORKER RIGHTS CONSORTIUM FACTORY ASSESSMENT

*Honeys Garment Industry Ltd. (Myanmar/Burma)  
Findings, Recommendations, and Company Response*



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WORKER RIGHTS  
CONSORTIUM

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## I. Introduction and Executive Summary

From August through November 2019, the Worker Rights Consortium (“WRC”) conducted an assessment of working conditions and labor practices at the Honeys Garment and Honeys Garment Industry Ltd. apparel factories in Yangon, Myanmar (Burma). Both factories are owned by Honeys Holdings Co. Ltd. (“Honeys Holdings”), a Japanese online retailer, and are located in Mingaladon Township, on Yangon’s northeastern outskirts. The older of the two Honeys facilities, which is located in Mingaladon’s Yangon Industrial Zone, is referred to by factory managers and workers as “Honeys 1”, while the company’s newer plant, which is situated in the Mingaladon Industrial Park, is known as “Honeys 2”. For ease of reference, the WRC uses these designations when referring to the respective factories in this report.

Honeys 1, which began operations in 2012, has a workforce of roughly 1,200 regular employees, plus an additional 130 workers who are employed on daily contracts. Operations at Honeys 2, which employs about 2,500 regular workers and 500 workers on daily contracts,<sup>1</sup> began in 2015.<sup>2</sup> According to Honeys Holdings, the two Myanmar factories’ production accounts for, jointly, roughly 20 percent of the company’s sales in Japan of its own-brand apparel,<sup>3</sup> as well garments supplied to other major Japanese retailers such as AEON Group, PARCO, and 7-Eleven (whose stores in Japan sell apparel).<sup>4</sup>

The WRC’s assessment of Honeys 1 and Honeys 2 included an onsite inspection of the factories conducted on November 6 and 7, 2019. The WRC notes that the management of the facilities substantially cooperated with the assessment, providing full access to the premises of both factories and the majority of the documents and other information that the WRC requested from them.

The WRC’s assessment of Honeys 1 and Honeys 2 identified violations of Burmese labor law, international labor conventions, and other relevant standards in the following areas:

- **Working Hours** – including involuntary overtime, excessive overtime, and insufficient break periods;
- **Wages and Benefits** – including payment of wages below the legal minimum to workers hired on daily contracts and subcontracted security guards, uncompensated overtime, unlawful wage deductions, and restrictions on use of statutory sick leave and casual leave;
- **Employment Contracts** – including illegal employment of workers under successive one-day contracts;
- **Underage Workers** – including unlawful employment of adolescents for excessive work shifts;
- **Freedom of Association** – including illegal dismissal of worker representatives, retaliatory mass termination of more than 400 workers for exercising their right to strike and other

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<sup>1</sup> As discussed further in this report, many of the workers employed by Honeys on “daily contracts” have actually worked continuously at the factory for periods of up to several years.

<sup>2</sup> See, Motokazu Matsui, “Myanmar manufacturing set for takeoff,” *Nikkei Asia*, January 14, 2017, <https://asia.nikkei.com/Business/Trends/Myanmar-manufacturing-set-for-takeoff>.

<sup>3</sup> See, Motokazu Matsui, “Myanmar manufacturing set for takeoff.”

<sup>4</sup> Honeys Holding, “Company Profile,” accessed on October 25, 2021, <https://www-honeys-co-jp.translate.goog/company/outline? x tr sl=ja& x tr tl=en& x tr hl=th& x tr pto=nui>.

associational activities, retaliatory filing of civil and criminal complaints against a worker representative, and blacklisting of former union officers;

- **Harassment and Abuse** – including verbal abuse and profanity toward workers by supervisors, and inappropriate surveillance of workers while the latter are in the factory’s onsite health clinic; and
- **Occupational Health and Safety** – including hazards in the areas of fire safety, ergonomics, lack of adequate machine guarding and personal protective equipment, excessive workplace temperatures, restrictions on access to toilets, and slip-and-fall hazards in the factory.

Moreover, in addition to the violations of labor laws and relevant international standards listed above, the WRC’s assessment noted other areas of concern where Honeys’ practices, while not contrary to any statutory or contractual requirement that is binding upon the company, are still inconsistent with general standards of ethical labor and employment practice, including unsafe employer-provided transportation and excessive employment of workers under short-term contracts.

This report also includes information in response to the WRC’s preliminary findings provided by Honeys Holdings on July 31, 2020. As discussed in this report, the WRC finds that Honeys Holdings’ response substantially acknowledges, either explicitly or implicitly, the WRC’s factual findings concerning practices at these factories that violate Burmese law and/or international labor standards. Honeys Holdings’ response mostly consists of attempts to justify or downplay the significance of these practices, while either acknowledging or failing to dispute their existence and/or unlawfulness.

It should be noted that the fact that the WRC’s investigation, as reported in this document, did not yield findings of violations in certain other areas of the factories’ labor practices should not be construed as a certification of the factories’ overall compliance with respect to its practices in those areas. Moreover, while the WRC’s assessment team conducted a physical inspection of the factories, this did not include a comprehensive health and safety inspection of the factories by a certified industrial hygienist or building safety inspections by fire, electrical, and structural safety engineers. Therefore, no inference should be drawn from this report as to the compliance of the factory with those aspects of occupational health and safety and building safety that only such specialists are accredited to certify.

## II. Methodology

### A. Sources of Evidence

The WRC’s assessment of Honeys 1 and Honeys 2 included 40 in-depth interviews, conducted from August through November 2019, with current and former factory employees, the majority of which, consistent with best practice for labor and human rights assessments, were held confidentially at locations offsite from the factory premises. In addition, during the WRC’s onsite inspections of the factories, which were carried out on November 6 and 7, the WRC’s assessors interviewed factory managers and conducted brief conversations, focused mainly on one or two specific workplace issues, with roughly 80 employees.

The WRC also reviewed company documents which were made available by the factory management during the inspection, including payroll records and company policies. Lastly, as mentioned above, the WRC reviewed Honeys Holdings’ response to the WRC’s preliminary findings, which was received on July 31, 2020. As part of the review process, the WRC carried out follow up interviews with 15 workers between August and October 2020.

### B. Terms of Reference

The WRC assessed Honeys’ labor practices and working conditions in relation to its obligations under Burmese labor law and regulations, international labor standards, including those conventions of the International Labour Organization that Myanmar has ratified or is otherwise obligated to respect, and the codes of conduct of Honeys’ customer, AEON,<sup>5</sup> and the Myanmar Garment Manufacturers Association, of which Honeys is a member.<sup>6</sup>

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<sup>5</sup> AEON, “Supplier Code of Conduct,” revised March 1, 2019, [https://www.aeon.info/humanrights/pdf/aeon\\_Supplier\\_CodeofConduct\\_English.pdf](https://www.aeon.info/humanrights/pdf/aeon_Supplier_CodeofConduct_English.pdf).

<sup>6</sup> Myanmar Garment Manufacturers Association, “Code of Conduct for Member Companies,” ratified January 2015, <https://www.myanmargarments.org/wp-content/uploads/2018/12/MGMA-Code-of-Conduct-Ratified-Jan.-2015.pdf>.

### III. Findings, Recommendations, and Company Response

The subsections below detail the findings of the WRC with respect to working conditions and labor practices at Honeys 1 and Honeys 2 that violate Burmese labor laws, relevant codes of conduct, and international labor standards. As both factories are managed by an office located at Honeys 2 and provide identical wages and benefits, the report will identify a specific facility (Honeys 1 or Honeys 2) when findings are specific to that facility. For findings that are identical at both facilities, the report will not identify the specific facility but instead use “Honeys” to refer to both factories.

#### A. Employment Relationship

##### 1. Illegal Employment of Workers under One-Day (Daily) Contracts

###### a. Findings

In addition to its regular workforce, Honeys employs more than 600 workers under successive one-day (“daily”) contracts. According to company representatives, during October and November 2019, the Honeys 1 factory employed 130 workers under such arrangements. At the Honeys 2 factory, workers interviewed by the WRC estimated that the plant’s labor force included at least 500 workers who are employed on daily contracts. Honeys uses workers employed under daily contracts in the factories’ main production operations, including cutting, sewing, and bar-tacking (reinforcing sewn seams with additional stitching).

Although Burmese law does not prohibit employment of workers under daily contracts in all circumstances, it limits the duration of such arrangements to 30 days, after which time the employer must provide an employee who has been working under daily contracts with a standard employment agreement.<sup>7</sup> As noted below, daily contract workers who were interviewed by the WRC testified that they had been employed by Honeys under these agreements for periods ranging from several months to several years in duration, in clear violation of the law’s 30-day limit.

###### b. Company Response and Current Status

In response to the WRC’s finding, Honeys Holdings admits that it had employed a large number of workers on daily contracts and provided information to the WRC showing that the number of workers with daily contracts had dropped by a third, from 600 to 421 as of July 2020.

###### c. Recommendations

To comply with Burmese law, the WRC recommends that Honeys Holdings employ all workers with more than 30 days of service at the factory under regular contracts.

#### B. Working Hours, Wages, and Benefits

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<sup>7</sup> Employment and Skill Development Law of 2013, § 5 (a) (1).



## 1. Working Hours

According to Honeys' internal factory rules, employees are required to work six days per week, Monday through Saturday. From Monday through Friday, the employees' regular work shift starts at 8:00 a.m. and ends at 4:40 p.m. Employees receive a 40-minute unpaid lunch break, which is taken by the workers in two shifts, as the factories' canteen areas are too small for the entire workforce to take the break at the same time. The first lunch break shift starts at 11:30 a.m. and ends at 12:10 p.m., and the second lunch break shift starts at 12:00 p.m. and ends at 12:40 p.m.

On Saturday, the employees' work shift begins at 8:00 a.m. and ends at 12:00 p.m. Altogether employees' regular workweek at both factories totals 44 hours in length, which complies with Burmese law.<sup>8</sup>

However, company time and payroll records show that, almost every day from Mondays through Fridays, after a 20-minute unpaid break from 4:40–5:00 p.m., the employees resume working for an additional two or four hours until 7:00 or 9:00 p.m.—for a total of 10 or 11 hours of paid work per day. Payroll records reviewed by the WRC showed that most employees work at least 55 hours of overtime per month, with some employees working up to 85 hours.

In addition, according to both workers and supervisors, the factories require employees to be present to attend a daily meeting prior to their regular work shift at 7:45 a.m. During this meeting, supervisors inform workers of their daily production targets and attempt to verbally motivate employees to meet these quotas. For workers in the factories' sewing section, daily attendance at this meeting is mandatory, but for employees in the plants' cutting section, attendance is only required on alternate days. Employees are not paid for the additional 15 minutes they spend in the factory each day to attend these meetings, which the company does not include in its calculation of their daily working hours.

As discussed further below, Honeys' practices with respect to working hours violate Burmese labor laws regarding: (1) mandatory overtime, (2) excessive overtime, and (3) provision of the overtime break.

### **d. Mandatory Overtime**

#### **i. Findings**

Burmese labor law requires that overtime be performed voluntarily.<sup>9</sup> As noted above, employees at both factories work more than two hours of overtime on nearly a daily basis, including two or four hours of additional work performed after the end of their regular shifts, plus 15 minutes each morning when they are required to arrive at 7:45 a.m., before the 8:00 a.m. start of their shift, to attend a mandatory pre-shift meeting.

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<sup>8</sup> Factories Act, § 59 (“No adult worker shall be required or allowed to work in a factory for more than forty-fours hours in a week.”).

<sup>9</sup> Factories Act, § 62 (“No adult worker shall be required [...] to work in a factory for more than eight hours in any day.”).



Employees reported that in order to obtain a gate pass from their supervisors to leave the factory at the end of their regular shift, without remaining to work overtime and without incurring their supervisor's disfavor, they are required to provide a reason for leaving that the supervisor will consider adequate—such as, the employee needs to care for a sick family member at their home. If the worker does not provide such a justification for declining to perform overtime, the supervisor reportedly will yell at and otherwise verbally abuse the worker.

By conditioning workers' ability to leave the factory at the end of their regular shift without performing overtime on the employee's willingness to provide a reason for doing so that their supervisor considers acceptable, and by subjecting workers who fail to do so to verbal abuse by the same supervisor, Honeys unlawfully denies employees the right to make a voluntary decision whether or not to perform this extra work.

Honeys further restricts employees' right to decide voluntarily whether or not to perform overtime by, on workdays when the company wants employees to perform overtime (which is nearly all weekdays), scheduling the bus transportation, which the company regularly provides for workers to and from the factories, so that buses are only available to take workers home from the factories after the day's overtime hours have ended. As a result, employees who choose not to perform overtime—and only employees who choose not to perform overtime—must pay for and arrange transportation to their homes at their own expense. By conditioning employees' access to a valuable benefit (employer-paid transportation) on the employees remaining at the factories during overtime hours, the company further unlawfully denies employees the right to decide voluntarily whether to perform this extra work.

Finally, as further discussed below, Honeys requires workers to arrive at the factory 15 minutes before the start of their regular shift to attend a meeting, for which time the employees are not paid. Employees made clear to the WRC that these pre-shift, off-the-clock meetings are mandatory, as they reported that their line leaders (forepersons) will verbally reprimand them and will "fine" them 500 Myanmar kyat (US\$0.33) if they are "late" to these meetings. As the time workers spend at these meetings is outside their regular eight-hour shifts and as workers attend these meeting at the direction and for the benefit of the employer, this time represents overtime work for which employees legally should be compensated.

## **ii. *Company Response and Current Status***

Honeys Holdings disputes the WRC's finding that the factories require employees to work overtime, in violation of Burmese laws prohibiting mandatory overtime, while acknowledging that the company's current practice is to provide transportation to workers at the end of overtime hours rather than also at the end of their regular working hours. The company also admits to holding unpaid pre-shift meetings with workers. Honeys Holdings asserts that (a) employees consent to working overtime by signing forms to that effect, and (b) workers, themselves, actively wish to perform such overtime.

The WRC agrees that due to the very low wages most garment workers are paid, workers will often choose to work overtime when it is made available to them. The fact that workers often choose to

work overtime has no bearing on the illegality of an employer denying their right to not work overtime when they so choose.

The WRC determined that overtime is involuntary at the Honeys factories based on three practices that workers identified: (a) the requirement that workers obtain permission from their supervisors to leave the factory at the end of their regular working hours instead of remaining to perform overtime; (b) the factory's provision of transportation home from the factory for workers only at the end of overtime hours, rather than also at the end of regular working hours; and (3) the requirement to attend unpaid meetings for 15 minutes each morning before the start of the regular working day.

The WRC found that these practices place burdens on workers who do not wish to perform overtime, in the form of having to potentially face a reprimand from their supervisors (if they miss the mandatory, unpaid pre-shift meeting and/or seek to leave work after their regular hours) and having to arrange and pay for their own transportation home—burdens that deny workers a free choice in this regard.

Interviews conducted with workers in August and October 2020 indicate that since the WRC's findings were shared with Honeys Holdings, company supervisors have become more "lenient" in permitting employees to leave the factory at the end of regular working hours.

