



A man in a plaid shirt and dark pants is standing on the back of a truck, loading cardboard boxes. The truck is filled with boxes, some of which have the 'MINSHENG' logo. The background shows a clear blue sky and some green foliage.

# Exploring Intersections of Trafficking in Persons Vulnerability and Environmental Degradation in Forestry and Adjacent Sectors

*Case Studies on Banana Cultivation and Informal Logging in Northern Burma  
Summary of Findings and Recommendations*

*August 2020*



A close-up view of a truck's rear wheel and mechanical components. The tire is a large, black, treaded tire with the text 'SDR30' visible on the sidewall. The mechanical parts are rusty and show signs of wear. The background is a blurred view of a forest or field.



This report was made possible through the generous support of the United States Department of State's Office to Monitor and Combat Trafficking in Persons (J/TIP). The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the United States Department of State.



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# Acknowledgements

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This report was written by Max Travers, who served as Lead Researcher on the report with Joe Falcone. Field research for the two case studies was carried out by Htoi Awng Htingnan and Yamin Shwe Zin. Allison Arbib edited the report. Stephanie Leombruno performed background research and assisted in the write up of findings. Lawrence David, Julie Sobkowitz Brown, and Carrie Schwartz assisted with design and layout of the reports. Erin Klett provided oversight and management of the broader initiative.

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# Introduction

Forests are critically important to the rural population in Burma.<sup>i</sup> They protect farmland, supply food and firewood, and provide direct employment in the forestry sector. At the same time, these forests have been under notable threat, with Burma having the third highest rate of deforestation globally.<sup>1</sup> The population in Burma is highly vulnerable, living in the context of a long history of internal armed conflict, high levels of poverty and landlessness or displacement, and an emerging democracy still struggling with human rights abuses. While environmental degradation and overall human vulnerability in Burma have been well documented, there is less understanding on how the two forces intersect in specific contexts.

This report presents a summary of findings from two case studies conducted in Burma on the intersection of labor, environmental, and social risk in the cultivation of bananas and informal logging in northern Burma. These case studies were conducted as part of a larger exploratory research project undertaken by Verité in 2018-2019, with the aim of examining the linkages between environmental degradation and vulnerability to trafficking in persons (TIP) and other labor abuses. While linkages have been noted previously,<sup>2</sup> a detailed research base on the nature and mechanisms of the connection is lacking, as well as the examination of the potential for collaboration or integration between the spheres of environment and labor. Verité's exploratory research aims to contribute to this knowledge gap through a set of case studies in different geographic locations, sectors, and contexts to illustrate potential links between environmental degradation in the context of active deforestation and vulnerability to TIP and other labor abuses.

To ground an understanding of these dynamics within the specificities of the political, social, and economic contexts of Burma, Verité carried out original research case studies in two sectors linked to deforestation in Burma: large scale agribusiness in the form of banana plantations in Kachin State and informal logging within government-controlled areas in northern Burma. While the specific working conditions and environmental factors identified in banana plantations and informal logging vary, both case studies involve rural populations who lack viable employment or livelihood opportunities, living in or migrating from communities in which forest loss and environmental degradation have limited the prospects for subsistence and small-scale farming. Lack of alternative livelihood then acts as a strong push factor in choice of employment, with workers accepting poor labor conditions in local jobs that further contribute to environmental degradation or migrating to other regions or countries where they will likely continue to experience vulnerability to exploitation.

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i The present report will refer to the country as Burma, as per the official name designated by the U.S. Department of State. The official name of the country is the Republic of the Union of Myanmar, or Myanmar.

# Methodology & Definitions

These Verité case studies consisted of desk research (including academic literature, government reports, civil society reports, statistical analysis of previous studies, and a legal review) followed by field research. Field research for the banana cultivation case study was performed primarily between March- April 2019 and September – November 2019, with a focus on Kachin State and field site visits to Myitkyina and Waingmaw Townships. In total, 18 banana plantation workers were interviewed as part of this case study representing nine different plantations in Waingmaw Township.

Field research for the case study on informal small-scale logging was performed between March – April 2019, with field site visits in three different townships within Burma – Htigyaing Township and Katha Township in Sagaing Region and Nawngkhio Township in Shan State. A total of 11 workers were interviewed as part of this case study, with nine workers interviewed during the Field Research phase and two workers interviewed during the Situation Assessment phase, from Mohnyin and Myitkyina Townships in Kachin State, respectively.

In total, 72 expert stakeholders were consulted as part of the research process for the report. Stakeholders represented a balance of perspectives, including civil society representatives and activists working in the areas of conservation and land management, trafficking in persons, labor, migration, human and indigenous rights, environment, and humanitarian work; labor unions and other worker-based organizations and; academics, including labor, human rights, and environmental experts.

Due to the largely qualitative nature of data and purposive sampling techniques used, findings are not representative at a national or sectoral level. This rapid appraisal research was not intended to determine prevalence of labor violations, but rather to uncover risks that should be further explored by more in-depth research.

