

Business and Human Rights Education in Myanmar: The First Five Years of Myanmar Centre for Responsible Business

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FOUNDED IN 2013 by the Institute for Human Rights and Business (IHRB) and the Danish Institute for Human Rights (DIHR), the Myanmar Centre for Responsible Business (MCRB) has become an important neutral platform in the country's emerging political economy. The Centre was established in Yangon after assessing local needs through consultation with Myanmar and international stakeholders. It is believed to be the first such organization of its kind – one which is not only dedicated solely to human rights and business based on international standards and best practice, but is also fully operational in one specific country, creating a safe space for dialogue among businesses, civil society and the government. The Centre has been funded by contributions from development and foreign policy budgets from the governments of the United Kingdom, Norway, Netherlands, Denmark, Switzerland and Ireland.

In order to encourage responsible business conduct in Myanmar, MCRB aims to provide a trusted and impartial platform for the creation of knowledge, building of capacity, undertaking advocacy and promotion of dialogue among businesses, civil society, governments, experts and other stakeholders. Central to all of these activities is education about human rights, and its relationship to business activity.

MCRB defines “responsible business” as “business activities that work for the long-term interests of Myanmar and all its people.” This means business activities that comply with the law and international human rights and labor standards. It includes responsible social and environmental performance within the context of international standards. Responsible business also requires enhanced due diligence to determine what impacts business activities may have on human rights. This is critical in countries such as Myanmar with a population of at least one-third ethnic minorities, ethnic-based armed conflict, and which is emerging from decades of authoritarian rule and a long period of economic sanctions.

MCRB has framed its activities around “responsible business conduct” (RBC), rather than “CSR” (Corporate Social Responsibility), due to the tendency in Myanmar - and Asia more widely - to understand “CSR” as primarily about philanthropy, as well as the fact that those companies who have the most developed approaches to responsible business anchored in respect for human rights often eschew the term CSR for the same reason in their internal and external communication. MCRB has similarly sought to encourage the Myanmar government to shift their emphasis from simply encouraging philanthropic donation – the traditional approach in Myanmar - towards a focus on encouraging responsible business behavior: legal compliance, combatting corruption, and human rights due diligence to identify and mitigate negative social and environmental impacts.

What does a responsible business do?

 Obeys the law	 Respects human rights	 Respects the environment	 Respects its employees	 Is transparent
 Treats other businesses responsibly	 Doesn't pay bribes or tea money	 Responds to and engages with stakeholders	 Treats its customers responsibly	 Pays its taxes

“Responsible business conduct” concept.

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The Spectrum of Responsible Business Conduct (RBC)

MCRB prefers NOT to use the phrase ‘CSR’ (corporate social responsibility) since in Myanmar/Asia this is often understood only as philanthropy, and therefore its use causes confusion



Spectrum of responsible business conduct.

MCRB draws on both Myanmar and international expertise in its work. Almost all of its core staff are Myanmar nationals, with backgrounds in business and human rights, civil society advocacy in the extractives, journalism, and the private sector. IHRB and DIHR provide expertise on international standards and links to international networks.



MCRB officers and staff.

Myanmar's Reform Process

Since the unprecedented economic and political reform process began in Myanmar during 2011, the climate for responsible business has improved and the authorities now tolerate a greater degree of political and civil society activity. Reformers in the government have begun to liberalize the economy; recognize the relevance of human rights to business; and support the concept of responsible business. One such example is found in the objectives of the 2016 Myanmar Investment Law, which include *inter alia*: “to develop responsible investment businesses which do not cause harm to the natural environment and the social environment for the interest of the Union and its citizens;” (Article 3(a) and “to develop businesses and investment businesses that meet international standards” (Article 3(i)¹.

Other improvements include the adoption of a new Environmental Impact Assessment (EIA) Procedure; new labor laws which *inter alia* permit independent trade unions for the first time in fifty years; and the establishment of the National Land Use Policy (NLUP), which calls for protection for small-holder farmers and indigenous peoples and equal land rights for women. However the NLUP has not been enacted in law and remains aspirational.