### **iii. Recommendations**

The WRC recommends that Honeys Holdings implements the following measures to comply with Burmese labor law, international labor conventions, and other relevant standards:

- Communicate to all employees, through written and verbal communication, that performing overtime hours of any kind is strictly voluntarily and workers will not be penalized for declining to do so;
- Prohibit supervisors, upon penalty of discipline, from verbally or otherwise harassing or abusing workers for declining to perform overtime;
- Reschedule either the beginning of employees' paid work shift or the time of the daily pre-shift meetings, so that these meetings can be held during regular paid working hours;
- Cease the requirement that workers obtain permission from their supervisors to leave the factory at the end of their regular working hours instead of remaining to perform overtime; and
- Ensure that transportation is provided to workers who leaves the factory at the end of the regular working hours.

### **e. Excessive Overtime**

#### **i. Findings**

Burmese labor law, on its face, appears to prohibit employers from requiring or permitting employees to work more than 10 hours in a single day, inclusive of rest periods,<sup>10</sup> which would limit workers to two hours of overtime per day. However, the law has been interpreted by the country's Ministry of Labour to apply simply to employees' schedule of regular working hours and not to overtime hours.<sup>11</sup> The Ministry of Labour has issued a regulation that states, instead, that employees can work a maximum of three hours of overtime each day on Monday through Friday and five hours of overtime on Saturday.<sup>12</sup>

As previously noted, employees at Honeys frequently perform overtime from 5:00 p.m. to 9:00 p.m., and this results in their working, on such days, four hours of overtime. Moreover, since, as also mentioned, employees are required to attend a meeting from 7:45 a.m. to 8:00 a.m., before the start of their regular eight-hour work shifts, the actual total amount of overtime employees perform on these days is 15 minutes longer than this—four hours and 15 minutes—which is well in excess of the three-hour legal maximum.

Finally, as discussed below, in the case of workers employed at the factories on daily contracts, these workers perform even more overtime, as they only take a 10-minute break between finishing their regular shifts and beginning to perform overtime—rather than the 20-minute break that other employees receive. As a result, on days when their work at the factory extends to 9:00 p.m., workers employed on daily contracts perform an addition 10 minutes of overtime above the legal limit.

## **ii. *Company Response and Current Status***

Honeys Holdings in its response admits that employees work this schedule on some occasions when an order has to be completed. This response is inadequate as it is still unlawful to assign workers overtime beyond the three hours per day limit set by Burmese regulations, regardless of the reasons for doing so.

## **iii. *Recommendations***

To comply with Burmese labor law, the WRC recommends that Honeys Holdings revise its production and employment needs to ensure that sufficient workers are employed so that employees' working days are limited to 10 hours per day, inclusive of overtime and rest periods.

## **f. *Insufficient Overtime Break***

### **i. *Findings***

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<sup>10</sup> Factories Act § 64 (“The periods of work of an adult worker in a factory inclusive of intervals for rest under § 63, shall be so arranged that such periods shall not spread over more than ten hours in any day, save with the permission of the President and subject to such conditions as he may impose, either generally or in the case of any particular factory.”).

<sup>11</sup> Ministry of Labour, Directive No. 615/2/FGLID Law 2/12 (1584), December 11, 2012. The ministry's interpretation appears somewhat questionable, however, as it arguably makes the statutory 10-hour limit superfluous.

<sup>12</sup> Ministry of Labour, Directive No. 615/2/FGLID Law 2/12 (1584), December 11, 2012.

Burmese labor law requires employers to provide workers with at least a 30-minute break after every five hours of continuous work.<sup>13</sup> As noted, Honeys complies with this requirement with respect to its employees' morning working hours, which begin at 8:00 a.m. (or more accurately 7:45 a.m.), by providing workers with a mid-day 40-minute unpaid break from 11:30 a.m. to 12:10 p.m. or from 12:00 p.m. to 12:40 p.m.

However, with regard to the employees' afternoon and evening working hours, although the legal requirement is to provide workers with a 30-minute break, the company violates the law, by requiring employees to take a break of only 20 minutes or less. Workers are told that their break is only 20 minutes in length, beginning at 4:40 p.m. and ending at 5:00 p.m.

Furthermore, workers who are employed by Honeys on a daily basis (i.e., under one-day contracts and are, therefore, highly vulnerable to pressure from line leaders and supervisors) reported that they take a break of only 10 minutes (one-third of the legally required length) between finishing their regular work shift and beginning to perform overtime.

## **ii. *Company Response and Current Status***

Honeys Holdings admits that it provided workers an afternoon break of only 20 minutes. The company claimed it does so because its employees requested that the company take 10 minutes from the afternoon break so that the lunch break is extended to 40 minutes. Honeys Holdings also states in its response to the WRC that no workers had complained to management about this practice. Apart from the fact that Honeys Holdings had violated workers' associational rights in 2017, as will be described below, and thus makes it implausible that workers would feel empowered to suggest anything or to complain, the company's response ignores the fact that the practice of providing only a 20-minute break violates Burmese labor law.

## **iii. *Recommendations***

The WRC recommends that Honeys Holdings, to comply with Burmese labor law, extend the second break to a minimum of 30 minutes.

# **2. *Wages and Benefits***

Myanmar's laws and regulations establishing the country's minimum wage require employers to pay workers (for an eight-hour shift) MMK 4,800 (US\$3.20) per day and MMK 144,000 per month (US\$96.00).<sup>14</sup> However, the law permits employers to pay workers a lower probationary wage of MMK 2,400 (US\$1.60) per day for the workers' first three months of employment and, if workers

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<sup>13</sup> Factories Act, § 63 ("The periods of work of adult workers in a factory during each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest at least of half an hour.").

<sup>14</sup> Minimum Wages Law, 2013; Minimum Wages Rules, 2013, Notification No. 64/2013; and Myanmar National Committee for Determination of Minimum Wage, Announcement on Proposed Minimum Wage No. 2/2018, May 14, 2018.

require further training after the end of this probationary period, a wage of MMK 3,600 (US\$2.40) per day for their fourth through sixth months on the job.<sup>15</sup>

The WRC's review of the Honeys factories' payroll records indicated that the wages that the company pays its regular employees comply with this legal standard. The probationary wages that Honeys provides to these workers during their first three months of employment are MMK 3,600 per day, MMK 1,200 more than the legal minimum. Moreover, for their fourth through sixth months at the factories, workers are paid, depending on the company's evaluation of their skills, either MMK 3,840 (US\$2.56) or MMK 4,320 (US\$2.88) per day, which, again, exceed the legal "training" wage of MMK 3,600. Finally, after workers have completed six months of employment at the factories, the company pays them the applicable legal minimum wage of MMK 4,800 per day.

In addition to these basic wages, the Honeys factories also pay workers several types of discretionary monthly bonuses. The first is a bonus whose amount is set according to the company's evaluation of the employee's skill level and can range from MMK 3,100 (US\$2.07) to MMK 12,400 (US\$8.27) per month. Second, Honeys pays workers an attendance bonus of up to MMK 30,000 (US\$20.00) per month, although, as discussed further below, the company reduces its amount if the employee has been absent during the prior month—even if the absence was for the purpose of using statutory leave.

Third, workers can earn a "target bonus" whose amount is based on the employee's consistency in fulfilling the production quotas set by the company. As the management sets these targets at levels which are difficult for many employees to meet, many workers often do not receive a "target bonus", although some employees have been paid as much as MMK 15,000 (US\$10.00) for it. Finally, Honeys also provides production workers with a monthly bonus, whose amount is based on their number of years of service, and ranges from MMK 3,000 (US\$2.00) for employees with two years of seniority and MMK 10,000 (US\$6.67) for employees who have worked at the factories for seven years.

Although the wage practices described above comply with Burmese law, the WRC found certain other aspects of Honeys' payment of wages to workers that violate these laws, including: (1) payment of subminimum wages to workers employed on daily contracts, (2) payment of subminimum wages to subcontracted security guards, (3) nonpayment of overtime performed by workers, and (4) unlawful punitive wage deductions. All these violations are discussed in detail below.

#### **a. *Subminimum Wages for Workers Employed by Honeys under Daily Contracts***

##### **i. *Findings***

As discussed further elsewhere in this report, the WRC found that in addition to its regularly contracted labor force, Honeys employs more than 600 workers under successive daily contracts (i.e., employment agreements with a duration of one-day). The WRC interviewed several of these employees, who reported that they had been working at the factory under such arrangements for periods of time ranging from several months to several years.

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<sup>15</sup> Using the exchange rate of one US dollar equals 1,500 Myanmar kyat.

These daily workers testified to the WRC that they have the same basic work shift and perform the same daily overtime as the factory's regular workforce—a workday that begins at 7:45 a.m. and usually ends at 7:00 p.m., 60 minutes of which are the employees' unpaid lunch break and break between their regular shift and overtime hours. For this day of 10 hours and 15 minutes of compensable time, of which two hours and 15 minutes must be considered overtime, the daily wage employees reported the factories pay them, during their first month working at the factory, was MMK 4,000 (US\$2.67) per day and, thereafter, MMK 5,000 (US\$3.33) per day.

Burma's legal minimum wage for employees who have worked for an employer for more than six months is, as noted, MMK 4,800 (US\$3.20) for an eight-hour shift and, as the law requires that overtime hours be compensated at twice the ordinary rate,<sup>16</sup> MMK 1,200 (US\$0.80) for each additional hour of work. For an employee who has worked for the employer for less than four months, the legal minimum wage is MMK 2,400 (US\$1.60) for an eight-hour shift and for overtime MMK 600 (US\$0.40) per hour. For an employee who has worked for the employer for four to six months, the legal minimum is MMK 3,600 (US\$2.40) for eight-hours and MMK 900 (US\$0.60) per hour for overtime.

Therefore, for a workday that includes at least 2.25 hours of overtime, the minimum legal compensation an employee who has worked for an employer for six or more months must be paid is 7,500 MMK (US\$5.00). For an employee who has worked for the employer for less than four months, the legal minimum compensation for the same workday is MMK 3,750 (US\$2.50), and, for an employee who has worked for the employer for four to six months, it is MMK 5,625 (US\$3.75).

As a result, while the wage that Honeys pays to daily-wage employees during the first three months they are employed at the factory complies with the legal minimum wage, after they have worked at the factory for at least four months, the wage that Honeys pays them, MMK 5,000 per day, is less than the legal minimums that apply—MMK 5,625 per day during the fourth through sixth months and MMK 7,500 per day going forward after that—and therefore contrary to Burmese law.<sup>17</sup>

## *ii. Company Response and Current Status*

Honeys Holdings admits that—at the time of the investigation—it was employing more than 60 workers at the factories under daily contracts with durations of service of no less than three months (90 days) and, in some cases, more than 12 months—in other words, no less than three times the legal limit of 30 days and, in some cases, more than 12 times the legal limit for such employment.<sup>18</sup>

Honeys Holdings did not disclose to the WRC how many workers it is employing on daily contracts with more than 30 days' service and less than 90 days' service, conditions which also violate the 30-day legal limit.<sup>19</sup> The number employed under such contracts, however, is likely to be significant.

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<sup>16</sup> Directive No. 615/2/a la ya-law 2/12 (1584).

<sup>17</sup> Myanmar National Committee for Determination of Minimum Wage, Announcement on Proposed Minimum Wage No. 2/2018 (May 14, 2018), § 3.

<sup>18</sup> Employment and Skill Development Law of 2013, § 5 (a) (1).

<sup>19</sup> Employment and Skill Development Law of 2013, § 5 (a) (1).



In its response, Honeys Holdings admitted that it paid the daily workers a wage of MMK 4,000 per day for the first month and MMK 5,000 per day from the second month onward, but added that workers who came to work for one full week (6 consecutive days) are paid an additional MMK 1,000 per day. The WRC notes that even if paid, the extra MMK 1000 is contingent on full attendance for the week, and thus should be considered a benefit instead of part of the wage.

The company justified its practice of continuing to employ certain workers under daily contracts for extended periods of time by stating that these workers are internal migrant workers who lack National Registration Cards (“NRCs”), which are required for long-term employment and can only be obtained in the workers’ home districts. The company said that it permitted these workers to continue working under daily contracts until they were able to return home during the semiannual holidays to obtain NRCs. However, this claim appears to be an excuse, as it does not explain the large number of workers employed as daily workers, or the fact that some had been employed as a daily worker for more than a year.

### **iii. Recommendations**

The WRC recommends that Honeys Holdings implement the following measures to comply with Burmese labor law:

- Provide all daily workers with a regular contract. If necessary, Honeys, should provide these workers with leave to allow them to obtain NRCs;
- Immediately provide all daily workers with wages that meet the legal minimum level; and
- Compensate workers for the underpayment of their wages since the start of their employment at Honeys.

### **b. Subminimum Wages for Subcontracted Security Guards**

#### **i. Findings**

Honeys outsources the employment of security guards for both factories to a firm that is a third-party subcontractor. These security guards reported to the WRC that they are paid MMK 125,000 (US\$83.33) per month for working a six-day week from Monday to Saturday, with Sunday being their sole day off. As a result, their monthly pay amounts to a wage of MMK 4,109 for each day of the month, including Sundays.

Burmese minimum wage regulations, however, require that employees who have worked for an employer for more than six months, regardless of the type of job in which they are employed, are provided a weekly day off that is paid, and are paid no less than MMK 4,800 per day, which, for a schedule of six workdays and one rest day per week, amounts to a monthly minimum wage of no less than MMK 148,800.<sup>20</sup> As a result, unless Honeys’ subcontractor only employs security guards at

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<sup>20</sup> Seven days/week x 4,800 MMK/day x 52 weeks/year ÷ 12 months/year = 148,800 MMK/month.



the factories who have fewer than six months of service with their company, the wages paid to the security guards fall far short of compliance with the legal minimum wage.<sup>21</sup>

## **ii. Company Response and Current Status**

Honeys Holdings did not respond to the WRC's finding that the wages paid to the factory's security guards, who are employed by a subcontractor and who have been working at the factory for more than six months, are substantially below the legal minimum wage as stipulated by Burmese labor law.

## **iii. Recommendations**

The WRC recommends that Honeys Holdings implements the following measures to comply with Burmese labor law:

- Directly employ the security staff who are currently employed at Honeys Holdings; or
- Require Honeys Holdings' contractor to ensure its employees working at the factories receive the legally mandated minimum wage and provide compensation to workers equal to the wages they should have received under the law.

## **c. Unpaid Overtime Work**

### **i. Findings**

As previously noted, employees reported that they are required to arrive at their workstation in the factory at 7:45 a.m. to attend daily meetings, 15 minutes before the beginning of their work shift, for which they are not paid. As also previously mentioned, Honeys' daily-wage employees reported to the WRC that they frequently work during the 20-minute unpaid break between the end of their regular eight-hour shifts and the start of their overtime hours. According to worker testimonies, this occurs because the company sets high production quotas which many employees can only fulfill—and thereby avoid verbal harassment by their line leaders—by working during some or all of this period and because these workers, by virtue of their contingent employment status, are particularly vulnerable to such pressure and harassment.