Verité bases its definition of trafficking in persons on the 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, also known as the Palermo Protocol. This protocol contains the internationally recognized definition of trafficking in persons, which includes forced labor.<sup>3</sup> Verité also relies on International Labor Organization (ILO) Convention 29 which defines forced labor as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”<sup>4</sup> Finally, in order to evaluate the risk of forced labor and the underlying practices that contribute to risk, Verité analyzed for the existence of the ILO’s forced labor indicators using recent guidance of the ILO that outlines specific indicators which can contribute to conditions of involuntary work and threat or menace of penalty, the two primary components of forced labor.<sup>5 6</sup>



# Case Study

## Labor, Social, and Environmental Risks in Banana Cultivation in Kachin State

### Worker Demographics and Types of Employment

According to interviews with workers, community members, and civil society, the workforce on banana plantations in Waingmaw Township appears to be diverse in terms of region of origin, ethnicity, and gender. Both male and female workers are present on the plantations. While the majority of workers appear to originate outside of Kachin State, local informants and workers themselves confirm that a sizeable number of local community members from Waingmaw Township also provide labor for the plantations. Additionally, banana plantations employ Internally Displaced Persons (IDPs) affected by the Kachin State conflict. While some IDPs have been displaced from banana plantation areas in Waingmaw, IDP plantation workers are typically from other parts of Kachin State affected by conflict. The term “internal migrants” is used here to refer to those workers who have relocated within Burma of their own volition for a variety of reasons, including livelihood seeking. Internally Displaced Persons (IDPs) refers to individuals who fled their land in Kachin State as a result of conflict. Internal migrants from Burma but outside of Kachin State make up the majority of the banana plantation workforce.

Verité identified several different types of workers present on banana plantations, including permanent workers, day laborers, seasonal workers, and skilled workers such as translators. The case

WORKERS PACKAGE BANANAS FOR EXPORT TO CHINA



study focused on conditions of work for permanent workers, day laborers, and seasonal workers, as these are the groups engaged in the most labor-intensive work in cultivating bananas. To date, no official estimates are available as to the number of workers involved with banana plantations in Waingmaw Township, although Verité estimates that workers number in the tens of thousands.<sup>7</sup>

TABLE 1. TYPES OF EMPLOYMENT IN BANANA PLANTATION SECTOR

Type of Worker	Demographics	Pay Structure	Wage Deductions	Tasks
Permanent workers	Primarily internal migrant workers from Rakhine State and Sagaing Region, among other regions outside of Kachin State. Local workers and some ethnic Kachin IDPs also represented.	Employed year-round, receiving their annual salary at the end of 10-month cultivation period based on the number of plants or weight of plants on designated plot of land, in addition to a monthly food stipend.	Cost of day laborer fees, pesticide/herbicide costs, plant damage, disciplinary penalties	All cultivation tasks on assigned plot including: ground preparation, clearing of trees/brush, watering, planting, pesticide and herbicide application, weeding, and harvesting
Seasonal workers	Seasonal workers most commonly come from Sagaing Region. These workers are often farmers or farmworkers who are seeking temporary employment during their crop's offseason.	Employed during labor intensive times of year (e.g. harvest). Paid a daily rate at the end of each day. Sometimes paid per task in a piece rate system.	Disciplinary penalties	Harvest-related tasks such as harvesting and carrying bananas to the packaging site, chemical dipping, packing, and loading trucks.
Day laborers	Local individuals from nearby villages. Occasionally ethnic Kachin IDPs work in this system.	Paid a daily rate at end of each day. Wages of day laborers are typically deducted from permanent workers' annual salary.	Disciplinary penalties	Complete tasks beyond the capacity of permanent workers; assignments may include any tasks typically undertaken by permanent workers.

## Summary of Findings

Verité's field research in the Kachin State banana plantation sector found a variety of exploitative working conditions present among workers, some of which were forced labor indicators. Violations of Burma labor laws related to employment contracts, occupational safety and health (OSH), minimum wage, hours of work, and paid time off, were also detected. Findings are described below, while findings relating to forced labor indicators are summarized in [Table 2](#).