But the human rights risks identified at the beginning of the reform process remain, including arbitrary expropriation of land; denial of freedom of expression and peaceful assembly; arrests of land and labor rights activists; and concerns over complicity risks of potential business partners, particularly military-owned companies. Moreover, the treatment of ethnic minorities, particularly the Rohingya,² remains problematic, amidst heightened ethnic-based internal armed conflict and widespread and systematic violence by the military against the Rohingya and other ethnic minorities. Discrimination against minorities in the workplace, the family, and in society more generally is widespread.³

To address these challenges, the Centre provides training to Myanmar businesses on these and many other topics, including anti-corruption, business integrity, and labor rights.⁴ Moreover, in both its Sector Wide Impact Assessments (SWIAs) (see below) and Briefing Papers, MCRB has focused on *inter alia* land rights, indigenous people's rights, and discrimination in order to raise awareness of these issues and provide recommendations to businesses and the Myanmar government.

Using International Standards on Business and Human Rights

As mentioned above, MCRB bases its work on international standards on business and human rights. Governments, intergovernmental organizations, civil society and businesses themselves have increasingly recognized the importance of human rights to sustainable business operations. As a result, the United Nations (UN), the International Finance Corporation (IFC) of the World Bank Group, the Asian Development Bank (ADB) and industry associations among others have developed a range of initiatives, tools and principles to address the human rights challenges businesses face. These include but are not limited to the 2011 United Nations' Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy," Framework (UNGPs) adopted unanimously by the Human Rights Council in 2011, which outline the government's duty to protect; business's responsibility to respect human rights; and the need for both to provide effective remedy to the victims of human rights abuses by business. MCRB includes these as the starting point in all its training. Other standards MCRB references and which integrate the UNGPs include the International Finance Corporation (IFC) Performance Standards

(2012) and Environmental, Health and Safety (EHS) Guidelines, as well as the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises on Responsible Business Conduct (2011) and associated due diligence guidance.⁵

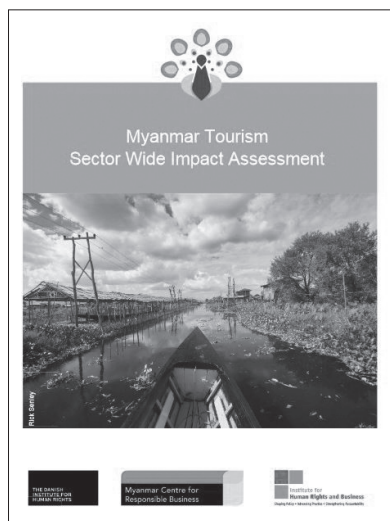
MCRB has been a pioneer in encouraging the application of the UNGPs to the business environment in Myanmar, and encourages businesses and governments to refer to these and IFC Performance Standards, particularly where domestic law and safeguards are absent.

Research and Knowledge as the Basis for Business and Human Rights Education

In order to build both credibility and a knowledge base to train business, government and civil society stakeholders in Myanmar, MCRB began by undertaking Sector Wide Impact Assessments (SWIAs) of a number of important sectors for investment with a variety of human rights impacts. These include oil and gas (2014); tourism (2015); information and communication technology (2015); mining (2018); and oil palm (2019).

The SWIA concept was invented by MCRB and its founding members the IHRB and DIHR. SWIAs draw on established environmental and social impact assessment methodologies, but apply a human rights lens.⁶ The information in the SWIAs is drawn from in-depth legal and policy research, and

field research in targeted geographical areas that have experienced investment in these sectors. SWIAs highlight the actual and potential impacts of each sector and make recommendations for government, businesses and other stakeholders on how to increase positive and reduce negative impacts, including through making use of relevant international standards and guidance. Public consultations have been held for all SWIAs, and MCRB has undertaken follow-up work on each sector after its publication, both in terms of advocacy on regulatory



frameworks, and using them as a basis for training and multi-stakeholder dialogue.