Because both the time that all employees are required to spend at work before their shifts to attend pre-shift meetings and the time that daily-wage employees spend working during the afternoon break are in addition to the employees' regular eight-hour shifts, legally both periods of time must be compensated as overtime at the overtime premium rate of twice the worker's usual hourly wage.<sup>22</sup> Honeys' failure to pay its employees for time spent working during break periods and attending meetings before the start of the regular workday, at the overtime premium rate, violates Burmese labor law.

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<sup>21</sup> National Committee for Setting the Minimum Wage, "Notification No.1/2018," clause 1 ("The new proposed minimum wage is Kyats 600/hour (Kyats 4,800/day with eight working hours) regardless of location and type of work.").

<sup>22</sup> Factories Act § 73 ("Wages for overtime: .... Where a worker in a factory works for more hours than those specified in section ... 62 ... he shall in respect of the overtime so worked be entitled to be paid at the rate of twice his ordinary rate of wages.").

## *ii. Company Response and Current Status*

Honeys Holdings denies having asked employees to work during rest breaks. However, this response does not respond to the WRC's finding that workers felt pressured to work during rest breaks so that they can reach their targets.

Honeys Holdings confirmed that workers must arrive 15 minutes early to work but claimed that the requirement to attend unpaid meetings is imposed by individual section leaders rather than as a company-wide practice. The WRC finds that this is neither a plausible explanation of the practice nor a justification for its legality.

Workers employed in different positions throughout the two factories reported to the WRC that they were required to attend meetings 15 minutes before the start of their shifts. Therefore, it is implausible, that a large number of section leaders have independently adopted this practice or assumed the authority to require workers in their sections to attend daily work-related meetings 15 minutes before the start of their shifts, for which they are not paid, without direction from management. Even if the section leaders acted of their own volition, the company appointed these individuals in positions of authority to carry out company practices and is, therefore, responsible for the section leaders' unlawful behavior of requiring employees to attend pre-shift meetings without paying the overtime rate.

Honeys Holdings indicated in its response to the WRC that moving forward these meetings will start at 8:00 a.m., which—if workers are paid for this time—would resolve the violation going forward. However, this would not fully remedy the violation identified, since workers would not be compensated for the one hour and 30 minutes per week (i.e., 78 hours per year) of unpaid time that workers were required to provide the company by attending these meetings. Furthermore, according to workers subsequently interviewed by the WRC, the practice of holding these meetings at 7:45 a.m., before the start of the paid workday, has continued unabated. The only improvement is that workers are no longer “fined” by supervisors for arriving to these meetings late.

## *iii. Recommendations*

The WRC recommends that Honeys Holdings implement the following measures to comply with Burmese labor law:

- Revise the targets to ensure that workers can reach them without needing to work during breaks;
- Cease scheduling meetings before the start of employees' regular work shifts;
- Compensate employees, at the legal premium rate for overtime, for all time spent at pre-shift meetings from their date of hire until these meetings are no longer held outside of regular working hours or to the applicable statutory limit for such compensation, whichever is lesser;
- Ensure that workers get their full 30-minute break between the end of their regular eight-hour shifts and the start of their overtime hours; and

- Compensate daily-wage workers one hour per week (i.e., 52 hours per year) for the missing 10 minutes of the break between the end of their regular eight-hour shifts and the start of their overtime hours, at the legal overtime rate.

#### **d. Unlawful Wage Deductions**

##### **i. Findings**

Burmese laws prohibit employers from taking deductions from workers' wages on account of an employee's absence from work if the day of absence is covered by statutory leave.<sup>23</sup> Like many other factories in Burma, however, Honeys, as discussed below, violates this prohibition by taking deductions from workers' MMK 30,000 (US\$20) monthly attendance bonus when employees are absent from work for any reason, even when the absence is on account of the employee taking statutory annual or sick leave.<sup>24</sup>

Moreover, as also discussed in this section, Honeys also takes deductions from workers' pay on account of lateness and exacts fines from employees—which are also a form of wage deduction—for errors in their work, which are also clearly unlawful.

The WRC's interviews with Honeys' workers consistently indicated, and a review of the company's payroll records confirmed, that for an employee's first day of absence in a month, for any reason, including use of statutory leave, the company reduces the employee's attendance bonus by 10 percent or MMK 3,000 (US\$2.00); for the second day of absence an additional 20 percent or MMK 6,000 (US\$4.00) is deducted; for the third day an additional 40 percent or MMK 12,000 (US\$8.00) is taken; and if the worker is absent for four days or more in the same month, regardless of the cause, the entire bonus is forfeited. As the company takes these deductions even when the absence is due to use of statutory leave, they are unlawful—and doubly so because they serve to restrict workers' use of benefits to which they are legally entitled.<sup>25</sup>

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<sup>23</sup> Payment of Wages Act, 2016, § 7 (a) (“The Employer [...] can deduct from wages for absences except when such absence is during a public holiday or entitled leave, according to the law.”).

<sup>24</sup> The WRC understands that some employers in Myanmar and their legal counsel maintain that it is lawful to deduct employees' attendance bonuses from workers on account of employees taking statutory leave, on the grounds that attendance bonuses supposedly do not constitute “wages”. This claim is contrary to the explicit definition of “wages” under the country's Payment of Wages Act, which states, “Wages means the wage or salary received as an employee working part time, weekly, or monthly for the employer. ... *[B]onuses paid based on performance or ethics and other benefits which can be regarded as income are also included in this.*” (emphasis added) Payment of Wages Act, 2016, § 2 (a). The same section of the Act explicitly lists those categories of compensation which are *not* included in wages, and attendance bonuses are notably absent from this list. Moreover, the claim is specious in its very premise, as it presumes that it is lawful for an employer to punish a worker for availing herself of a benefit to which the employee has a legal right, a position contrary to universally held principles of statutory interpretation. The WRC notes that it is very common in countries where labor law enforcement, and rule of law generally, is lax for lawyers representing employers and even state regulators to assert obviously spurious interpretations of the labor laws, that are contrary to their plain meaning and intent, and facilitate employers paying workers less.

<sup>25</sup> Payment of Wages Act, 2016, § 7 (a).



**Figure 1: “Donation” Box for Fines Paid by Workers**

In addition, for any instance when an employee at either Honeys facility arrives at the factory late for the start of their work shift (i.e., after 8:00 a.m.), for any reason, the company deducts an additional 10 percent or MMK 3,000 (US\$2.00) from the attendance bonus. Moreover, workers at the Honeys 2 factory testified, and factory managers confirmed, that if employees arrive late at the facility for their daily 7:45 a.m. pre-shift meetings, which, as noted, the company requires workers to attend without pay, the employees are required to pay a fine of MMK 500 (US\$0.33), which is placed in a “donation” box located near the main entrance door (see Figure 1).

In both cases, these wage penalties are imposed even if the worker is delayed in arrival by only a single minute, clearly indicating that they are disciplinary in nature and not simply in relation to the period of the employee’s absence from work.

While Burmese law permits disciplinary fines or wage deductions in some cases, the law requires that the employees affected must be afforded the opportunity to appeal them,<sup>26</sup> which Honeys does not provide workers a chance to do, rendering the fines it imposes for lateness unlawful. Furthermore, with respect to the fines exacted for late arrival to the pre-shift meetings, since, as discussed, the time employees spend in these meetings is time that the company requires them to work without pay, these penalties are doubly illegal as well.

Workers at both Honeys factories also report that the company’s line leaders collect fines from employees, which are legally the equivalent of deductions from the latter’s wages, for errors that workers make in sewing garments. Burmese law, however, prohibits employers from imposing fines that “exceed the value of damage caused by the action or cost of performance failure of the employee”.<sup>27</sup>

The amounts that workers are fined for production errors range from MMK 500 (US\$0.33) to MMK 1,000 (US\$0.67). As these fines amount to, depending on the worker’s tenure at the factory and corresponding wage rate, no less than 50 minutes and as many as three hours and 20 minutes of the worker’s basic hourly pay, they are clearly disproportionate to the cost to the company of correcting these errors and, therefore, another instance of unlawful wage deduction.

## **ii. Company Response and Current Status**

Honeys Holdings admits it does fine workers for making production mistakes but attempts to justify continuation of this practice by stating that the fines may be returned to workers or donated to charity. Neither of these justifications change the fact that the practice is unlawful.

<sup>26</sup> Payment of Wages Act, 2016, § 10 (d) (2) (“[W]hen making a specific deduction... [d]o not deduct without allowing an appeal from the Employee.”).

<sup>27</sup> Payment of Wages Act, 2016, § 10 (c).

In the case of fines for arriving ‘late’ to unpaid pre-shift meetings, Honeys Holdings denies this occurs but failed to provide information or documentation to support its claim. As the WRC’s report states, such fines were not imposed officially by the factory management or actually taken out of workers’ paychecks but, instead, were enforced on an ad-hoc basis by the factories’ section leaders, who required ‘offending’ workers to put money in the factory’s “donation box”. As a result, the company has no way of tracking whether such fines were being levied. Recent interviews with workers, however, indicate that section supervisors are no longer requiring workers to pay such fines.

### **iii. Recommendations**

The WRC recommends that Honeys Holdings implement the following measures to comply with Burmese labor law:

- Cease its practice of deducting from workers’ attendance bonus for use of statutory leave;
- Cease any excessive deductions of workers’ wages due to production reasons; and
- Compensate employees for all such deductions that have been taken from their date of hire until this practice is ceased or to the applicable statutory limit for such compensation, whichever is lesser.

### **e. Statutory Paid Time Off**

#### **i. Findings 1: Restrictions on Statutory Annual, Casual, and Medical Leaves**

Burmese law requires that workers be afforded, on an annual basis, six days of paid casual leave;<sup>28</sup> up to 30 days of sick leave with medical authorization,<sup>29</sup> to be paid via the state social security system;<sup>30</sup> and paid bereavement leave to attend the funeral of a family member or parent.<sup>31</sup> While Honeys has a formal policy of allowing workers to take such paid statutory leaves, in actuality, as discussed above, employees are restricted in doing so by the factory’s practice of taking unlawful deductions from employees’ wages if they are absent from work, even if the absence is for the purpose of approved statutory leave.

Moreover, according to factory workers, the company’s line leaders further restrict employees’ access to statutory leaves by subjecting workers who submit requests for such leave to verbal abuse and by requiring employees to obtain prior approval to take such leaves, even when securing such approval from the line leader in advance of taking leave is burdensome and impractical (for example when an employee who needs to use sick leave is already at home ill).

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<sup>28</sup> Leave and Holidays Act of 1951 (“Leave and Holidays Act”), § 5.

<sup>29</sup> Leave and Holidays Act, § 6.

<sup>30</sup> Minimum Wages Rules, § 43 (c).

<sup>31</sup> Minimum Wages Rules, § 43 (d).

## *ii. Findings 2: Non-provision of Statutory Annual, Casual, and Sick Leaves to Daily-Wage Workers*

As detailed elsewhere in this report, in addition to its regular employees, Honeys employs more than 600 workers under successive one-day contracts. The daily-wage workers whom the WRC interviewed testified consistently that, even though many of them had been employed at the factory under such arrangements, on an ongoing basis, for periods of several months to several years, Honeys does not provide any type of paid leave, whether annual leave, casual leave, or sick leave. Workers employed under such arrangements are denied paid leaves, they reported, even in cases where the reason for the leave is an injury that has been incurred on the job, inside the factory.

As discussed immediately below, Burmese law prohibits companies from employing workers on a daily contract basis for periods in excess of 30 days.<sup>32</sup> Therefore, by law, Honeys' daily-wage workers who have been employed by the factories for more than 30 days must be treated by the factory as regular workers, with all of the benefits, including paid leaves, to which they are statutorily entitled. As a result, Honeys' failure to provide paid leaves to those daily contract workers who have been employed by the factory for more than 30 days constitutes a violation of these workers' rights to such leave under Burmese law.<sup>33</sup>

## *iii. Company Response and Current Status*

Honeys Holdings admits that it is the current practice to deduct workers' attendance bonuses for using statutory leaves and inaccurately claims that this practice is legal. Honeys Holding did not address in its response to the WRC the finding concerning the failure to provide leave to the daily-wage workers.

## *iv. Recommendations*

The WRC recommends that Honeys Holdings implement the following measures to comply with Burmese labor law:

- Provide all daily workers with a regular contract;
- Provide all daily workers with compensation for previously missed statutorily entitled leave days;
- Provide workers statutory leave without deducting their attendance bonus or subjecting them to verbal disapproval;
- Provide back pay for attendance bonuses illegally deducted in the past; and
- Streamline the process of applying for legally entitled leave.

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<sup>32</sup> Employment and Skill Development Law of 2013, § 5 (a) (1) ("After the employer has employed a worker for any job, he shall within 30 days of so doing, sign a Contract of Employment with the worker.").

<sup>33</sup> Leave and Holidays Act, §§ 5 and 6.



## **C. Underage Workers:**

### **1. Excessive Hours for Adolescent Workers**

#### **a. Findings**

The WRC found that a large number of workers at the Honeys 1 factory, as well as a smaller number of workers at the Honeys 2 factory, were below 19 years of age. Although the majority of these young workers were 17 or 18 years old, the WRC found several workers who were only 15 or 16 years of age. As discussed below, the WRC's assessment found that Honeys fails to comply with the specific requirements that exist under Burmese law for employment of teenaged workers.

All of the young workers whom the WRC identified at the two Honeys factories were employed as daily workers on successive one-day contracts, under the arrangements described in the preceding section of this report. The concentration of young workers in this category of employment at the factories may be the result of Honeys' management being less strict in requiring proof of age from the job applicants whom it hires as daily workers than it is in requiring such documentation from applicants for employment in the factories' regular workforce. In particular, workers interviewed by the WRC noted that job applicants can be hired as daily workers without presenting their national identification cards, even though the company does require such documentation from applicants for regular employment.

The WRC found that teenaged employees at the two factories worked the same daily schedule as older employees, including performing daily overtime in the evening until 7:00 p.m. or 9:00 p.m., for a total workday of 11 to 13 hours and 15 minutes (including uncompensated time spent in pre-shift meetings). Allowing employees below the age of 19 to work this schedule clearly violates Burmese law, which restricts employees who are 15 or 16 years of age to working no more than four hours per day and no later than 6:00 p.m.<sup>34</sup> Burmese labor law also mandates that firms employing workers between the ages of 15 and 17 obtain medical certificates of these workers' fitness for employment<sup>35</sup>—a requirement that the WRC found Honeys had not met with respect to its adolescent workers, to allow them to work more than four hours per day.<sup>36</sup>

#### **b. Company Response and Current Status**

Honeys Holdings denied that it currently employs workers under the age of 18 years in any capacity, but acknowledged having previously hired such employees as daily workers. Notably, the company did not claim that these younger employees worked no more than four hours per day or had certificates of fitness for work, as the law requires. Moreover, the company did not dispute that it

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<sup>34</sup> Factories Act § 79 (“Working hours for children: (1) No child shall be employed or permitted to work in any factory— (a) for more than four hours in any day; and (b) between the hours of 6 p.m. and 6 a.m.”).