- There are multiple avenues for **recruitment and hiring** on banana plantations. Among interviewees, workers reported both direct hiring as well as hiring through a labor broker, although use of a broker was less common among interviewed workers. Fifteen out of 18 interviewees interacted directly with company management to obtain their jobs, with most hearing about the employment opportunity through friends, family, or acquaintances.
- Verité research found evidence of **deception** on the part of employers when informing workers of the terms of their employment, regardless of their mechanism of recruitment or hiring. All permanent workers reported that they were not adequately informed about the tasks that they would be required to perform prior to beginning work. Many of the permanent workers interviewed, who receive the vast majority of their salary only after the 10-month cultivation and harvest cycle, reported deception around the total amount of wages they could earn.
- A confluence of several conditions related to hours and wage arrangements on plantations—including long hours and abusive overtime requirements without consent, financial penalties, wage deductions, and wages that are withheld until the end of the year—create situations where workers have **limited freedom to terminate their work contracts**. The wage system utilized on plantations, in which permanent workers receive the majority of their salary after 10 months and are subject to numerous wage deductions throughout the year, has the effect of coercing workers into accepting exploitative labor conditions such as excessive overtime and a lack of freedom of movement. Permanent workers have little choice but to remain at the plantation until the close of the harvest as leaving would mean they forfeit their annual salary.
- Monthly **wages are low** for permanent workers on banana plantations and appear to stretch the limits of legality. While waiting for their annual salary, permanent workers reported receiving a monthly “food allowance” stipend, which the majority of workers reported as insufficient to cover basic living costs. Among all permanent workers interviewed, the monthly earnings fell short of the nationally required minimum wage.<sup>8</sup>
- **Deductions** and **financial penalties** were found to further reduce already low wages and compound vulnerability. The threat of salary deductions that would be required to cover wages for a day laborer was used to compel excessive overtime hours from permanent workers. Further, permanent workers were responsible for the costs of herbicides and pesticides. However, workers did not purchase their own chemicals and therefore cannot select lower-priced options; instead, these inputs were purchased by the employer without participation from the worker. Costs for inputs were then deducted from permanent workers’ wages, often without

MAN WALKS THROUGH BANANA PLANTATION. KACHIN STATE, BURMA





full accounting.<sup>9</sup> Permanent workers reported financial penalties for perceived infractions such as damaged plants, damaged tools, overuse of water, or taking rests judged to be excessive by managers.

- Permanent workers appeared to be particularly vulnerable to **excessive overtime** that was not previously agreed upon with their employer. All permanent worker interviewees reported that wage deductions (or the threat of wage deductions) are used coercively to compel workers

*Permanent workers appeared to be particularly vulnerable to excessive overtime... [and] reported that wage deductions (or the threat of wage deductions) are used coercively to compel workers to work high levels of overtime.*

to work high levels of overtime; as noted above, the refusal to work overtime or to complete an unrealistic assigned amount of work results in the mandatory use of hired day laborers to complete tasks, the costs of which are deducted from permanent workers' yearly salaries.<sup>10</sup> All 13 of the permanent workers interviewed reported regularly working in excess of eight hours per day without overtime compensation throughout the year while 11 reported

that they consistently worked seven days per week without taking a day off for rest, contrary to Burma law.<sup>ii</sup> Six of these 13 workers were not informed of the number of hours or the number of days they were expected to perform in a standard workday or week prior to beginning work.

- All interviewees said that they were under constant **surveillance** by their employers. Although Verité interviews found that permanent workers were generally able to leave the plantation premises at night, most permanent workers stated that they were not allowed to leave during the daytime without permission. Although they are not physically barred from leaving the plantation, the threat of forfeiting the annual salary deters workers from challenging these restrictions.
- In some cases, **national registration cards** (NRCs) were reportedly **withheld** as a means to control worker movement. NRCs are essential in Burma and are necessary for attending school, travelling throughout the country, opening a bank account, and accessing medical services.<sup>11</sup>
- Nearly all informants reported being **exposed to potentially harmful pesticides and herbicides**. Of 18 workers (including permanent, seasonal, and day workers) interviewed by Verité,<sup>12</sup> all but two had carried out manual pesticide and herbicide application. Pregnant women and children under 18 also reportedly manually apply pesticides on some plantations, in violation of Burma law.<sup>iii</sup> Some workers reported experiencing dizziness, respiratory issues or vomiting. Some workers also reported being aware of miscarriages of plantation workers. Workers typically had some level of knowledge that chemical application would be required on the job; at the same time, workers often lacked insight into the exact

Verité believes this type of employment constitutes the worst forms of child labor as it meets the ILO definition for "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children."

ii According to Burma's Leave and Holidays Act (1951), each employee is entitled to one paid rest day per week.

iii Under the Pesticides Law (2016), children 16 and under are forbidden from handling pesticides.

nature of tasks required prior to beginning employment and were not provided training on how to avoid risks.

- There is evidence of **verbal harassment** of plantation workers on the part of their supervisors. Many of the respondents reported that supervisors would shout and swear at them if they were not satisfied with their work or if they were seen as taking too many breaks. Fourteen of 18 workers reported experiencing verbal abuse by a supervisor in the form of swearing and/or yelling. Although no informants reported experiencing physical or sexual assault first-hand, this reportedly does occur on some plantations. Four workers reported either witnessing **sexual harassment** of other workers or hearing about such harassment second-hand.
- Verité also identified evidence of **child labor**, including worst forms of child labor, as being present in the banana sector, as the majority of worker interviewees reported that children under 18 (including those younger than 14) were working on plantations and in many cases, were applying pesticides or working in areas which had recently been fumigated. Verité believes this type of employment constitutes the worst forms of child labor as it meets the ILO definition for “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”<sup>13</sup>