In addition, MCRB has researched and published cross-sectoral briefing papers on issues for business and human rights that cut across all sectors, most notably land rights,⁷ indigenous peoples' rights,⁸ children's rights,⁹ discrimination,¹⁰ disability¹¹ and biodiversity.¹²

These Briefing Papers, available in both English and Burmese, are primarily targeted towards business, and contain actionable recommendations. They have been compiled on the basis of research for sectoral SWIAS and on the legal framework and international standards, as well as consultations with a wide range of stakeholders, including companies, civil society groups, lawyers and government officials.

In partnership with the Danish Institute for Human Rights (DIHR), in 2015 MCRB published a more general Myanmar Human Rights and Business Country Guide for companies,¹³ part of a global DIHR-sponsored series, and will publish an updated version during 2019.

Building Capacity

The MCRB main activity uses the knowledge in these Briefing Papers and SWIAS, as well as its networks - including connections with other development partners - to build capacity among businesses, the Myanmar government, and civil society to bring about more responsible business practices. In addition to making written material available in hard copy and online, as well as one-on-one discussion, MCRB organizes free events in the form of panel discussions, seminars and workshops. These include participants and speakers from civil society, government and business, as well as the media in some cases.

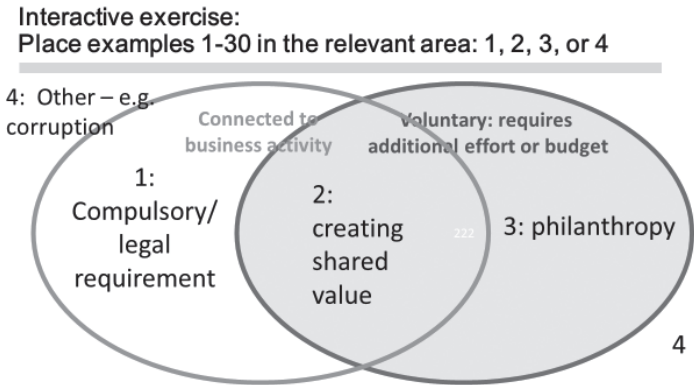
Having a mixture of participants allows for different perspectives to be shared and heard, and new connections made. Participants have the opportunity to ask questions of other stakeholders, particularly government officials, to whom they often do not get access. It thus also contributes to public-private dialogue (PPD) which the Myanmar government has made a commitment to enhancing.

Responsible Business 101

A regular request from a variety of groups including parliamentarians, companies and civil society is for training on “Responsible Business 101” (RB101) which MCRB increasingly undertakes at the subnational level with local partners. These cover the basic principles of business and human rights, different understandings of CSR, creating shared value, transparency and stakeholder engagement, and existing Myanmar legal frameworks in areas such as Investment Law, Companies Law, Environmental Impact Assessment (EIA), anti-corruption and sectoral laws.

These have been conducted in 2016 in Kayin (Karen) State with Hanns Seidel Foundation and Peace Nexus with business representatives from timber production, farming, construction, local civil society organization (CSOs) and Kayin ethnic armed organization,¹⁴ in Kyaukphyu and Sittwe in December 2017 with Scholar Institute, and in July 2018, working with National Enlightenment Institute, at the Mon State Parliament.¹⁵

Workshops are conducted in Burmese, with English interpretation. All presentation materials are subsequently published on MCRB’s website. A particularly popular part of the workshops involves the use of Keypoint polling software (‘clickers’), a novelty in Myanmar. This enables all participants, including the shy, to express an opinion - for example on the top problem associated with a sector - and see the results immediately presented so that they can be discussed. Quantitative information reflecting participant views also allows for a news ‘hook’ for the report of the training events to be in-



cluded on MCRB's website, and for these views to be fed back into future advocacy.

Workshops also include interactive activities such as stakeholder mapping. Another popular activity to reinforce the distinction between donations and responsible conduct is a quiz on whether particular examples of business conduct constitute compliance requirements, creating shared value, philanthropy or corruption. Examples include companies deciding to cover trucks carrying dusty coal, or providing scholarships to local high school students. In some cases, the answers can be multiple, depending on the context, which allows for a debate.

Where possible, local Myanmar examples are used in the training including inviting company officials and/or activists to make presentations. Where there are Burmese language videos available and/or local examples, these have been used, such as for a local company (Myanmar Petroleum Resources Limited) on its experience of developing an operational grievance mechanism.¹⁶



Training for civil society groups in Loikaw, Kayah State, December 2018.