<sup>35</sup> Factories Act § 76 (“A child who has completed his thirteen year or an adolescent shall not be required or allowed to work in any factory unless - (a) a certificate of fitness granted under section 77 with reference to him is kept in the custody of the manager of the factory....”).

<sup>36</sup> Factories Act § 78 (2) (“An adolescent who has not been granted a certificate of fitness to work in a factory as adult under clause (b) of sub-section (2) of section 77, shall notwithstanding his age, be deemed to be a child for the purpose of this Act.”).



employs workers who are 18 years old—to whom the same legal restrictions also apply—to perform the same 10.25-hour per day schedule, thereby acknowledging a practice that clearly violates the law.

With respect to the company's denial that, at the time of the WRC's assessment, it employed any workers younger than 18 years old under daily contracts, the WRC observed that the company admits that it did not require daily wage workers to provide National Registration Cards (NRCs), which would allow the company to verify workers' date of birth, when it hired workers under such arrangements. Since the company did not verify workers' age, its claim that it did not hire workers under daily contracts who were younger than 18 years old lacks any credible evidentiary support.

In any case, interviews with workers in October 2020 indicated that the company had by then ceased the practice of hiring employees under daily contracts without requiring them to provide NRCs, which, the interviewed workers reported, substantially reduced the employment of underage workers.

### **c. Recommendations**

To comply with Burmese labor law, the WRC recommends that Honeys Holdings take the relevant steps to ensure that underaged workers employed at the factory do not work in excess of the legal maximum hours.

## **D. Freedom of Association**

### **1. Retaliatory Firings of Three Union Leaders in May and June 2017**

In early April 2017, following worker protests at both factories over an industry-wide move to shorten workers' annual holidays, employees from the Honeys 1 and Honeys 2 factories contacted the labor federation, Solidarity Trade Union of Myanmar (STUM), elected 10 Honeys 1 workers as a union executive committee, and applied to register a union at Honeys 1 with Myanmar's Ministry of Labour. The employees also selected representatives to a joint Workplace Coordinating Committee (WCC) for the factory, a body which, under Burmese labor law, is statutorily required to be established by employers.<sup>37</sup>

Shortly afterwards, Ministry of Labour officials met with the management of the Honeys 1 factory to verify that the 10 union executive committee members listed on the union's registration application were factory employees. Allegedly, once they were informed by the Ministry of Labour of the names of the union's officers who were listed on the registration document, Honeys 1 managers offered the newly-elected union president MMK 1 million (US\$667) to resign from his job at the factory, and the latter reportedly accepted this offer, resigning from the plant (and the union) shortly thereafter.

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<sup>37</sup> See, Factories Act § 3 ("In any trade in which more than 30 workers are employed, the employer, with the view to negotiating and concluding collective agreement, shall: (a) if there is any labour organization, form the Workplace Coordinating Committee with the view to make a collective bargaining as follows: (i) two representatives of workers nominated by each of the labour organizations; (ii) an equivalent number of representatives of employer.").

While, as is often the case in situations involving allegations of this type, the WRC was not able to reach a firm finding that Honeys management bribed the union president to resign from his job at the factory, the WRC did find ample evidence to conclude that, between mid-May and mid-June 2017, Honeys management dismissed and refused to reinstate three employees who were union leaders in retaliation for the latter's union activities. As discussed below, one of the three union leaders who was retaliatorily terminated during this period was employed at Honeys 2, while the other two were workers from Honeys 1. As International Labour Organization (ILO) Convention 98—which, under the ILO Declaration on Fundamental Principles and Rights at Work, Myanmar is bound to observe—prohibits dismissal of workers on account of their participation in a union,<sup>38</sup> and, as Burmese law explicitly requires the reinstatement of union leaders who have been dismissed on account of their union activities, the company's termination and failure to reinstate these union leaders is unlawful.<sup>39</sup>

**a. *Retaliatory Termination of a Union Leader from Honeys 2 in May 2017***

**i. *Findings***

On May 15, 2017, workers from Honeys 2 launched a strike demanding that they be paid a bonus that the company had already provided to employees at Honeys 1 but had not paid to workers at Honeys 2. Later that same day, the company dismissed the employee, Ko Win Naing, who had recently been elected to the leadership of the union at Honeys 2 and was involved in negotiating with the factory management concerning the workers' demand for the bonus.

The union leader's dismissal, however, caused workers from Honeys 1 to join the strike that the Honeys 2 workers had already launched. On May 20, the union and the company reached an agreement under which the union would end the strike, and the company would reinstate the Honeys 2 union leader. The termination of the employee, Ko Win Naing, immediately following his election as a union leader and in the midst of a strike where he was negotiating with the management on behalf of employees, indicates that he was dismissed in retaliation for these union activities. As such, even though the company reversed the termination in order to end the workers' strike, his firing violated international labor standards.<sup>40</sup>

**b. *Retaliatory Termination of Two Union Leaders from Honeys 1 in early to Mid-June 2017***

**i. *Findings***

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<sup>38</sup> ILO Convention 98, "Right to Organise and Collective Bargaining," (prohibiting "dismissal of ... a worker by reason of union membership or because of participation in union activities"); ILO Declaration on Fundamental Principles and Right at Work (1998) ("[A]ll Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining....").

<sup>39</sup> Labor Organisation Law, § 18 ("The labour organization has the right to demand the relevant employer to re-appoint a worker if such worker is dismissed by the employer and if there is cause to believe that the reasons of such dismissal were based on labour organization membership or activities, or were not in conformity with the labour laws.").

<sup>40</sup> ILO Convention 98, "Right to Organise and Collective Bargaining," (prohibiting "dismissal of ... a worker by reason of union membership or because of participation in union activities.").

At the end of May 2017, the management at Honeys 1 angered its workforce by increasing workers' hourly production quotas by more than one-third, restricting their access to the factory's toilets to one restroom visit per worker per day, and installing in the plant closed circuit television (CCTV) cameras to conduct surveillance, as well as metal fencing to separate workers on the different plant's production lines from each other. After workers began to protest against these actions by the company, the factory management, on June 7, terminated employee Soe Win Aung, one of the union leaders in the plant.

Company managers told the worker that he was being dismissed on account of his participation in the protests and because he was a leader of the union. Less than one week later, the factory management also terminated employee San Win Hlaing, another union leader as well as an employee representative on the factory's WCC.

The formal reason given by the company for San Win Hlaing's termination was that he had failed to follow an order from his line leader, who had yelled at him, "You son of a bitch, lift that chair over here!" When the employee refused to comply and, instead, sought to file a complaint against the line leader for verbal abuse, the employee was terminated.

The terminations of both employees were clearly, again, acts of retaliation for these workers' leadership in the union and their participation in union activities. In the case of employee Soe Win Aung, the factory management explicitly acknowledged this to be the case at the time he was terminated. In the case of the termination of San Win Hlaing, both its timing, immediately following employees' protests over the management's unilateral changes to their working conditions, and the hostile animus displayed toward him by his line leader during the incident that resulted in his termination reveal the retaliatory nature of his firing. As such, the dismissals of both workers and the company's subsequent refusal, as discussed below, to reinstate them clearly violated Burmese law and international labor standards.<sup>41</sup>

Both terminated union leaders sought reinstatement through Myanmar's labor arbitration system. In both cases, however, while the initial arbitration panel to hear the dispute (the "Arbitration Body") ordered the union leaders' reinstatement with back pay, the company appealed the decision to the arbitration system's upper-level body (the "Arbitration Council"). And in both cases, the Arbitration Council, as is quite common in Myanmar, overturned the lower body's order for reinstatement and simply ordered Honeys to pay compensation to the workers.<sup>42</sup>

This outcome, while consistent with the formal procedures of Myanmar's labor arbitration system is inconsistent with respect to the right of freedom of association. The International Labour

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<sup>41</sup> ILO Convention 98, "Right to Organise and Collective Bargaining," also, Labour Organization Law, § 18 ("The labour organization has the right to demand the relevant employer to re-appoint a worker if such worker is dismissed by the employer and if there is cause to believe that the reasons of such dismissal were based on labour organization membership or activities, or were not in conformity with the labour laws.").

<sup>42</sup> In the case of Soe Win Aung, on June 27, 2017, the Arbitration Body ordered Honeys 1 to reinstate him with back pay, but the company appealed the decision to the Arbitration Council, which overturned the decision and instead ordered Honeys to pay him MMK 400,000 (US\$267.00) in compensation. In the case of San Win Hlaing, the Arbitration Body similarly ordered his reinstatement with back pay on July 28, 2017, but the Arbitration Council overturned the decision and ordered the company to pay him MMK 300,000 (US\$200.00) in compensation.

Organization's Committee on Freedom of Association ("ILO CFA"), the international expert body responsible for interpreting this fundamental workplace right, requires that workers terminated in retaliation for union activities be reinstated to their former position of employment and not merely provided monetary compensation.<sup>43</sup> Moreover, the fact that the Arbitration Council only ordered the company to pay compensation to the workers and did not uphold their reinstatement does not alter the finding that their terminations violated Myanmar law.

## **2. Retaliatory Mass Firings of Nearly 450 Union Members in Mid-June 2017**

As discussed below, from mid-June through early July 2017, the management of Honeys 1 and Honeys 2 conducted mass terminations of 448 workers who were union leaders and members at both factories. These firings included the terminations of 366 workers from Honeys 1 on June 16 and 17, the firing of 54 more employees at Honeys 1 on June 19, and the firing of 28 workers from Honeys 2 in late June and early July.

Since, as discussed below, anti-union retaliation—including punishing workers for exercising the right to strike, which is a recognized element of the right to freedom of association—was a significant causal factor in these terminations, the WRC finds that the company's mass dismissals of and subsequent refusal to reinstate these employees represented severe violations of workers' fundamental labor rights.<sup>44</sup> The result of these terminations was elimination of the workers' in-plant unions and suppression of freedom of association generally at both factories, as having witnessed or heard of the termination of several hundred employees for engaging in union activities has left the remaining employees too intimidated to exercise this right.

As we detail in this section, all of these terminations were submitted to Myanmar's labor arbitration system. As with the previous firings of the three union leaders, in all of these cases, the initial arbitration panel tasked to consider the firings found that they were illegal and ordered the workers' reinstatement. However, as with the earlier terminations, the company appealed these rulings to the arbitration system's upper level, which, in the cases of all but one of the nearly 450 fired workers, reversed the initial order that they be returned to their jobs.

As we also explain, the appellate arbitration body's justifications for reversing the reinstatement orders are not supported by the undisputed facts of the workers' terminations—so much so that they call into question the impartiality of its decisions, a criticism that has also been levelled at the

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<sup>43</sup> See e.g., ILO, "Freedom of Association. Compilation of Decisions of the Committee on Freedom of Association," 6th ed. (rev.), (2018), ¶ 1106. ("It would not appear that sufficient protection against acts of anti-union discrimination, as set out in Convention No. 98, is granted by legislation in cases where employers can in practice, on condition that they pay the compensation prescribed by law for cases of unjustified dismissal, dismiss any worker, if the true reason is the worker's trade union membership or activities.")

<sup>44</sup> Labor Organisation Law, § 18 ("The labour organization has the right to demand the relevant employer to re-appoint a worker if such worker is dismissed by the employer and if there is cause to believe that the reasons of such dismissal were based on labour organization membership or activities, or were not in conformity with the labour laws."), and ILO Convention 98, "Right to Organise and Collective Bargaining," (prohibiting "dismissal of ... a worker by reason of union membership or because of participation in union activities.").

Myanmar labor arbitration system by other observers.<sup>45</sup> As a result, the conclusion of the WRC is that, despite the fact that the appellate body reversed the initial arbitration panels' orders that Honeys reinstate the employees that the company dismissed in these mass firings, these terminations of more than 440 workers for engaging in union activity, nonetheless, represented severe violations of workers' fundamentals right to freedom of association.

**a. Termination of 366 Workers from Honeys 1 on June 16 and 17, 2017**

**i. Findings**

During the first half of June 2017, employees at Honeys 1 continued to protest the company's imposition of higher production quotas, by wearing red headscarves at work and insisting on producing "only what they could do," rather than attempting to meet the company's new higher production targets. The workers were conducting, in effect, a type of 'go slow' or 'work-to-rule' protest, which is a recognized form of an exercise of the right to strike, as protected under international labor standards. In response, as discussed below, the company terminated several hundred workers *en masse* in retaliation for these workplace protests.

In mid-June, as the workers' protests continued, the factory management announced that it was reassigning employees from their current workstations to other workstations in the factory. On June 16, the management dismissed 20 workers who refused to accept this reassignment. On June 17, the company dismissed an additional 346 workers who had continued to protest the increased production targets. These workers were each issued three warning letters and a notice of dismissal all on the same day.

Both cases of mass termination—the firing of 20 workers on June 16 and the mass termination of 346 workers on June 17—were submitted to arbitration by the union. The initial panel hearing the case, the Arbitration Body, consolidated the two cases and, on July 5, 2017, ordered Honeys to reinstate all 366 workers with back pay, on the grounds that the Honeys management should have negotiated with the workers over the production targets rather than transferring and terminating the employees in retaliation for their protests.<sup>46</sup> In its award, the Arbitration Body observed that the company had closed-off avenues for a negotiated settlement by terminating the union leadership and the worker representatives on the factory's Workplace Coordination Committee (WCC) and had not given employees genuine notice of discipline prior to their dismissal, as it had issued workers three warning letters on the same day they were terminated.<sup>47</sup>

In the case of both awards, Honeys 1 appealed the Arbitration Body's orders to the appellate panel, the Arbitration Council.<sup>48</sup> With respect to the Arbitration Body's order that Honeys reinstate the 366

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<sup>45</sup> Shoon Naing, "Labour Union Threatens Boycott of Arbitration Council," *Myanmar Times*, August 4, 2016, <http://www.mmmtimes.com/index.php/national-news/21752-labour-union-threatens-boycott-of-arbitration-council.html>.

<sup>46</sup> *In re Honeys Garment*, Yangon Region Arbitration Body, dispute nr. 71/2017 (July 5, 2017).

<sup>47</sup> *In re Honeys Garment*. Arbitration Council Award 44 /2017 (August 4, 2017), Findings (detailing the findings of the Arbitration Body).

<sup>48</sup> Settlement of Labour Dispute Law § 28 ("If either party is not satisfied with the decision of the Arbitration Body, except for a decision in respect of essential services, the following options may be exercised;



workers the company terminated on June 17, the Arbitration Council, on August 4, 2017, overturned the Arbitration Body's award, ruling that such reinstatement was not required.<sup>49</sup>

The Arbitration Council's decision to overturn the Arbitration Body's award ordering the 366 workers' reinstatement appears suspect on multiple grounds, including concerns that have been raised, in this instance and generally, concerning the Arbitration Council's independence<sup>50</sup> and objectivity.<sup>51</sup> Just as concerning, however, is the apparent lack of a logical and factual basis to support the Arbitration Council's reversal of the initial award in favor of the workers.