TABLE 2. SUMMARY OF FORCED LABOR INDICATORS PRESENT IN THE BANANA PLANTATION SECTOR

Involuntariness Indicator	Impacted Workers
Situations in which the worker must perform a job of different nature from that specified during recruitment without a person’s consent	Permanent workers
Abusive requirements for overtime or on-call work that were not previously agreed with the employer	Permanent workers
Work in hazardous conditions to which the worker has not consented, with or without compensation or protective equipment	Permanent workers, seasonal workers, day laborers
Work with very low or no wages	Permanent workers
Work with no or limited freedom to terminate work contract	Permanent workers
Menace of Penalty Indicator	Impacted Workers
Withholding of wages or other promised benefits	Permanent workers
Withholding of valuable documents (such as identity documents or residence permits)	Permanent workers
Restrictions on workers’ movement	Permanent workers
Threats or violence against workers or workers’ families and relatives, or close associates	Permanent workers, seasonal workers, day laborers

In addition to these labor findings, several findings relating to intersections with environmental and social factors should also be noted. Banana plantations in Kachin State create vulnerabilities for local communities due to associated deforestation, land conflict, and the unregulated use of pesticides. Banana plantations cover an estimated 176,000 acres in Kachin State, roughly the size of Singapore.<sup>14</sup> The majority of plantations exist in Waingmaw Township, which has seen “large-scale forest clearing” for agricultural plantations.<sup>15</sup>

Multiple media reports and Verité interviews with local experts and community members have documented evidence of involuntary acquisition of community land by plantation companies. This includes numerous instances of plantations being developed on vacated IDP land.<sup>16</sup> According to a report by LSECNG, a coalition of 11 Kachin-based civil society organizations (CSOs), among local community members who rented their land to banana plantation companies, 59 percent did so due to pressure, threat, deception, or land grabbing.<sup>17</sup>

Unregulated pesticide use on banana plantations in Kachin State has also led to severe impacts on community health and livelihoods. Farmers interviewed by Verité, some of whom were formerly employed on banana plantations, recounted people in their village getting sick after inhaling pesticides, which they could identify by its pungent smell.<sup>18</sup> There are media reports of locals bleeding and fainting, and some needing hospitalization, when exposed to the pesticides on the plantations where workers were spraying.<sup>19</sup> In extreme cases, community members and workers have died due to suspected exposure to pesticides, including one incident in which two young children of plantation workers, aged five and six, died after inhaling pesticides associated with the banana plantations near Gwi Htu Village.<sup>20</sup> Water pollution is a critical concern for residents. In addition to drinking water, communities rely on the local water supply to fish and care for livestock. In 2019, local media documented a case of two streams near a 500-acre banana plantation becoming contaminated, which resulted in the fish in those streams dying. Dead fish were also found in wells closest to streams that local villagers used for drinking water.<sup>21</sup> LSECNG also documented several incidents of human and animal illness due to agrochemical exposure: cows dying after drinking water downstream from plantations, pigs dying after eating banana flowers, and villagers developing respiratory problems.<sup>22</sup> Among the rural population in Waingmaw, over 30 percent of households have access to water through unprotected sources, leaving them vulnerable to pesticide contamination.<sup>23</sup>



AERIAL VIEW OF BANANA PLANTATION - KACHIN STATE

Deforestation and environmental degradation associated with plantations pose significant risk to local



livelihoods and food security. Most households living near banana plantations rely on subsistence agriculture for survival. As banana plantations are a monocrop, the soil in and around plantation areas begins to degrade after seven years, according to Kachin-based plantation companies, and requires several years to recover.<sup>24</sup> Villagers interviewed perceived negative impacts on soil fertility and crop yields caused by agrochemical use on neighboring plantations. Other impacts include loss of access to traditional forest lands, decreased crop yields, and the inability of livestock to freely graze. New expansion of plantations into forest areas can also decrease the amount of wood available for fuelwood as well as other productive forest uses, contributing to vulnerability.<sup>25</sup>

Combined, the rapid spread of banana plantations and subsequent loss of family and communal land has left some community members with little choice but to migrate internally to other parts of Burma or China for employment, or to work on banana plantations with exploitative labor conditions. Both civil society experts and local community members contend that the negative impacts banana plantations have on local livelihoods act to push some to migrate in search of employment.<sup>26</sup> Additionally, the plantations' existence on land formerly occupied by IDPs represents a significant barrier to this vulnerable group returning to their customary land and maintaining previous livelihoods in the future. Civil society experts interviewed noted that community members who lost access to their land because of plantation expansion were more likely to seek employment in China.<sup>27</sup>

#### PESTICIDES ARE APPLIED TO BANANA PLANTS IN KACHIN STATE



## Recommendations – Improving Labor Conditions on Banana Plantations in Kachin State

China-Burma companies engaged in the banana sector in Kachin State appear to not be registered in compliance with Burma investment laws, with the exception of one company.<sup>28</sup> In December 2019, a proposal was passed in Burma's upper house of Parliament for the government to regulate the banana plantation sector in Kachin State, including enacting regulations related to agricultural practices and land acquisition, among others.<sup>29</sup> During Verité's field research, several representatives of Kachin-based CSOs expressed their view that the expansion of new banana plantations in Kachin State should be halted due to the associated negative consequences, including environmental degradation and effects on the health and livelihoods of communities in and around plantation areas. In neighboring Lao PDR, where Chinese-owned banana plantations have caused similar community health and livelihood impacts, government officials made the decision in 2017 to ban the development and expansion of new banana plantations.<sup>30</sup>

Verité does not seek to hold a position on the issue of whether banana plantations are formally legalized and regulated as per Burma law. However, in the event that regulations are developed and procedures are implemented, it is important that compliance with labor laws is integrated into the system and that banana plantation workers are afforded full labor rights. Verité recognizes that government agencies are prevented from accessing certain areas in which banana plantations are present within Waingmaw Township.