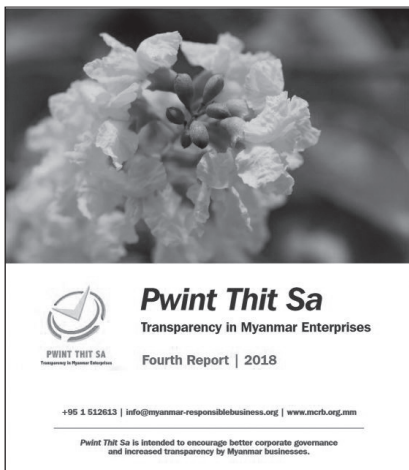
Capacity-building for Civil Society Organizations (CSOs)

Sometimes at the request of partners, MCRB is a resource person for CSO-focused training events along with other organizations working on business and human rights from the perspective of human rights defenders such as Oxfam, Earthrights International, and the International Commission of Jurists (ICJ). This has included several sessions for CSOs on how to do effective advocacy to business¹⁷ and also inputs on content and translation into a local language advocacy guide for activists.¹⁸

MCRB has also provided training on human rights documentation, including labor rights for grassroots activists in July 2014, and land rights documentation in response to a request from various farmers' networks in December 2014.¹⁹ In May 2018 MCRB provided training on report-writing to labor activists/garment workers on the informal economy and the garment sector.

In November 2016, MCRB responded to a request from local human rights NGO Equality Myanmar to help them develop a business and human rights module for the human rights trainers. However, given that the topic of business and human rights is still very new in Myanmar, and most human rights trainers are unfamiliar with business, training of trainers is challenging and where possible, MCRB tries to use its local core team to respond to requests directly from Myanmar CSO stakeholders.

Recent sessions for CSOs have included a number of sub-national workshops conducted in 2018 with Vermont Law School (VLS) and their local CSO partners that combined EIA and responsible business in cooperation with the governmental Environmental Conservation Department.²⁰ The EIA training included the government's draft EIA Public Participation Guidelines and how civil society organizations can use these.²¹ The draft Guidelines are designed to be a reference tool for government, the private sector, and impacted communities on how to implement the public participation and information disclosure requirements in Myanmar's EIA Procedure. They were developed at national level on the basis of an ASEAN regional project supported by PACT-Mekong Partnership for the Environment into which both MCRB and VLS made inputs.²²



Training for Businesses

MCRB, as a publicly funded organization, offers training on responsible business for Myanmar companies on a collective rather than individual basis, in the expectation that individual companies can source consultancies to train them on a commercial basis. Sometimes MCRB speakers are resource people for sessions organized by multinationals for their local Myanmar supply chain, which means that MCRB's

reach extends beyond those familiar with the organization, and local companies are more incentivized to attend in the knowledge that this is a supplier requirement.²³

Another incentive for larger Myanmar businesses to participate in MCRB activities and learn more about business and human rights and transparency has been the Pwint Thit Sa/Transparency in Myanmar Enterprises²⁴ (TiME) report launched in 2014. This annual report examines and ranks the transparency of Myanmar company websites relating to information on responsible business practices with the aim of creating a competitive desire to rank higher by disclosing more, as well as reinforcing the business case for doing so as a means to attract business partners and investors who value corporate governance.

The first three reports in 2014, 2015 and 2016 analyzed how much information company websites provide on anti-corruption, organizational transparency, and human rights, health, safety and the environment (HSE) and were based on Transparency International's TRAC (Transparency in Corporate Reporting) reports. The 2018 Report switched to primarily using the ASEAN Corporate Governance Scorecard and assessed information disclosure on the corporate websites of one hundred eighty-two large Myanmar companies, including listed and public ones.²⁵ The 2019 report builds on this approach with more performance criteria.²⁶