The Arbitration Council's conclusion was that the workers were at fault for their termination, because, rather than protest over the production targets, they should have sought to resolve the dispute through the factory's WCC and attempted to negotiate with the company over the production targets.<sup>52</sup> However, as both the Arbitration Body and the Arbitration Council, itself, observed, the WCC at Honeys 1 was not functioning at the time of the dispute, because the worker representatives to the committee had been dismissed by the company.<sup>53</sup> Moreover, the Arbitration Council did not explain how workers could have negotiated with the company over the production quotas when, as the Council, itself, acknowledged, the company's Burmese representatives refused to facilitate discussion between workers and the Japanese factory management,<sup>54</sup> and the company did not warn workers that it would dismiss them if they continued their protests until the very day it executed their terminations.<sup>55</sup>

As with the earlier arbitration cases concerning the retaliatory terminations of the three union leaders, the decision of the Arbitration Council permitting Honeys' termination *en masse* of these 366 employees for engaging in a workplace protest and other associational activities did follow the formal procedures of Myanmar's labor arbitration system. However, since, as discussed above, the Arbitration Council's conclusion, reached on appeal, that the workers were at fault for their terminations, lacked any rational basis, the WRC finds that the initial arbitral decision that the firings violated Myanmar law was the correct one and that its reversal on appeal was unjustified.

Moreover, Honeys' termination of these workers plainly violated freedom of association, as established under international labor conventions, in particular, the right to strike, which is an

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(a) applying by both parties to the Arbitration Council for its decision within seven days, not including the official holidays, from the day of receipt of the decision of the Arbitration Body; or (b) carrying out a lock-out or strike in accordance with the relevant law.”).

<sup>49</sup> *In re Honeys Garment*. Arbitration Council Award 44 /2017 (August 4, 2017), Findings.

<sup>50</sup> Honeys workers testified to the WRC that the company representative, Ko Saw Lay, who is currently the factories' general manager, made the following statement alluding to paying the Arbitration Council to reverse the Arbitration Body's award, “If we have to take you [the fired workers] all back as the Arbitration Body ordered, we would have to pay you MMK 60 million [US\$40,000], and then we would have to deal with all your problems again, but if we on the other hand just pay money to the Arbitration Council to get rid of you, then we will have solved our problem with you once and for all!”

<sup>51</sup> The Arbitration Council has been criticized by worker representatives in Myanmar for failing to comply with rules giving worker organizations the right to elect five of its 15 members and for bias against workers and unions. Shoon Naing, “Labour Union Threatens Boycott of Arbitration Council.”

<sup>52</sup> *In re Honeys Garment*. Arbitration Council Award 44 /2017 (August 4, 2017), Findings, ¶ 71.

<sup>53</sup> *In re Honeys Garment*. Arbitration Council Award 44 /2017 (August 4, 2017), Findings, ¶ 69.

<sup>54</sup> *In re Honeys Garment*. Arbitration Council Award 44 /2017 (August 4, 2017), Findings, ¶ 69.

<sup>55</sup> *In re Honeys Garment*. Arbitration Council Award 44 /2017 (August 4, 2017), Findings, ¶ 61.

essential element of this fundamental workplace right. As previously noted, the ILO Committee on Freedom of Association (ILO CFA) has made clear that the union activities that are protected by the right to strike include precisely the activity in which the workers at Honeys 1 were engaged when they protested the increase in their production quota, i.e., a nonviolent job action<sup>56</sup>—and, therefore, an activity for which workers should not face retaliatory dismissal.<sup>57</sup>

Furthermore, the ILO CFA has clearly established that respect for freedom of association requires that workers who are terminated for engaging in peaceful union activities must be reinstated with back pay to their previous employment.<sup>58</sup> Therefore, Honeys' termination of the 366 workers for engaging in nonviolent workplace protest and the company's subsequent refusal to reinstate these employees to their jobs with back pay were very serious abuses of its employees' fundamental labor rights.

## **b. Termination of 54 More Workers from Honeys 1 on June 19, 2017**

### **i. Findings**

On June 19, the management of Honeys 1 told an additional 54 employees, who had also continued to protest the new production targets, that the company would not assign them any work and that they should go home. The 54 employees refused to leave the factory and stayed at the plant for two days, during which time they were not assigned any work by the company. Three days after the employees finally left the factory, the company informed them that it now considered them to have voluntarily resigned by having been absent from work.<sup>59</sup>

On July 21, the Arbitration Body also ordered Honeys 1 to reinstate with back pay the 54 workers who had been constructively discharged on June 19. In this second award, the Arbitration Body held that the workers could not be considered to have resigned by being absent, because their employer had, in effect, locked them out of the factory.<sup>60</sup>

In this case as well, Honeys management appealed the Arbitration Body's reinstatement order to the Arbitration Council. In this case, the Arbitration Council did not overturn this decision on its merits. However, the Arbitration Council still managed to effectively nullify the reinstatement award by ruling on August 21, 2017, that since only one of the 54 dismissed workers was in attendance when the appeal was heard, the award would be narrowed to apply to only that single worker. This

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<sup>56</sup> ILO, "Freedom of Association," ¶ 786 ("Regarding various types of strike action ... [including] go-slow, working to rule and sit-down strikes ... restrictions [on these strikes] may be justified only if the strike ceases to be peaceful.").

<sup>57</sup> ILO, "Freedom of Association," ¶ 959 ("Respect for the principles of freedom of association requires that workers should not be dismissed or refused re-employment on account of their having participated in a strike or other industrial action. It is irrelevant for these purposes whether the dismissal occurs during or after the strike. Logically, it should also be irrelevant that the dismissal takes place in advance of a strike, if the purpose of the dismissal is to impede or to penalize the exercise of the right to strike.").

<sup>58</sup> See e.g., ILO, "Freedom of Association," ¶¶ 1106 and 1169 ("If it appears that the dismissals occurred as a result of involvement by the workers concerned in the activities of a union, the Government must ensure that those workers are reinstated in their jobs without loss of pay.").

<sup>59</sup> ILO, *Guide to the Myanmar Labour Law*, (2017): 29, ("Employer has the right to dismiss an employee without having to pay severance if the employee is convicted of the following crimes: [...] Being absent for three consecutive days without taking leave.").

<sup>60</sup> *In re Honeys Garment*, Yangon Region Arbitration Body, dispute nr. 75/2017 (July 21, 2017).



decision of the Arbitration Council let stand another mass dismissal by Honeys management of employees engaging in nonviolent workplace protest. As noted, however, the Arbitration Council's decision did not overturn the initial arbitral finding that the company had unlawfully terminated these 54 workers by locking them out of the factory.

As previously noted, the ILO CFA has clearly established that respect for freedom of association requires that workers who are terminated for engaging in peaceful union activities must be reinstated with back pay to their previous employment.<sup>61</sup> Therefore, Honeys' both locking-out these 54 workers and, subsequently, refusing to reinstate them to their jobs also violated their employees' core labor rights.

### **c. Mass Termination of 28 Workers from Honeys 2 in June–July 2017**

#### **i. Findings**

Finally, with respect to the Honeys 2 factory, from the end of June through early July 2017, the plant management dismissed 28 workers who were union members and activists, including the union's entire leadership at the factory after they had taken part in a sympathy strike. In this case as well, although the fired workers submitted a claim for arbitration and the Arbitration Body ruled in favor of their reinstatement, on appeal, the Arbitration Council overturned the decision of the Arbitration Body and upheld the dismissals.

As with the Arbitration Council's decision to overturn the order for reinstatement of 366 employees from Honeys 1, the Council's ruling against the workers at Honeys 2 ratified the company's violation of their right to strike, which is an essential element of freedom of association. As previously noted, the ILO CFA has made clear that workers should not face retaliatory dismissal for exercising this right<sup>62</sup> and, if so dismissed, should be reinstated with back pay to their previous employment.<sup>63</sup> Therefore, Honeys 2's termination of the 28 workers and its refusal, afterwards, to return them to their jobs once more violated its employees' fundamental labor rights.

### **3. Retaliatory Criminal and Civil Prosecution of Trade Union Federation Leader**

#### **i. Findings**

In late July 2017, shortly after Honeys had dismissed more than 440 workers from its factories for their union activities, the company targeted, for further retaliation, the leader of the trade union federation that attempted to assist these employees in exercising their right to freedom of association. On July 24, Honeys sent the leader of the STUM labor federation a letter demanding that she pay the company MMK 1,882,231,750 (US\$1,254,821) in compensation for the company's alleged lost income as a result of the union's activities or face civil and criminal charges. The letter claimed that the STUM union leader owed these funds to the company, because she had "instigated

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<sup>61</sup> See e.g., ILO, "Freedom of Association," ¶¶ 1106 and ¶1169 ("If it appears that the dismissals occurred as a result of involvement by the workers concerned in the activities of a union, the Government must ensure that those workers are reinstated in their jobs without loss of pay.").

<sup>62</sup> ILO, "Freedom of Association," ¶ 959.

<sup>63</sup> See e.g., ILO, "Freedom of Association," ¶¶ 1106 and ¶1169.

workers to lessen the[ir] productivity” and “take action inside and outside with the intention to damage the image of the factory.”

This threat of prosecution by the company represented a further act of retaliation intended to inflict retribution for engaging in associational activities on, not only the company’s employees but also the union leader who dared assist them in exercising this right. As noted above, the very associational activity which Honeys accused the union leader of abetting—employees “lessen[ing] the[ir] productivity” through a slowdown in work—is a protected exercise of the right to strike under international labor standards,<sup>64</sup> even when, as is predictable in any effective industrial action, it inflicts an economic cost on the employer.<sup>65</sup>

Furthermore, the ILO CFA has made it clear that holding union leaders criminally liable for economic losses resulting from peaceful strikes, as Honeys threatened to do in its letter, in itself violates the right of freedom of association. The ILO CFA has explicitly stated that “No one should be ... subject to penal sanctions for the mere fact of organizing or participating in a peaceful strike.”<sup>66</sup>

Nevertheless, on November 22, 2017, Honeys carried out its threat and filed civil charges against the leader of the STUM labor federation. This lawsuit is still being prosecuted, and, in the two years the case already has been pending, the union leader has been required to attend 28 separate hearings.

On November 29, 2017, the company continued its retaliatory campaign against the STUM union leader by filing a criminal complaint against her with Myanmar’s police, charging defamation and, more specifically, violation of Article 66(d) the country’s Telecommunication Act,<sup>67</sup> which carries a potential sentence of up to three years imprisonment. The latter is a vaguely worded Burmese criminal statute that, according to Human Rights Watch, has “frequently been used to violate the free speech rights of individuals and cast a shadow on the right to freedom of expression in Myanmar”<sup>68</sup> and has been characterized by European Parliament as “oppressive”.<sup>69</sup>

As a result, the Myanmar police opened a criminal case against the STUM union leader, which has been pending in the court since February 2018, and the STUM union leader already has had to appear to defend herself in the case on 22 separate occasions. Honeys’ pursuit of criminal and civil prosecution of the leader of a trade union organization in retaliation for her having assisted the company’s employees in engaging in protected associational activities represents yet a further and additionally egregious violation of freedom of association by the company.<sup>70</sup>

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<sup>64</sup> ILO, “Freedom of Association,” ¶ 786.

<sup>65</sup> ILO, “Freedom of Association,” ¶ 755 (noting that “[s]trikes are by nature disruptive and costly”).

<sup>66</sup> ILO, “Freedom of Association,” ¶ 971.

<sup>67</sup> Telecommunication Act, 2013, § 66(d) (“Whoever commits any of the following acts shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine or to both: [...] (d) Extorting, coercing, restraining wrongfully, defaming, disturbing, causing undue influence or threatening to any person by using any Telecommunications Network.”).

<sup>68</sup> See, Human Rights Watch, “Burma: Letter on Section 66(d) of the Telecommunications Law,” May 10, 2017, <https://www.hrw.org/news/2017/05/10/burma-letter-section-66d-telecommunications-law>.

<sup>69</sup> European Parliament, “European Parliament resolution on Myanmar, in particular the situation of Rohingya (2017/2838(RSP)),” [http://www.europarl.europa.eu/doceo/document/B-8-2017-0525\\_EN.pdf](http://www.europarl.europa.eu/doceo/document/B-8-2017-0525_EN.pdf).

<sup>70</sup> ILO, “Freedom of Association,” ¶ 80 (“Allegations of criminal conduct should not be used to harass trade unionists by reason of their union membership or activities.”).

#### 4. Blacklisting of Former Union Officers and Activists

##### i. Findings

During the WRC’s inspection of the Honeys 2 factory, the WRC further found that the company had posted the names and photographs of the former union leaders from both factories on the walls of the room that is used for interviewing job applicants, apparently to maintain a blacklist of these former employees (see Figure 2). Such discrimination in hiring on account of union affiliation and participation violates Burmese law.<sup>71</sup>



Figure 2: 'Blacklist' of Union Leaders Posted at Honeys 2

#### 5. Failure to Ensure a Functioning Workplace Coordinating Committee

##### i. Findings

According to Burmese law, all employers must establish in their workplaces a bipartite Workplace Coordinating Committee (WCC) with two representatives from both management and employees.<sup>72</sup> Since 2012, Honeys has not had a functioning WCC at either of its factories,<sup>73</sup> except during the brief period in 2017, when workers organized a union and elected their own representatives to the WCC. Subsequent to Honeys’ mass dismissal of union members and leaders in June 2017, however, there has not been an active WCC at either factory, placing the company once again in violation of this legal requirement.<sup>74</sup>

##### ii. Company Response and Current Status

In its response to the WRC’s findings, Honeys Holdings attempted to justify its retaliatory terminations of worker union leaders and members as a legitimate response to the workers’ protests, which, as the WRC reported, included a deliberate slowdown in production and, Honeys Holdings alleges, threats by some protesting workers against other employees who did not participate. Honeys Holdings further stated that, as the WRC report also indicated, Myanmar’s Arbitration Council, the appellate body in the government’s labor arbitration system, found that the company was not required to reinstate the workers.

Honeys Holdings did not dispute, therefore, that the company engaged in the conduct described in the WRC’s report—that is, the termination of more than 440 union members and leaders in retaliation for engaging in union activities and workplace protests. The WRC reiterates that, as our

<sup>71</sup> Labour Organization Law, Article 49.

<sup>72</sup> Settlement of Labour Dispute Law, § 3 (“In any trade in which more than 30 workers are employed, the employer, with the view to negotiating and concluding collective agreement, shall: (a) if there is any labour organization, form the Workplace Coordinating Committee with the view to make a collective bargaining as follows: (i) two representatives of workers nominated by each of the labour organizations; (ii) an equivalent number of representatives of employer.”).

<sup>73</sup> *In re Honeys Garment*. Arbitration Council Award 44 /2017 (August 4, 2017), Findings.