The following is a summary of a full set of recommendations available in Verité's [Banana Cultivation in Kachin State](#) case study report. These recommendations are intended to address and improve labor conditions specific to the banana plantation sector in Kachin State, as labor conditions likely vary across agricultural sectors. However, the recommendations presented could be considered and integrated into addressing labor compliance for the agricultural sector broadly. Verité has identified several government ministries that could become involved in ensuring better labor outcomes for the tens of thousands of workers employed on banana plantations. These are outlined in [Table 3](#), Responsibilities of Burma government ministries in the agricultural sector for the monitoring of labor conditions. Verité has created the following summary of recommendations for the government of Burma, companies involved in the banana plantation sector, and civil society organizations.

### Recommendations for Government

For the Ministry of Labor, Immigration, and Population (MOLIP)



#### Take actions to protect workers from labor violations detected on banana plantations

Verité found that contract, wage and hour, health and safety, and child labor violations were common on banana plantations in Kachin State. MOLIP should conduct labor inspections at banana plantation worksites to assess compliance with labor laws to ensure the

following: comprehensive employment contracts are provided to all workers; minimum wage is adhered to; employees can take time off without incurring a penalty; employees are provided with access to potable water and personal protective equipment (PPE) free of charge; children are working in accordance with Burma labor laws; employers do not retain workers' National Registration Cards (NRCs) and; workers have access to a grievance reporting mechanism.

### **Increase the capacity of the labor inspectorate to enforce labor law in the agricultural sector**

Verité research has found that the labor inspectorate is under-resourced, leading to a lack of effective inspections, especially in the agricultural sector, in which inspections are more challenging due to the remoteness of agricultural plantations and impediments on inspectors' access. Therefore, it is important to take measures to improve the capacity of the labor inspectorate by ensuring: additional labor inspectors are hired; labor inspectors receive adequate compensation; incentives are provided for inspections in the agricultural sector; female inspectors are available to female employees to facilitate reporting of sexual harassment and abuse; labor inspectors are provided with police assistance when requested and; sanctions are issued against employers who fail to grant inspectors access to worksites.

### **For the Anti-Trafficking in Persons Division (ATIPD)**

#### **Conduct outreach and awareness raising for local Kachin State communities on deceptive recruitment**

Verité identified several instances of deceptive recruitment in the banana plantation sector and recommends that in collaboration with civil

society organizations, that the ATIPD conducts outreach to workers and communities in plantation areas to raise awareness of potential deceptive recruitment tactics. The ATIPD should also educate these stakeholders on how to report these issues and provide contact information for local Anti-Trafficking Task Force (ATTF) offices, ATIPD's human trafficking hotline, and relevant civil society organization (CSO) offices.

### **For the Ministry of Agriculture, Livestock, and Irrigation (MoALI)**

#### **Inspect banana plantations for compliance with pesticide rules and regulations**

Ensure that employers on banana plantations are registering and using pesticides in accordance with the Myanmar Pesticides Law (2018) and Occupational Health and Safety Law (2019), verifying that all employees applying pesticides receive adequate training, that personal protective equipment (PPE) is provided at no cost, and that women who are pregnant and children under 16 are not applying pesticides.

### **For the Myanmar Investment Commission (MIC)**

#### **Ensure that banana plantation companies applying for MIC permits can demonstrate compliance with Burma labor laws**

The Myanmar Investment Commission (MIC) should require currently-operating plantations seeking MIC permits to grant access to MOLIP for labor inspections to prove adherence to Myanmar Investment Law, Article 65(m), which states that it is the responsibility of the investor to "respect and comply with the labor laws" of Burma. If approved, the Myanmar Investment Monitoring Division should ensure that that the



investor is adhering to labor laws by conducting inspections and recommending penalties.

### For the future Myanmar Agriculture Environmental Impact Assessment (EIA) Guidelines Working Group

#### **Integrate occupational safety and health (OSH) and other labor provisions adequately into guidance documents**

At the time of writing, agricultural-specific EIA guidelines have not been completed. When developing EIA guidelines in the future, working groups should ensure that occupational safety and health (OSH) and other labor provisions are adequately integrated into guidance documents, including detailing how OSH should be addressed and monitored. Verité findings detailed in the present case study can aid in helping to understand OSH risks in the agricultural sector.

