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International Centre for Trade Union Rights

*Centro Internacional para los Derechos Sindicales
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ICTUR was founded to
defend and extend trade union rights and
to raise awareness of these rights and their violations
around the world

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Attn:

U Win Myint
President of the Republic of the Union of Myanmar
President's Office, Office No. 18,
Nay Pyi Taw, Myanmar

CC:

U Thein Swe, Minister of Labour, Immigration and Population,
Clément Nyaletsossi Voule, United Nations Special Rapporteur on the
rights to freedom of peaceful assembly and of association
Trade unions: IWF, CTUM, IU

March 2019

Dear President,

The International Centre for Trade Union Rights is writing to express serious concerns about widespread anti-union discrimination in Myanmar.

ICTUR understands that attempts by workers to organise are met by strong resistance of employers in many sectors, leading to dismissals of union leaders and members, who are then unable to access judicial remedies or exercise their rights of freedom of association. These violations of trade union rights are reportedly widespread and frustration at the slow pace of labour law reforms has been growing, resulting in the withdrawal from the reform process of two organisations – the Confederation of Trade Unions–Myanmar (CTUM) and the Myanmar Industries, Craft and Services Trade Union Federation (MICS) – in January this year.

ICTUR understands that two particular cases of anti-union discrimination have been ongoing for many months without any effective intervention of the authorities:

Dishang Kenny garment factory

Seven trade union members were fired from the factory in Hlaing Tharyar Township in November 2018 for their union activities. They had reported labour rights violations at the factory. Workers have complained of excessive overtime without proper compensation, deductions of social security fees without the issuing of social security cards to receive benefits, and being forced to sign 'warning letters' whenever they take leave. They have also reported that management fired pregnant workers instead of giving them maternity leave according to the law. It is reported that the township's Labour Relations Department has not taken any action, despite

large demonstrations in January to demand the workers' reinstatement.

Hotel Tharabar Gate

Management at the Hotel Tharabar Gate dismissed the workers' union chairperson, Ko Nay Myo Win, along with two members of the union executive and seven active union members in August 2018. Despite ongoing demonstrations to have the workers reinstated, neither management nor government have taken action to facilitate their reinstatement. Ko Nay Myo Win is also the leader of the township level Hotel Chitthu Labour Organisation Bagan-Nyaung (HLOB). In December 2018, police destroyed a peaceful solidarity camp continuously maintained on public space since October by union members and supporters. On 13 December, police further dispersed workers participating on a march to the Mandalay Region Government Office to protest the attack; thirteen union members were arrested.

ICTUR wishes to remind the government of its obligations to protect and promote the principles of freedom of association as enshrined in the International Labour Organisation Conventions 87, which Myanmar has ratified, and the 1998 ILO Declaration on Fundamental Principles and Rights at Work, which commits ILO Member States to respect and promote these principles, whether or not they have ratified the relevant Conventions.

In respect of the above cases, the ILO's Committee on Freedom of Association has clearly stated that 'dismissal of workers on grounds of membership of an organization or trade union activities violates the principles of freedom of association' (*Freedom of Association: Compilation of decisions of the Committee on Freedom of Association*, ILO, 6th Edition, 2018, para. 1104). The Committee has noted in particular that 'newly established enterprise level unions are likely to suffer adverse consequences threatening their very existence, if their entire leadership and a large part of their membership is dismissed'; since 'inadequate safeguards' against such anti-union discrimination 'may lead to the actual disappearance of trade unions composed only of workers in an undertaking', the Committee recommends that 'additional measures should be taken to ensure fuller protection for leaders of all organizations, and delegates and members of trade unions, against any discriminatory acts' (*Freedom of Association*, ILO, paras. 1107, 1078).

ICTUR urges the government to take effective measures to intervene in these disputes and ensure the prompt reinstatement of all workers wrongfully dismissed for their legitimate trade union activities, and to refrain from deployment of police to suppress their protests. ICTUR further calls on the authorities to heed the requests of union organisations and international trade unions concerning the necessary reform of labour and trade union laws to ensure that workers are afforded adequate protection in the exercise of their fundamental rights to organise and defend their interests. ICTUR will report these incidents in the journal *International Union Rights*, which was established in 1993, and which enjoys a readership in more than 100 countries.

Yours faithfully,



Daniel Blackburn, Director