<sup>74</sup> The Settlement of Labour Dispute Law § 3.

report states, slowdown strikes are a form of industrial action that is protected against retaliation under ILO standards of freedom of association. As the lower-level arbitration body that initially reviewed the dispute noted, the proper legal response by Honeys to such a job action would have been to engage in collective bargaining to resolve the dispute, not to retaliate by terminating several hundred workers *en masse*.

The WRC also notes that allegations that certain workers engaged in misconduct during the protests would have been appropriately addressed by disciplining those individuals and, in the case of alleged criminal conduct, potentially reporting this to police, not engaging in collective punishment of all protesting workers through mass retaliatory firings. Moreover, in the case of the union leaders whom the company initially terminated, the WRC notes that the company fired several of them before the slowdown actions in question occurred, indicating that their dismissal was solely on account of their role in organizing and taking leadership roles in the workers' union and not related to any allegations of misconduct in those protests.

As is usual in Myanmar's labor arbitration system, although the lower-level arbitration body that initially heard the cases found that the company's mass retaliatory firings were illegal and ordered the reinstatement of the dismissed union leaders and other workers, the appellate Arbitration Council—which, as the WRC's report discussed, is widely recognized to favor employers—reversed this determination. The outcome of these arbitrations, however, does not change the fact that Honeys chose to respond to workers' union activities with targeted firings and criminal charges against union leaders and mass retaliatory firings of hundreds of workers, rather than by engaging in negotiations and (in cases of alleged employee misconduct) applying individual discipline where appropriate. The company's decision to engage in mass retaliation through collective punishment, by firing hundreds of workers for protesting, constituted a severe violation of workers' associational rights.

Regarding the WCC, Honey responded that it currently exists and includes employee members who were elected in 2018. However, the company does not indicate how these employees were nominated. Nor does the company explain how such an election could meaningfully be held, freely and without fear of intimidation, in factories where, just one year prior, all of the previous worker members of the WCC, as well as several hundred other employees, were retaliatorily terminated and have not been reinstated.

Indeed, while the company asserted that WCCs exist at the factories, Honeys Holdings acknowledges in its response that “the results have not been satisfactory”. Honeys Holdings also promises that “[i]n the future, the opinions of WCCs, [and] employees ... will be taken on board”—an implicit acknowledgement that, up until now, employee input has not been registered. These admissions are consistent with the overall finding by the WRC that the factory WCC is not actually functional.

Finally, the WRC notes that the company admits to bringing civil and criminal charges against a labor federation leader in which the sole allegation of wrongdoing is that the workers' job actions caused economic and reputational harm to the company. Since the legitimate purpose of any job action by a union is to cause economic and reputational harm to the employer (as a means influencing the company's negotiation posture), the company's charges are nothing more than an

attempt to criminalize legitimate union activity, which is, again, a serious violation of associational rights.

### **iii. Recommendations**

The WRC recommends that Honeys implement the following measures to comply with Burmese labor law, international labor conventions, and other relevant standards:

- Reinstatement the nearly 450 dismissed union members to their previous positions in the factory with full back pay for the period since their layoff;
- Withdraw all legal charges against the STUM leader;
- Cease the blacklisting of former union officers and activists; and
- After the union has been reinstated, hold new elections for the WCC.

## **E. Harassment and Abuse**

### **1. Verbal Abuse**

#### **a. Findings**

Workers reported to the WRC that several line leaders at both Honeys 1 and Honeys 2 use derogatory language toward and yell at employees for reasons such as the employees' failing to meet the production targets set by the company. One worker at Honeys 1 testified that he had overheard sewing line leaders yell at workers, calling them "bastards", "cunts", and "whores" when they fell behind in meeting their production targets.

The prevalence of verbal abuse at both facilities was witnessed directly by multiple members of the WRC assessment team. At Honeys 1, one line leader shouted at a worker who was being interviewed by a WRC assessment team member that the employee should "stop being so talkative and [get back to] work, bastard!" Likewise, at Honeys 2, a line leader yelled at a worker who was speaking with a WRC assessment team member, "Why are you talking? Get back to work!"

Another WRC assessment team member overheard a line leader say to a worker, "You lazy bitches! You don't know how to finish work. You only know how to take a rest and talk nonsense!" Finally, a different supervisor at Honeys 2 shouted directly at a WRC assessment team member, "Hey, what are you talking [about]?" It is notable that even during a preannounced assessment visit, multiple line leaders were not only overheard shouting profanities at workers in the presence of the WRC assessment team, but, indeed, one line leader was even verbally aggressive to one of the assessment team members. These observed incidents support workers' testimony that verbal abuse is rampant at both facilities.

During interviews with WRC assessors, several line leaders explained that they had previously been ordinary production operators before being promoted to become line leaders. They also added that ensuring that employees reach their production targets was their most important task in the

workplace. Significantly, the line leaders who were interviewed confirmed that they had not received any kind of employee relations training before or after they had been promoted to their current positions.

While Burmese labor laws are silent on the issue of verbal abuse of workers by employers, the supplier code of conduct of Honeys Holdings' customer, AEON, prohibits, "involvement or ... complicit[y] in any abuse or inhuman acts or behavior or abusive language directed toward employees...."<sup>75</sup> Likewise, the code of conduct for member companies of the Myanmar Garment Manufacturers Association, of which Honeys Holdings is a member, states that the members will ensure that, "Management at all levels treat their workers with respect and dignity and shall not engage in abusive or inappropriate behavior toward workers. Disciplinary measures may not involve physical punishment or psychological harassment."<sup>76</sup> Verbal abuse of employees clearly violates both these standards.

## **b. Company Response and Current Status**

In response to the WRC's findings, Honeys Holdings admits that "it is probable that verbal abuse by leaders does take place", committing to carry out more training to supervisory personnel.

## **c. Recommendations**

While acknowledgment of the violation and a commitment to carry out additional training for supervisory staff is a good first step to remedy the violation, the WRC recommends that Honeys Holdings (1) implements a policy prohibiting verbal abuse, or any other form of abuse, (2) informs all line leaders, supervisors, and managers that they will be subject to discipline if they should engage in verbal or other abuse against any employee, and (3) communicates this policy, through written and verbal announcement, to employees, including how to bring a complaint should they be subjected to verbal or other abuse.

# **2. Demeaning Video Surveillance of Clinic Bed Use**

## **a. Findings**

Workers also told the WRC that the factory had installed a closed-circuit television ("CCTV") camera in the factory health clinic at Honeys 1 that was aimed at the clinic's bed, where workers who are ill would lie to recover—a practice which is demeaning to the personal dignity of employees and constitutes a form of psychological harassment, which, as noted above, is prohibited under the Myanmar Garment Manufacturers Association's code of conduct.<sup>77</sup> The workers further reported

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<sup>75</sup> AEON, "Supplier Code of Conduct," Clause 6 re Abuse and Harassment ("Shall not engage in, have any involvement in or be complicit in any punishment of employees, use of mental or physical force or use of abusive language. Shall not permit any acts of harassment including gestures, language or physical contact in any workplace within the business activity.").

<sup>76</sup> Myanmar Garment Manufacturers Association, "Code of Conduct for Member Companies," article 4.6 re Humane Treatment of Workers.

<sup>77</sup> Myanmar Garment Manufacturers Association, "Code of Conduct for Member Companies."



that in early November 2019—a few days prior to the WRC’s assessment visit—the CCTV camera above the clinic bed was removed.

**b.      *Company Response and Current Status***

Honeys Holdings admits that a camera was placed in this area but claims that the company had removed the camera well in advance of the WRC’s inspection. Worker interviews maintain that it was removed shortly before WRC’s inspection, but they also confirm that it has not been reinstalled since the visit. However, since both Honeys Holdings and the WRC agree that no CCTV cameras are currently installed in the health clinic, the disagreement as to when the camera was removed is not a significant discrepancy. This particular issue is considered resolved.

## F. Occupational Health and Safety

### 1. Fire Safety

#### a. Honeys 1

##### i. Findings

Burmese labor law requires that employers provide a safe means of exit from factory buildings and that all exit doors open outwards and can be immediately accessed by workers.<sup>78</sup> The WRC found severe problems at Honeys 1 with respect to egress from the factory, which constituted a serious violation of this legal standard and presented a significant risk to the safety of the factory's workers.

The factory's emergency evacuation route map lists twelve exits from the factory building. However, the WRC's inspection of the factory found that:

- Two of these exits are permanently obstructed by racks of clothing;
- Three other exits were semi-permanently obstructed—they were locked and, moreover, were covered with screen doors that open inwards and are tied shut with a string—all of which would make them difficult to open and exit through in case of a fire; and
- Four other exits equipped with doors that open upwards, of which two, at the time of the WRC's inspection, were blocked by trucks waiting to be loaded and one could only be accessed through a crowded storage area.

The WRC concluded that of the three remaining exit doors only one was easy to access and open outwards (see Figure 3), although even that door is equipped with lockable hardware. Finally, all of the exit doors in the factory, including the one that is actually accessible, lack proper 'panic bars' for rapid egress in case of an emergency. Instead, these doors are equipped with handles and latches that could possibly lead



Figure 3: Blocked Exits at Honeys 1

<sup>78</sup> Factories Act §§ 34 and 40.

to delay or injury if workers needed to escape from the building in case of an emergency.

In addition to emergency exits that are obstructed or otherwise difficult to access or open, fire safety is further compromised at the Honeys 1 factory by the company's installation of four internal mesh fences that separate the facility's various work areas.

One such fence divides into two separate areas the factory's sewing operations. A second fence separates the sewing operations from the cutting department. Two more fences transect the entire factory building, separating the sewing and cutting areas from the rest of the facility.

While these internal fences are equipped with doors at certain intervals along their length, they significantly lengthen the evacuation routes that employees would have to use to exit the factory in case of an emergency. Finally, the factory is generally overcrowded, causing its walkways to be overly narrow and often cluttered with boxes of finished goods—which adds further fire risk due to their combustibility.

Most concerning, these various fire safety hazards create, in combination, an environment where there is a substantial risk of a catastrophic outcome in case of a fire. The WRC's assessment team stressed to Honeys' management the urgency of addressing these hazards and encouraged the management to begin rectifying this situation immediately. However, workers from the factory have reported no progress in this regard since the date of the WRC's inspection.

## **b. Honeys 2**

### **i. Findings**

At Honeys 2, the situation with respect to fire safety is slightly better than prevails at Honeys 1, as none of the exit doors at Honeys 2 were permanently or semi-permanently obstructed, and the factory's walkways are generally wider and less cluttered. However, some of the exits from the factory were not clearly marked, and some were equipped with doors that swing inward instead of outward and, therefore, posed serious safety risks in case of a fire, when a large number of employees would need to quickly exit (see Figure 4). In addition, as at Honeys 1, all the exit doors failed to meet proper fire safety standards, as they are equipped with handles and latches that make them far more difficult to open during an emergency than doors equipped with proper "panic bars". Finally, one of the stairwells from the second floor led to a locked door on the ground floor, that would have trapped workers inside the building in case of a fire.



**Figure 4: Honeys 2 fire exit door opening inwards**

## **ii. Company Response and Status**

Honeys Holdings responded that it was removing the obstructions identified by the WRC and that it had repaired six of the 12 exit doors. However, workers subsequently reported that there have been no changes and the exits remain obstructed and/or locked.

## **iii. Recommendations**

The WRC recommends that Honeys Holdings implement the following measures to comply with Burmese labor law:

- Remove all obstacles in front of the exit doors and replace locks with “panic bars” to allow quick and safe egress;
- Ensure that all doors swing outwards instead of inwards;
- Provide clear exit markings throughout the buildings;
- Remove all four internal mesh fences that separate the facility’s various work areas at Honeys 1;
- Ensure that all walkways are free of obstacles; and
- Reduce overcrowding of the production areas.

## **2. Overcrowded Factory Buildings**

### **a. Honeys 1**

#### **i. Findings**

To ensure workers’ safety and wellbeing, Burmese labor law requires factories to provide a minimum amount of floorspace per worker,<sup>79</sup> amounting to no less than 3.32 square meters, or 35.7 square feet.<sup>80</sup> A rough estimate of the dimensions of the building that houses the Honeys 1 factory indicates that the ground floor of the facility is about 40 meters wide and 60 meters long, providing a total area of 2,400 square meters. The WRC estimates that the factory’s second floor, which only occupies a portion of the building’s footprint, has an area of approximately 800 square meters.

As a result, the factory’s total area is 3,200 square meters, or 34,444 square feet. As the factory employs a total of 1,330 workers, including both regular and daily-wage employees, the available space for each worker is only 2.41 square meters or 25.88 square feet, which is only 73 percent of the legal minimum requirement. Based on the estimated size of the factory, Honeys 1 is not complying with the law, as the facility can only legally house 1,012 workers, more than 300 fewer than the factory actually employs.

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<sup>79</sup> Factories Act, § 18 (1-2) (“No room in a factory shall be overcrowded to such an extent as to be injurious to the health of the workers employed therein. Notwithstanding anything contained in sub-section (1) the amount of cubic space allowed for every person employed in a room shall not be less than 500 cubic feet no space more than 14 feet above the floor shall be taken into account for the purpose of calculating the cubic space.”).

<sup>80</sup> 500 cubic feet divided by the maximum ceiling height of 14 feet, results in a floor area of 35.7 square feet, which correspond to 3.316 square meters.

## **b. Honeys 2**

### **i. Findings**

With respect to the Honeys 2 facility, based on a map supplied by the factory management, the facility's two-story building has a total area of 14,787 square meters, or 159,165 square feet. As the number of workers employed at Honeys 2 is around 2,800, including both regular and daily-wage workers, the available space per worker is 5.28 square meters or 56.83 square feet, which exceeds the legal minimum.

### **ii. Company Response and Status**

Honeys Holdings responded to this finding by claiming that the ground floor of Honeys 1 is 54 meters wide and 84 meters long, which would give a ground floor area of 4,532 square meters, and that the floor area of the second floor is approximately 1,300 square meters, making for a total area of approximately 5,800 square meters, or 62,430 square feet in total for both floors. Honeys Holdings further stated that on June 30, 2020, there were now only 1,222 employees at Honeys 1, including daily workers, which would bring the floor area for each worker to 4.74 square meters, more than the legally required 3.32 square meters. Honeys Holdings did not attach a map showing the dimensions the company reported to the WRC. The WRC notes that if the numbers reported by Honeys Holding concerning Honeys 1 are correct, then the factory is within the legal limit.

## **3. Machine Guarding**

### **i. Findings**

During the WRC's inspection of the Honeys factories, it was noted that all of the sewing machines in both facilities lacked legally required finger guards and eye guards, exposing workers to risk of needlestick and eye injuries.<sup>81</sup> A review of records from the Honeys 2 factory's first aid clinic indicated that, over the previous 12 months, there had been nearly 50 needle injuries recorded—one such accident for every 50 workers at the factory, emphasizing the need for such safeguards.

### **ii. Company Response and Status**

Honeys Holdings committed to install guards to prevent exposing employees using sewing machines to injuries to the eyes or fingers caused by needles.