### For the Environmental Conservation Department (ECD)

#### **Increase training to ensure that occupational safety and health (OSH) is addressed in Environmental Impact Assessment (EIA) process**

It is likely that some of the banana plantations in Kachin State are legally required to undergo an EIA. As part of this process, the ECD should provide increased training for the EIA Division on how to identify OSH risks associated with banana plantations and other agricultural projects. Additionally, the ECD should provide training to the Pollution Control Division to ensure that officers are able to adequately evaluate companies' compliance of OSH and the establishment of worker grievance mechanisms.

### **Recommendations for Civil Society Organizations (CSOs)**



Among Kachin-based CSOs, much of the previous research and advocacy related to banana plantations has been in relation to land tenure, community health and livelihoods, and environmental impacts, among others. Verité research shows that labor vulnerability is a critical element with significant impacts on communities and should be considered as an important part of impact assessment and strategies for improving the outcomes for people living in Kachin State. In order to address better outcomes for workers employed in the sector, Verité recommends that CSOs:

- Advocate for inspections to be conducted by MOALI to ensure that pesticide laws and regulations are being followed by companies and that all workers are provided training on pesticide application, free access to Personal Protective Equipment (PPE), such as safety masks and protective clothing, and that no pregnant women or children under 18 apply pesticides;
- Advocate for labor inspections by MOLIP to be conducted on the banana plantation sector and that labor protections be robustly integrated into the government's process of legalizing and regulating the sector;
- Conduct further research on labor conditions on banana plantations in Kachin State or integrate labor conditions into research which assesses the sector for impacts related to land tenure, community health and livelihoods, and environmental impacts, among others; and
- Engage with local communities and workers on their labor rights and provide them with information on how to report labor abuse and worker grievances.



## Recommendations for Companies

Banana plantation companies should guarantee that employees are afforded their full labor rights in compliance with Burma labor laws, through the following recommendations:

- Undertake measures to improve workers' understanding of their terms of employment and how their compensation is calculated
- Mandate that every worker receives the minimum wage required by Burma law, including in the event of dismissal or contract termination
- Ensure that workers hold their own identity cards and have the freedom to leave plantation areas
- Guarantee that workers are working within legal overtime limits and are able to take rest days and leave without incurring a penalty
- Provide a safe and healthy workplace to all employees to ensure adequate number of breaks; access to potable water; personal protective equipment (PPE) free of charge; pregnant women and children do not apply pesticides; workers are trained in pesticide application and; workers are able to take medical leave
- Develop policies and procedures to address worst forms of child labor including measures to avoid employing workers under 18 years of age and steps to ensure that children under 18 employed on plantations are transitioned to education and/or less hazardous activities (hazardous activities include applying pesticides or handling of sharp tools).

TABLE 3. RESPONSIBILITIES OF BURMA GOVERNMENT MINISTRIES IN THE AGRICULTURAL SECTOR FOR THE MONITORING OF LABOR CONDITIONS

Responsibility	Ministry Responsible	Relevant Laws
Ensuring compliance of the country's labor laws, including those related to forced and child labor as well as wage, salary, overtime, and occupational health and safety laws, among others in the agricultural sector	Ministry of Labor, Immigration, and Population (MOLIP)	Factories Act (1951) with 2016 amendment; Shops and Establishments Act (1951) with 2016 amendment Minimum Wage Law (2013) and No. 2/2018 amendment; Payment of Wages Act (2016); Leave and Holidays Act (1951) with 2006 amendment Labor Organization Law (2011); Social Security Law (2012) Settlement of Labor Disputes Law (2012) Child's Rights Law (2019) Employment and Skills Development Law (2013) Workmen's Compensation Act (1923) Penal Code Section 374 on Forced Labor Ward and Village Tract Administration Law (2012) Occupational Health and Safety Law (2019) <sup>31</sup>
Monitoring and preventing trafficking in persons, including trafficking in persons for labor	Anti-Trafficking in Persons Division (ATIPD)	Anti-Trafficking in Persons Law (2005) Penal Code Section 374 on Forced Labor Ward and Village Tract Administration Law (2012)
Ensuring compliance with laws relating to pesticides and carrying out trainings related to farm worker health and safety	Plant Protection Division (PPD), Ministry of Agriculture, Livestock, and Irrigation (MOALI)	Occupational Health and Safety Law (2019) Pesticides Law (2016)
MIC is responsible for approving permits that allow companies to invest in Burma, including in the agricultural sector. According to the Commission website, companies must "abide by existing labor law" in Burma in order to receive a permit	Myanmar Investment Commission (MIC)	Myanmar Investment Law (2016) Environmental Conservation Law (ECL) (2012) Environmental Impact Assessment (EIA) Procedure (2015)
The Environmental Impact Assessment Division carries out Environmental Impact Assessments for potential social impacts, including those relating to occupational safety and health (OSH). The Pollution Control Division follows up on companies' handling of OSH and implementation of a worker grievance mechanism system.	Environmental Conservation Department (ECD), Ministry of Natural Resources and Environmental Conservation (MONREC)	Environmental Conservation Law (ECL) (2012) Environmental Impact Assessment (EIA) Procedure (2015) Occupational Health and Safety Law (2019) Settlement of Labor Disputes Law (2012)



# Case Study:

## Labor, Social, and Environmental Risks in Small-scale Informal Logging in Northern Burma

In the Informal Logging in Northern Burma case study, Verité conducted field research to assess labor conditions in small-scale informal logging occurring within government-controlled areas of Sagaing Region, Shan State, and Kachin State.