To accompany Pwint Thit Sa, and help companies improve their corporate governance performance, MCRB has offered training workshops on

corporate governance, anti-corruption, and business and human rights, including human rights policies,²⁷ reporting, and operational grievance mechanisms, as well as its publicly available briefing papers and toolkits in English and Burmese²⁸ and by initiating or quality-controlling Burmese-language translations of other relevant business and human rights materials and making them available in hard-copy and online.²⁹

Training sessions have also been held for specialist groups such as EIA consultants, in partnership with Vermont Law School and the government's Environmental Conservation Department, and in some cases with other organizations such as the IFC.³⁰

At sub-national level, MCRB has presented on "RB101" to Chambers of Commerce in Tanintharyi and Mandalay. Between 2014 and 2017 it supported the Myanmar Business Coalition on Aid, a local initiative to raise awareness of responsible business with local SMEs (small and medium enterprises) in regional centers such as Mandalay, Pakokku, Sittwe, and Dawei.

In all of its business-focused activities, MCRB again tries to draw on local best practice examples, either from foreign investors or local companies. Some of these are identified through the Pwint Thit Sa process which shows which Myanmar companies are addressing business and human rights, *inter alia*. Some are drawn from multinational companies investing in Myanmar which understand that part of their contribution to creating shared value for Myanmar should be to help others conduct business responsibly, safely and with respect for human rights.

In mid-2018, MCRB therefore launched a series of "Responsible Business Seminars" for Myanmar businesses in partnership with a group of western multinationals who had also embarked on a deeper dialogue on business and human rights with the Myanmar government, partly as a consequence of the Rohingya crisis. Seminars involve presentations on international standards, Myanmar legal frameworks, and expertise and practical experiences, from international and local companies. They have been well-attended by Myanmar companies and other stakeholders, with MCRB partnering with organizations and businesses who bring expertise to the subject. In 2018, the first three seminars have covered anti-corruption; dispute resolution in the workplace; and the importance of due diligence in identifying human rights risks for companies. Future topics include environmental stewardship, community engagement, and inclusion and non-discrimination.³¹

Engagement with Asian Companies

One of the main priorities for MCRB – including for these responsible business seminars – has been to engage with Asian companies, including Chinese, Japanese, Korean, Singaporean, Thai, and Indian businesses. Generally, these tend to be less subject to their home government or shareholder or societal, media and NGO pressure to do business responsibly in Myanmar. In the absence of an effective and enforced Myanmar legal framework, some are inclined to cut corners on issues such as community engagement and EIA. However, with the National League for Democracy (NLD) Government since 2016 explicitly emphasizing responsible investment, and with Myanmar civil society organizations seeking to holding them accountable, some Asian companies are showing greater interest in the advice and networks which MCRB can offer.

MCRB has generally sought to engage and train Asian businesses through their Chambers of Commerce. For example, in June 2018 MCRB, JETRO Yangon (Japan External Trade Organization) and Nippon Koei conducted a seminar in Japanese for some eighty Japanese companies to enhance understanding of responsible business conduct in the Myanmar context. Speakers mentioned the similar challenges in conducting responsible business in Myanmar to those faced by Western – and Myanmar – companies, which include gaps and lack of clarity in the legal framework, labor conditions, corruption, land rights, and problems of discrimination.³²

Training for Government

Soon after MCRB was established in late 2013, the Directorate of Investment and Companies Administration (DICA) asked MCRB to help them understand what a “responsible business” looked like. MCRB developed a short training course for DICA staff on international standards and how to screen companies for their commitment to those standards, including through company reporting.³³ Since then MCRB has run a series of weekly responsible business training seminars for DICA’s countrywide staff, and they have also participated in other events at sub-national level.³⁴ Other Ministries with whom MCRB has most contact, including for training purposes, are the Ministry of Natural Resources and Environmental Conservation and the Ministry of Energy.

Training for the National Human Rights Commission

During 2015 MCRB, along with one of its founding organizations, the Danish Institute for Human Rights, provided blended online and face-to-face training to the Myanmar National Human Rights Commission (MNHRC) using the DIHR e-learning on business and human rights for NHRIS.³⁵ Senior and junior MNHRC staffers were introduced to the UNGPs. Face-to-face discussions focused on labor issues, the impact of extractive industries on human rights and on land, all of particular relevance in Myanmar.³⁶ A repeat of this blended training, with an increased focus on Burmese language delivery, will take place in 2019.