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<sup>81</sup> Factories Act, §§ 23 (“(1) In every factory the following shall be securely fenced by safe-guards of substantial construction which shall be constantly maintained and kept in position while the parts of the machinery they are fencing are in motion or in use;... (c)(i) Every dangerous part of any other machinery unless it is in such position or of such construction as to be safe to every person employed or working in the factory as it would be if securely fenced.”) and 28 (“(1) (a) [E]very set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger...”).



### iii. Recommendations

The WRC recommends that Honeys Holdings provides photographic evidence that it has equipped the sewing machines with the legally required finger guards and eye guards.

## 4. Ergonomics

### i. Findings

Burmese law requires employers to provide suitable seating arrangements for all workers, including those who are generally required to work in a standing position.<sup>82</sup> Failure to provide ergonomically sound chairs for employees' use while seated and anti-fatigue floor mats for their use while standing can, over time, result in musculoskeletal disorders, including injuries to the back and shoulders that cause ongoing pain,<sup>83</sup> thereby, violating the legal requirement that factories be maintained in manner consistent with worker safety.<sup>84</sup>

The WRC observed that sewing machine operators at Honeys did not have chairs that are ergonomically appropriate. Instead, operators sat on wooden benches that lacked backrests, padding, casters, swivels, seat pan, height and back adjustment, or lumbar support.<sup>85</sup> These chairs, therefore, fail to meet the legal requirements (see Figure 5).<sup>86</sup>

Employees at the factories also are not provided with anti-fatigue floor mats for their use while they work in a standing position (see Figure 6). In addition, and in further violation of Burmese law,<sup>87</sup> employees who work in a standing position are not provided with



Figure 5: Employees Working While Seated on Ergonomically Inappropriate Stools



Figure 6: Employees Working While Standing without Anti-fatigue Mats

<sup>82</sup> Factories Act, § 46.

<sup>83</sup> See, e.g., Anjali Nag, Hina Desai, Pranab K. Nag, "Work Stress of Women in Sewing Machine Operation," *Journal of Human Ergology* 21, no. 1 (1992):47-55.

<sup>84</sup> Factories Act, § 42.

<sup>85</sup> US Occupational Safety & Health Administration (OSHA), "Sewing Station Design," accessed October 1, 2021, <https://www.osha.gov/SLTC/etools/sewing/sewingstationdesign.html>; also, R. Herbert, J. Dropkin, D. Sivin, J. Doucette, L. Kellogg, J. Bardin, N. Warren, D. Kass, and S. Zoloth, "Impact of an Ergonomics Program Featuring Adjustable Chairs on Upper Extremity Musculoskeletal Symptoms Among Garment Workers," (presented at the Managing Ergonomics in the 1990's: A Discussion of the Science and Policy Issues Conference, Cincinnati, OH, 1997) (finding that provision of such seating significantly reduced the incidence of musculoskeletal injury and pain among garment workers).

<sup>86</sup> Factories Act, § 42.

<sup>87</sup> Factories Act, § 46 (1) ("In every factory suitable arrangements for sitting shall be provided and maintained for all workers required to work in a standing position, in order that they may take advantage of any opportunity for rest which may occur during the course of their work.").



any seating to take brief moments of rest. Workers at both facilities further testified that they were actively discouraged from taking any rest from standing. For instance, workers employed in the quality control and ironing sections at Honeys 2 informed the WRC that if they try to sit for a short while during the workday, their line leader or supervisor will scold them, and, as they are only allowed to sit down during their lunch break, they felt very tired at the end of their workday.

## **ii. Company Response and Status**

Honeys Holdings stated that it would provide employees who work from a seated position with padded chairs and employees who stand for work anti-shock floor mats in response to the WRC's findings. However, workers recently interviewed by the WRC reported that they have not seen such equipment provided to workers.

## **iii. Recommendations**

The WRC recommends that Honeys Holdings implement the following measures to comply with Burmese labor law, international labor conventions, and other relevant standards:

- Provide employees who work in a seated position with chairs that meet minimum ergonomic standards, equipped with back and arm rests, padded seats, casters and swivel, seat height and back angle adjustments, and lumbar support; and
- Provide employees who work in standing position with anti-fatigue mats and seating, as well as allow these workers short breaks to sit and rest their legs.

# **5. Failure to Provide Personal Protective Equipment**

## **i. Findings**

Workers in the Honeys 1 factory's cutting department who operate handheld machine cutters are not provided with personal protective equipment ("PPE") in the form of steel gloves to protect them from the cutters' sharp blades (see Figure 7). Employees testified that several workers in this department had cut their fingers and that one employee had almost severed a finger.

Those injured in such incidents are often daily-wage workers who have less experience operating these devices.

Although the WRC pointed out to the factory management the need to immediately begin providing steel mesh gloves to workers in the cutting section, by the end of November 2019, three weeks after the WRC's visit to the factory, Honeys 1 had still not provided steel mesh gloves for these workers.



**Figure 7: Using Machine Cutters without Protective Steel Mesh Gloves**

In addition, the WRC observed that, in violation of Burmese law, mechanics at Honeys 2 were performing welding work without wearing any protective equipment, including any eye protection.<sup>88</sup> All of these practices fail to comply with Burmese labor laws, which require employers to provide workers with PPE at no cost to the employees.<sup>89</sup>

## ii. *Company Response and Status*

In response to this finding, Honey Holdings claims to have provided steel mesh gloves to workers. Workers subsequently interviewed by the WRC stated that no such PPE was provided to them and that they must still use rubber gloves, which do not protect workers from injury.

## iii. *Recommendations*

The WRC recommends that Honeys implement the following measures to comply with Burmese labor law, international labor conventions, and other relevant standards:

- Provide workers who operate handheld machine cutters with steel mesh gloves; and
- Provide workers who are performing welding works with relevant protective equipment including adequate eye protection. Guidance to what constitute safe welding practices can be found at US Occupational Safety & Health Administration.<sup>90</sup>

## 6. **Restricted Access to Toilets and Inadequate Toilet Facilities**

### i. *Findings*

Honeys workers reported to the WRC that the company restricts their access to the plant's washrooms through a system that requires workers to obtain and wear a blue colored sash with a key to the washroom attached to it to use the factory's toilets (see Figure 8). Each sewing production line and each production division (cutting, quality control, ironing, etc.) has only one such sash, which has a single key that corresponds to a single toilet that is exclusively reserved for workers in that division. Workers further testified that they will be scolded by



Figure 8: Toilet Key Attached to Blue Sash

<sup>88</sup> Factories Act, § 37 (“Protection of eyes: In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves - (a) Risk of injury to the eyes from particles or fragments thrown off in the course of the process, or (b) Risk to the eyes by reason of exposure to excessive light, the President may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process.

<sup>89</sup> ILO, *Guide to the Myanmar Labour Law* (2017): 21 (“The employer must provide protective equipment ... at no cost to workers.”).

<sup>90</sup> United States Department of Labor, Occupation Safety and Health Administration, “Safety and Health Regulations for Construction: Welding and Cutting,” amended July 11, 1986, <https://www.osha.gov/laws-regs/regulations/standardnumber/1926/1926.351>.

their line leaders and supervisors if they request to go to the washroom when their line's sash and key is not available.

As a result of this system, only one worker per production line or division can go to the toilet at one time. As there are up to 50 workers in a single division or production line, and one toilet visit requires at least five minutes, including walking to and from the washroom, the company's system restricts each worker to a single toilet visit in a four-hour period.<sup>91</sup>

Such restrictions on toilet access violate Burmese labor law, which requires that toilets be made accessible at all times.<sup>92</sup> Moreover, these policies can also negatively impact employees' health, since restricting toilet use has been linked to dehydration (from employees limiting intake of liquids in order to avoid needing to use the toilet) and urinary tract infections (from workers excessively delaying toilet use).<sup>93</sup>

In addition to restricting workers' access to toilets, the WRC also found that the factory management at both facilities fails to keep the washrooms in a clean and hygienic state, as required by Burmese law.<sup>94</sup> For instance, on the second floor at the Honeys 2 factory, a stench of stale urine greeted the WRC assessment team a few meters before the inspectors even entered the toilet area. Furthermore, in several of the washrooms, no soap was provided for the employees' use.

## ii. *Company Response and Status*

Honeys Holdings admits that it restricts its employees' access to the toilets, placing the blame on workers for doing so by claiming that restrictions were necessary since employees failed to keep the washrooms clean and that workers were using restroom breaks as an excuse to loiter during work hours. The WRC notes that this is a form of collective punishment by which the factory imposes a demeaning and unhealthy practice (restricted access to toilets) upon the entire workforce, rather than making the effort to hold those whom it alleges are actually responsible for the problem accountable. For example, if, as the company alleges, certain employees loiter in the washrooms, this can be addressed by disciplining those individuals, rather than collectively restricting workers' access to the toilets. Furthermore, it is the responsibility of the employer to ensure that washrooms are hygienic and clean.

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<sup>91</sup> Five minutes multiplied by 50 workers equals 250 minutes, or four hours and 10 minutes.

<sup>92</sup> Factories Act, 1951, § 21 (1a) ("In every factory [...] sufficient latrines and urinals of prescribed plan conveniently situated and access[ible to] workers at all times shall be provided.").

<sup>93</sup> See, e.g., US Occupational Safety & Health Administration, "Memorandum of April 6, 1998 re Interpretation of 29 CFR 1910.141 (c) (1) (i): Toilet Facilities" (1998) ("Adverse health effects that may result from voluntary urinary retention include increased frequency of urinary tract infections which can lead to more serious infections and, in rare situations, renal damage [...] UTIs during pregnancy have been associated with low birth weight babies, who are at risk for additional health problems compared to normal weight infants[...] Medical evidence also shows that health problems, including constipation, abdominal pain, diverticuli, and hemorrhoids, can result if individuals delay defecation."); and Worker Rights Consortium, *Assessment re New Wide Garment (Cambodia)*, 2008, 23–25, [https://www.workersrights.org/wp-content/uploads/2016/02/New\\_Wide\\_Garment\\_Report\\_3-6-08.pdf](https://www.workersrights.org/wp-content/uploads/2016/02/New_Wide_Garment_Report_3-6-08.pdf); and Worker Rights Consortium, *Assessment re Zongtex Garment Manufacturing (Cambodia)*, 2014, 20–22, <https://www.workersrights.org/wp-content/uploads/2019/08/WRC-Assessment-re-Zongtex-Cambodia-3.13.2014.pdf>.

<sup>94</sup> Factories Act, § 21 (1e) ("Latrines and urinals shall be employed, maintained in a clean and sanitary condition at all times.").

### iii. Recommendations

The WRC recommends that Honeys Holdings implements the following measures to comply with Burmese labor law, international labor conventions, and other relevant standards:

- Discontinue its practices of requiring passes to enter the washrooms;
- Keep the restroom facilities in a clean and hygienic conditions; and
- Provide adequate hand soap in the factory's washrooms.

## 7. Excessive Temperatures

### i. Findings

Burmese labor law mandates that workplace temperatures must be maintained at levels that will “secure workers [...] in reasonable conditions of comfort and health.”<sup>95</sup> However, the law does not specify the maximum temperature levels that are permitted in a factory. As a result, in order to determine whether a temperature level in a workplace “secure[s] [...] reasonable conditions of comfort and health” and, therefore, complies with Burmese law, the WRC looks to the US Occupational Safety & Health Administration’s (US OSHA) scale of the risk to the health of employees posed by the “heat index” in the workplace, a figure which is based on both the temperature and the relative humidity level.<sup>96</sup> The WRC considers indoor temperatures that, when combined with the relative humidity level present in the workplace, result in a heat index that has been deemed by US OSHA to present a “high risk” of harm to workers as violating the requirements of Burmese law.

Myanmar is well-known for its hot and humid climate; however, the month of November, when the WRC inspected the Honeys factories, is, on average, one of the coolest months of the year.<sup>97</sup> Both Honeys facilities are equipped with evaporative cooling pad systems, however, as discussed below, this system did not effectively control temperatures in most parts of the factory.

During the November 2019 inspection of Honeys, the WRC measured ambient temperatures and relative humidity at Honeys 2, both outside the factory and in the workplace, in the area where the facility’s main production operation (sewing) takes place, as well as in the factory’s packing and cutting facilities. The table below (see Table 1) presents the WRC’s measurements of temperature, relative humidity (“R.H.”), and heat index levels in these areas, as well as outside the building, between 10:00 a.m. and 12:00 p.m.

It should be noted that the WRC measured temperatures and humidity levels at the Honeys 2 factory on November 6, 2019, but did not take any temperature or humidity measurements at the

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<sup>95</sup> Factories Act, 1951, § 15 (1) (“Effective and suitable arrangement shall be made in every factory for securing and maintaining in every workroom adequate ventilation by the circulation of fresh air, and such equable temperatures as will secure workers therein reasonable conditions of comfort and health.”).

<sup>96</sup> OSHA, *Using the Heat Index: A Guide for Employers*, accessed October 1, 2021, <https://www.nalc.org/workplace-issues/body/OSHA-All-in-One-Heat-Guide.pdf>.

<sup>97</sup> World Meteorological Organization, “World Weather Information Service: Yangon, Burma,” updated October 15, 2021, <http://worldweather.wmo.int/en/city.html?cityId=232>.

Honeys 1 factory, when the latter facility was inspected on November 7. On November 7, 2019, Yangon experienced unusually cold weather, with outside temperatures falling from almost 33 degrees Celsius to just 25 degrees Celsius, making the Honeys 1 factory decidedly cool. Given that both factories use the same cooling system, and that Honeys 1 is the older of the two facilities and, unlike Honeys 2, not purpose-built for garment production, using the measurements taken at Honeys 2 under normal weather conditions provided a reasonable representation of the prevailing temperatures at both factories.

**Table 1: Temperature and Relative Humidity at Honeys 2 (November 6, 2019)**

<i>Time</i>	<i>Area</i>	<i>Temp.</i> °C/°F	<i>R.H.%</i>	<i>Heat Index</i> °C/°F	<i>Inside Temp. &gt;</i> <i>Outdoor Temp.</i>	<i>Inside R.H.% &gt;</i> <i>Outdoor R.H.%</i>
10:00	Spot Cleaning (1st floor)	32.6 / 90.7	69%	<b>41.8 / 107.3</b>	No	Yes
10:15	Packing (1st floor)	32.7 / 90.9	65%	<b>40.6 / 105</b>	No	No
10:30	Cutting (1st floor)	32.5 / 90.5	68%	<b>40.5 / 104.9</b>	No	Yes
10:55	Planning Sample (2nd floor)	29.8 / 85.6	81%	37.3 / 99.2	No	Yes
11:10	Center of building (2nd floor)	31.2 / 88.2	80%	<b>41.6 / 106.8</b>	No	Yes
11:15	Near the ventilation (2nd floor)	32.5 / 90.5	72%	<b>42.7 / 108.9</b>	No	Yes
11:20	Ironing line 89 (2nd floor)	32.6 / 90.7	75%	<b>44.3 / 111.8</b>	No	Yes
11:50	Canteen	33.8 / 92.8	62%	<b>42.5 / 108.4</b>	Yes	No
12:00	Outside	32.9 / 91.2	66%	<b>41.5 / 106.7</b>	N/A	N/A

**Notes:** “>” = greater than; “~” = times are approximate; Heat Indices in **bold** represent “high risk” according to US OSHA guidelines.