### Worker Demographics

Workers in the informal logging sector appeared to be primarily adult men, although Verité interviews indicated that women and children under 18 also sometimes participated in the sector, which is further supported by media reports that have described both men and women as involved in illegal logging in villages in Sagaing Region and Mandalay Region.<sup>32</sup> Women and children also reportedly participated in forest product collection for fuelwood and charcoal.<sup>33</sup>

All interviewees reported that they worked in teams of between 3-5 team members. Each team had a leader who is responsible for supervising the team. Agents or brokers would liaise with the logging team, usually the team leader, and make a request for the amount (in tons) and type of logs they want to buy and agree on a set price. Outside of providing payment to the team leader and information on the volume needed, the agents provided little to no additional management/oversight. All but one informant reported working with agents or brokers who represented the

TEAK LOGS STACKED BESIDE A RIVER IN BURMA



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interests of Chinese businessmen. According to a forest governance expert, selective logging in Sagaing Region (where the majority of interviews took place) is particularly associated with Chinese businesses.<sup>34</sup>

The formal forestry sector employs approximately 34,218 people, but this estimate does not include those working in the informal forestry sector or in companies subcontracted by the MTE.<sup>35</sup>

Due to the scale of informal logging, its wide geographic variance across multiple states and regions within Burma (especially in ethnic minority states), and a lack of available data,<sup>36</sup> there is no comprehensive analysis of demographic information related to gender, age, ethnic group, or state/region of origin of workers in the informal logging sector.

According to the stakeholders interviewed, there is a general sentiment among communities that life is more difficult than in the past due to lost access to productive forest products and extreme heat and dryness, making it more difficult to farm.

## Summary of Findings

The field research identified a number of serious labor rights abuses in the informal logging of teak and rosewood varieties. Most significantly, the research identified high incidences of labor conducted by children under 18, including worst forms of child labor. All workers interviewed by Verité reported having witnessed children under the age of 18 employed in informal logging on at least two occasions. Verité believes this type of employment constitutes the worst forms of child labor as it meets the International Labor Organization (ILO) definition for “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”<sup>37</sup>

Verité field research identified the following concerns related to labor conditions:

- **Children under 18 participating in hazardous tasks** such as using chainsaws to fell trees – Multiple worker interviewees reported witnessing children under 18 operating chainsaws, as well as children involved in hazardous tasks such as carrying heavy loads and working in extreme weather.
- **Children under 18 using “yaba” (methamphetamine) and/or heroin** while present at logging camp sites – Several interviewees noted that drug use is so severe that it can shorten life expectancy of children involved in the logging sector.
- **High incidences of injuries and occasional fatalities** while working in the informal logging sector – The majority of informants had previously witnessed accidents which resulted in severe injuries, such as those requiring the amputation of limbs, or death. Interviewees reported that they conducted logging activities without any protective equipment such as helmets, utility uniforms, safety glasses, or work boots.
- **Workers and their families are unlikely to receive financial compensation** if the worker is injured or killed – Among workers interviewed who had witnessed accidents, the majority reported that victims or their families received no compensation. The illicit nature of the work leaves workers and their families with few avenues for recourse.

Verité field research found that workers are driven to logging by a variety of economic factors including a lack of viable livelihood options, and in part contribute to environmental degradation and associated impacts, which limits the ability of surrounding communities to access forest products and benefit from protective functions of the forests. Workers interviewed by Verité stated that they relied on forests for their daily income and for additional food for their families. In Katha (Sagaing) and Htigyaing (Sagaing) Townships, where the majority of Verité interviews took place, over logging (particularly in the 1990s and 2000s) has played a strong role in rapid deforestation, which has had effects on the livelihoods of communities.<sup>38</sup>

Environmental activists interviewed by Verité from Htigyaing, Kawlinn, and Katha (all in Sagaing Region) noted productive uses of the forests for firewood, bamboo, bamboo shoots, orchids (plants), and small-scale hunting, among others. In the past, communities in and around these areas could acquire forest products more easily without significant investment. Now, however, it is difficult to access these products without traveling far distances. According to the stakeholders interviewed, there is a general sentiment among communities that life is more difficult than in the past due to lost access to productive forest products and extreme heat and dryness, making it more difficult to farm.<sup>39</sup>

Environmental activists contend that environmental factors played at least a role in community members migrating to other forest areas, as well as domestically and abroad for work opportunities. Some logger interviewees also noted instances of community members migrating abroad for work. Among the domestic sectors noted by informants were jade mining in Hpakant, Kachin State and agricultural plantations in Kachin State, including banana plantations in Waingmaw Township.<sup>40</sup> Both of these sectors have been associated with forced labor and general labor exploitation.