As can be seen from the preceding table, temperatures measured inside the production areas, except in the planning sample section, were only slightly lower than those measured outside the facility, but humidity levels measured inside the production area were significantly higher. Consequently, although the factory’s evaporative cooling pad system had some moderating effect on temperature levels, this was counteracted by the increase it caused in humidity levels, and, as a result, the heat index was higher inside most areas of the facility than it was outside of the factory. More importantly, with the exception of the planning sample area, the heat indices throughout the factory were above the level deemed by US OSHA to present a “high risk” and thus failed to fulfill the



obligation under Burmese law to maintain indoor temperatures at a level that provides a “reasonable level of comfort and health”.<sup>98</sup>

## ii. Company Response and Status

Honeys Holdings’ response included a chart with recent temperature and humidity measurements that were taken on July 6 and 8, 2020, in a number of areas in the factories (see Table 2 below).

**Table 2: Temperatures and Relative Humidity at Honeys 2 (July 6 and 8, 2020)**

Date	Time	Sewing line central			Sample room (2F)			Cutting room (1F)			Ironing room (1F)			Outside	
		Temp. °C	R.H.%	Heat Index °C / °F	Temp. °C	R.H.%	Heat Index °C / °F	Temp. °C	R.H.%	Heat Index °C / °F	Temp. °C	R.H.%	Heat Index °C / °F	Temp. °C	R.H.%
July 6, 2020	10:00	29.8	85	38.5 / 101.2	27.8	91	33.3 / 91.9	31.5	81	<b>43.0</b> / <b>109.4</b>	29.1	89	37.2 / 98.9	28.2	92
	12:00	31.2	75	39.8 / 103.6	29.5	80	36.2 / 97.1	31.1	79	<b>40.9</b> / <b>105.5</b>	30.1	82	38.6 / 101.4	28.9	86
	14:00	30.6	83	<b>40.6</b> / <b>105</b>	27.9	94	34.1 / 93.4	31.3	79	<b>41.5</b> / <b>106.7</b>	29.7	92	40.2 / 104.4	29.8	87
	16:00	33.1	70	<b>43.8</b> / <b>110.8</b>	30.2	82	38.9 / 102	32.4	82	<b>46.8</b> / <b>116.2</b>	34.4	92	<b>61.9</b> / <b>143.5</b>	33.6	65
July 8, 2020	10:00	32.0	81	<b>44.8</b> / <b>112.6</b>	29.5	90	38.9 / 101.9	32.2	78	<b>44.2</b> / <b>111.6</b>	30.7	95	<b>45.4</b> / <b>113.8</b>	32.1	76
	12:00	33.5	74	<b>47</b> / <b>116.6</b>	30.9	84	<b>42</b> / <b>107.5</b>	32.5	76	<b>44.4</b> / <b>111.9</b>	30.9	95	<b>46.3</b> / <b>115.4</b>	38.0	52
	14:00	34.3	66	<b>45.8</b> / <b>114.4</b>	31.1	79	<b>40.9</b> / <b>105.5</b>	33.8	65	<b>43.8</b> / <b>110.8</b>	31.3	90	<b>45.9</b> / <b>114.7</b>	37.8	52
	16:00	33.9	67	<b>45</b> / <b>113</b>	30.2	82	38.9 / 102	34.2	65	<b>45.0</b> / <b>113</b>	31.1	88	<b>44.3</b> / <b>111.7</b>	34.5	60

**Notes:** Heat Indices in **bold** represent “high risk” and **red bold** represent “extreme risk” according to US OSHA guidelines.

A comparison of these measurements with the US OSHA Heat Index Chart indicates that the temperature and humidity measurements for every one of these areas show conditions that pose a significant health risk for workers. All of the temperature and humidity readings that the company reports represent heat index conditions requiring “extreme caution” or posing actual “danger” to workers. Moreover, in the case of one of the measurements in the ironing area, the temperature and humidity levels, according to the US OSHA Heat Index Chart, present “extreme danger” to workers—the highest level of risk.

## iii. Recommendations

The WRC recommends that Honeys Holdings implements the following measures to comply with Burmese labor law, international labor conventions, and other relevant standards:

<sup>98</sup> Factories Act, § 15 (1) (“Effective and suitable arrangement shall be made in every factory for securing and maintaining in every workroom adequate ventilation by the circulation of fresh air, and such equable temperatures as will secure workers therein reasonable conditions of comfort and health.”).



- Ensure that all existing evaporative cooling pads are in proper working order, and, secondly, installing, if necessary, additional cooling and ventilation equipment, such as exhaust and ventilation fans, additional evaporative cooling pads, and air-conditioning; and
- Regularly record temperature readings in the factory to monitor the effectiveness of these measures and determine whether other measures should be taken to address excessive heat.

## 8. Excessive Noise

### i. Findings

The WRC found that the electric power section in the Honeys 1 factory, which also houses the facility's back-up generator, had very loud noise levels. Although the WRC did not measure the decibel level in this department, the WRC assessment team found that, while inside this room, it was impossible to have any form of conversation with the electrical engineers who worked there. To ask the engineers any questions, a WRC assessment team member had to invite an engineer to step outside the room. Being unable to have a normal conversation is a strong indicator that the noise level in an area is excessive and harmful.<sup>99</sup>

The WRC found that the ventilation system situated above the tables in the ironing division at the Honeys 2 factory was very noisy as well. The WRC measured the noise level in this area and found it to reach a level of 81.8 decibels, a level at which, without protective equipment, damage to hearing can occur with two hours of exposure.<sup>100</sup> In both areas, however, workers were not provided with any hearing protection equipment.

Burmese law requires factories to be maintained in a condition that is not dangerous to the workers employed there.<sup>101</sup> Failing to correct or provide protective equipment to guard against noise levels that can cause damage to a worker's hearing presents a danger to employees' health, thereby violating the employer's general duty under the law.

### ii. Company Response and Status

Honeys Holdings responded to this finding by saying that hearing protection is now provided to the workers in the electrical power section, but the company did not address the other findings.

### iii. Recommendations

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<sup>99</sup> US Department of Labor, Occupational Safety and Health Administration (OSHA), "Occupational Noise Exposure," accessed October 1, 2021, ("If you need to raise your voice to speak to someone 3 feet away, noise levels might be over 85 decibels.") <https://www.osha.gov/SLTC/noisehearingconservation/>.

<sup>100</sup> US Centers for Disease Control and Prevention, "What Noises Cause Hearing Loss," updated October 7, 2019, [https://www.cdc.gov/ncch/hearing\\_loss/what\\_noises\\_cause\\_hearing\\_loss.html](https://www.cdc.gov/ncch/hearing_loss/what_noises_cause_hearing_loss.html).

<sup>101</sup> Factories Act, § 42 (1) ("If it appears to the Inspector that any building or part of a building or any part of the passage way, machinery or plant in a factory is in such a condition that it will be dangerous to human life or safety, he may sever on the manager of the factor an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.").

The WRC recommends that Honeys Holdings implements the following measures to comply with Burmese labor law, international labor conventions, and other relevant standards:

- Relocate and isolate machines that are the source of excessive noise levels, if possible, and keep the machines that are the source of excessive noise in the best possible condition, in order to protect workers who currently work nearby and thus are exposed to the noise; and
- In cases where the hazard cannot be fully eliminated, provide workers with the necessary PPE including, but not limited to, hearing protection (i.e., earplugs, etc.); this PPE should be provided to the workers free of charge and should be replaced when necessary.

## **9. Slip Hazards**

### *i. Findings*

Burmese law requires factories to ensure that all floors, steps, and stairs are of sound construction and properly maintained.<sup>102</sup> The stairways leading up to and down from the employees' eating area at Honeys 1 were found to be very slippery when wet.

As it rained on the day that the WRC inspected Honeys 1, these stairways were wet, and the assessment team members found they had to walk carefully in order not to slip and fall when walking up and down the stairs. Workers testified to the WRC that when the conditions are wet, as they were on the day of the WRC inspection, workers often slip and fall as they hurry to and from the eating area. Honeys 1, therefore, is failing to comply with the legal requirement of ensuring that the stairs in the factory are of sound construction and properly maintained.

### *ii. Company Response and Status*

Honeys Holdings claims it has resolved this issue, however, did not provide any specifics as to how it was resolved.

### *iii. Recommendations*

The WRC recommends that Honeys Holdings provides photographic evidence that it has carried out adequate repairs of the floors and stairs at the eating area at Honeys 1.

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<sup>102</sup> Factories Act, § 34 (“In every factory – (a) All floors, steps, stairs, passage and gangways shall be of sound construction and property maintained and, where it is necessary to secure safety such floors, steps, stairs, passages and gangways shall be provided with substantial handrails.”).

## 10. Poorly Maintained Eating Area at Honeys 1

### i. Findings

Burmese law requires factories with more than 100 workers to provide and maintain an eating area for employees.<sup>103</sup> The WRC found that Honeys provides an eating area at both facilities. However, the WRC assessment team found that the roof of the eating area at Honeys 1 leaks (see Figure 9). Workers confirmed that the roof had been leaking for several months without the company undertaking any repair work. As a result, several of the tables in the already-crowded eating area were unusable whenever it rained. Failure to maintain the factory's eating area is a violation of Burmese law.<sup>104</sup>

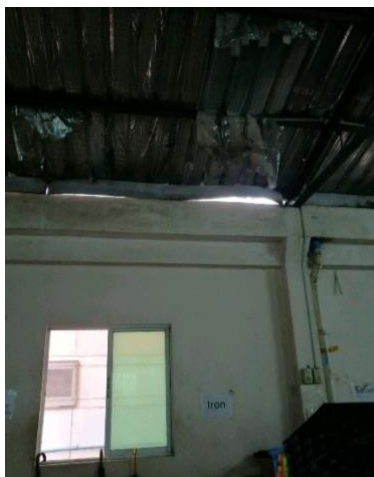


Figure 9: Leaking Roof in Eating Area at Honeys 1

### ii. Company Response and Status

Honeys Holdings did not provide a response to this finding nor did it specify any steps to remedy the violation.

### iii. Recommendations

To comply with Burmese labor law, the WRC recommends that Honey Holdings repair and maintain the roof of the canteen to avoid leaks.

## 11. Electrical Safety

### i. Findings

Burmese law requires factories to be maintained in conditions that are not dangerous to their workers.<sup>105</sup> At Honeys 2, the WRC assessment team found power outlets hanging from the ceiling which were blocking a walkway (see Figure 10). Live



Figure 10: Hanging Electrical Power Sockets at Honeys 2

<sup>103</sup> Factories Act, § 49 (1) (“In every factory wherein more than one hundred workers are ordinarily employed adequate and suitable rest-sheds or rest rooms and an adequate and suitable lunch room, with drinking water facilities, where workers can take meals brought by them, shall be provided and maintained for the use of the workers.”).

<sup>104</sup> Factories Act, § 49 (2) (“The rest-sheds, rest rooms or lunch room to be provided under sub-section (1) shall be sufficiently lighted, ventilated and maintained as far as practicable in a cool and clean condition.”).

<sup>105</sup> Factories Act, § 42 (1).

electrical outlets hanging in a pathway where workers walk present a risk of electrical shock and, therefore, create a dangerous condition that violates Burmese law.

## *ii. Company Response and Status*

Honeys Holdings claims that it has addressed this hazard but did not provide any photographic evidence of the repairs.

## *iii. Recommendations*

The WRC recommends that Honeys Holdings provides photographic evidence that it has adequately addressed this hazard.

## **G. Other Issues of Concern**

In addition to the violations of labor laws, codes of conduct and relevant international standards that are discussed above, the WRC's assessment also noted two other areas of concern where Honeys' policies or practices, while not contrary to any statutory or contractual requirement that is binding upon the company, are still inconsistent with general standards of ethical labor and employment practice. These issues—unsafe employer-provided transportation and excessive employment of workers under short-term contracts—are discussed below.

### **1. Unsafe Employer-Provided Transportation**

Workers reported to the WRC that, because there is no public transportation within the industrial zones where the factories are located, Honeys provides employees at both factories with transport to and from work. This transportation is provided to workers in open-bed trucks which, in Myanmar, are called “ferries”.

Workers from both factories indicate that the vehicles used to transport them to and from work are often highly overcrowded, with as many as 50 workers packed onto the truck-bed, resulting in some workers not being able to sit down while the vehicle is in motion. In addition, these trucks do not provide workers with protection against inclement weather, much less against injury in case of an accident.

International labor standards recommend that employers provide safe transportation for employees in cases where alternative modes of transport are not available.<sup>106</sup> The transportation Honeys provides, however, does not comply with this recommendation, as it is highly unsafe for workers.

## *i. Company Response and Status*

Honeys Holdings did not provide a response to this finding nor specify any steps to remedy the violation.

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<sup>106</sup> ILO Recommendation 102 (Welfare Facilities), Article 32 (“Where adequate and practicable transport facilities for the workers are necessary and cannot be provided in any other way, the undertakings in which they are employed should themselves provide the transport.”).

## *ii. Recommendations*

To comply with international labor standards, the WRC recommends that Honeys Holdings takes measures to ensure that transportation provided to employees to and from the factories is safe, not overcrowded, and that all passengers are provided with fixed seating, by taking the following measures:

- Provide Honeys employees with transportation to and from work free of charge;
- Ensure that the vehicles used to transport workers are safe and allow workers to sit;
- Ensure that the drivers of the vehicles have received proper training; and
- Allocate an adequate number of vehicles to ensure that workers reach their homes within a reasonable timeframe.

## **2. Excessive Employment of Workers under Short-Term Contracts**

Honeys provided the WRC with samples of the contracts under which workers at the factory are employed. Except for those workers employed under even shorter, “daily” contracts, these agreements’ duration uniformly was one year in length, which, in the case of new employees, included the worker’s probationary period. While Burmese law is silent on the issue, international standards of responsible labor practice state that companies should refrain from employing workers continuously under successive short-term contracts.<sup>107</sup>

### *i. Company Response and Status*

Honeys Holdings responded that the length of the workers’ contracts had been extended to two years. Honeys Holdings did not explain when this conversion happened. The company also claimed that it had never dismissed an employee because his or her period of employment had expired. Honeys Holdings did not provide any samples of the two-year contracts, and while it would be an improvement over the one-year contract previously used, the WRC notes that Honeys Holdings remains in violation of international standards.

## *ii. Recommendations*

To comply with international labor standards, the WRC recommends that Honeys Holdings employs workers under open-ended contracts instead of successive short-term contracts.

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<sup>107</sup> ILO Recommendation 166 (Termination of Employment), Article 3 (1-2) (“Adequate safeguards should be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from the Termination of Employment Convention, 1982, and this Recommendation.”).