LOGS TRANSPORTED VIA RIVER BARGE IN BURMA





## Recommendations – Improving Labor Conditions on Banana Plantations in Informal Logging in Northern Burma

Verité’s field research has identified several labor risks related to the informal logging of teak and rosewood varieties, including the presence of child labor and high incidences of injuries and fatalities. Labor and human rights violations, including child labor, can persist deep in supply chains, hidden even from social compliance and government enforcement programs. It is vital that the government of Burma, countries importing timber from Burma, and civil society organizations take urgent action to combat these risks. The following is a summary of a full set of recommendations available in Verité’s **Informal Logging in Northern Burma** case study report.

The complex nature of Burma’s timber supply chain and a lack of transparency is a major challenge for ensuring legality,<sup>41</sup> meaning that these labor risks could extend into Burma timber’s legal supply chain. Significant gaps in information exist as to the labor conditions of workers employed by the Myanmar Timber Enterprises (MTE) and companies subcontracted by the MTE (now known as ‘service providers’). It is possible that labor conditions identified in Verité field research are present in the legal Burma timber sector, and more research needs to be conducted to assess labor conditions among government-sanctioned logging operations, especially when considering efforts to bring timber in compliance with forest certification standards.

To address labor risks in the forestry sector, Verité presents the following recommendations

to the government of Burma, the MTE and subcontracted companies, countries importing timber and wood-products from Burma, and civil society organizations:

### Recommendations for the Government

- Legislate and implement the inclusion of trafficking in persons, forced labor, child labor, and Burma labor law compliance in timber legality definitions and certification schemes (including the Myanmar Timber Legality Assurance System, or MTLAS), as well as robust monitoring systems for labor law compliance in the forestry sector.
- Uphold International Labor Organization (ILO) conventions which Burma has ratified, including Convention 29 (Forced Labor), Convention 182 (Worst Forms of Child Labor), and Convention 138 (Minimum Age), as well as national laws related to trafficking in persons, forced labor, and child labor in the forestry sector.
- Support the prioritization of social risk assessments and human rights in both the formal and informal forestry sector and in the supply chains of timber and wood-based products. This should include a risk assessment on labor conditions associated with the MTE and subcontracted companies.
- Clarify which ministries are responsible for the monitoring of labor conditions in both the formal and informal forestry sectors and what systems are in place to assess and address violations of labor law in these sectors.





- Support strategies which encourage workers and communities in the informal sector to transition to and benefit from the formal forestry sector.
- Advocate for new funding to encourage the creation of decent work opportunities and improved access to education in areas which employ large numbers of informal logging workers.



### **Recommendations to the MTE and Subcontracted Companies**

- Develop codes of conduct that include provisions on forced labor, trafficking in persons, child labor, and other labor rights abuses, and that include policies and procedures for assessing and addressing these issues.
- Provide information which is publicly available on where logging operations take place, the number of workers employed, and information relating to working conditions.



### **Recommendations for Civil Society Organizations (CSOs)**

- Advocate for government policies which encourage workers and communities in the informal sector to transition to and benefit from the formal forestry sector.
- Advocate for the inclusion of forced

labor and Burma labor law compliance in timber legality definitions and certification schemes, as well as robust monitoring systems.

- Carry out research on labor conditions associated with the MTE and subcontracted companies in the formal logging sector.

### **Recommendations for Countries Importing Timber and Wood Products from Burma**



- Uphold legislation, such as the European Union Timber Regulation (EU), the Lacey Act (USA), and the Illegal Logging Prohibition Act (Australia) to ensure that companies disclose due diligence efforts to prevent wood purchases from contributing to illegal logging, environmental degradation, forced labor, trafficking in persons, and child labor. Effective evaluations of timber and wood-based products should be carried out to ensure compliance with relevant legislation.
- Countries with no relevant legislation on illegal logging should enact legislation which requires companies to demonstrate due diligence and ensure that environmental and human rights risks related to wood and timber purchases are mitigated.

# Conclusion

Verité identified numerous human rights and labor risks related to Kachin State's banana cultivation sector, including indicators of forced labor; wage and hour violations; health and safety violations; child labor, including worst forms of child labor; environmental damage and; community health and livelihoods risks.

Verité's field research also identified several labor risks related to small-scale informal logging of teak and rosewood varieties. Most significantly, the research identified high rates of child labor, including incidents of worst forms of child labor. Additionally, worker interviews indicated that workers in informal logging experience high rates of injuries and occasional fatalities, but the illicit nature of their work leaves them and their families with few avenues for recourse.

Labor and human rights violations, including forced labor, trafficking in persons, and child labor, can persist deep in supply chains, hidden even from social compliance and government enforcement programs and making these risks difficult to address. The findings from both of these case studies warrant further research and urgent action by the Burma government, businesses, and civil society.

A PREVIOUSLY FORESTED HILLSIDE IN NORTHERN BURMA, NOW BARREN DUE TO DEFORESTATION



## Endnotes

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