Training with Academic Institutions

MCRB team members have also been speakers at local privately-owned business schools, for example teaching “Responsible and sustainable business” on the MBA course of the International Leadership University in Naypyidaw in January 2019. MCRB team members have also spoken at state-funded universities in Mandalay and Yangon, with a particular focus on encouraging students to see a future career path in environmental impact assessment.³⁷

MCRB team members have also regularly presented on RB101 and sectoral issues such as mining, tourism and ICT to the Bachelor of Arts and Religious Studies (BARS) course at Myanmar Institute of Theology (a well-



Discussing responsible tourism in Kalaw at the 3rd National Conference, June 2018.

established social science course with a focus on ethnic minority students), and other local educational and training initiatives.

Educating through Dialogue and Advocacy

Human rights education by MCRB is not limited to workshops and seminars. As a result of its work on specific sectors through the SWIAS, the Centre has alone and in partnership with others facilitated multi-stakeholder dialogues on a number of topics where Myanmar is developing policy and regulation, and where all stakeholders are learning about good practice and international standards. Each of these discussions involves education on basic human rights principles and the role of government and business, as well as specific human rights impacts and how to address them.

MCRB has undertaken extensive work on tourism, both at the national and sub-national levels. In partnership with the Hanns Seidel Foundation (HSF), MCRB has held workshops on responsible tourism including tourism and human rights, and community-based tourism including a series of three National Conferences on Communities and Tourism.³⁸ With HSF, two multi-stakeholder dialogues have also been held to discuss beach tourism in Ngapali in 2016 and 2017.

Furthermore, in 2016/2017 MCRB and Flora and Fauna International (FFI) held three multi-stakeholder workshops on sustainable tourism in Tanintharyi Region, southeast Myanmar. In these workshops, FFI presented its work which had been undertaken over four years to identify environmentally sensitive areas on which to develop a zonation map of the area, to allow for decisions to be taken by government on permitting and regulating investment and other activities.³⁹ In each multi-stakeholder forum, MCRB sets the business and human rights framework based on its findings from the Tourism SWIA and participants from government agencies, tourist businesses, and local CSOs share experience and concerns, learn from one another, and identify actions to reduce negative and enhance positive human rights impacts. From these discussions, MCRB also draws advocacy points for use with government and Parliament when they are considering policy and legislation.

A similar approach has been taken with other sectors on which MCRB has conducted SWIAS. In the information and communications technology (ICT) sector, the Centre co-hosted the Third Digital Rights Forum in

January 2019, attended by some two hundred fifty participants from government, civil society, and ICT companies with a focus on the rights to privacy, information, and freedom of expression.⁴⁰ Again, these multi-stakeholder discussions are an opportunity for learning, and for developing advocacy strategies.

At the cross-sectoral level, discrimination, and in particular, discrimination on grounds of disability has been a focus. In November 2017, the Centre and the International Labor Organization (ILO) co-hosted a workshop on promoting employment opportunities for people with disabilities. Over a hundred people from government, companies, Myanmar civil society organizations, and international experts attended.⁴¹ A further multi-stakeholder workshop will take place in March 2019.

On security and human rights, MCRB took on the role in 2018 of Secretariat of the In-Country Working Group on the Voluntary Principles on Security and Human Rights (VPSHR). The VPSHR is a multi-stakeholder global initiative established in 2000 designed to guide companies in maintaining the safety and security of their operations within an operational framework that encourages respect for human rights. While the VPSHR is designed specifically for extractive industries, it is of wider application for other sectors, and brings together companies, NGOs, and governments. The initiative seeks to minimize and address the risks of human rights abuses in communities adjacent to extraction sites that are associated with public and private security provision. In its role as VPSHR Secretariat, MCRB has hosted several multi-stakeholder meetings, including two awareness-raising sessions in Yangon and Naypyidaw, the capital, in November 2018, and for civil society organizations in January 2019 in Yangon, building on networks of human rights defenders built during the oil and gas, and mining SWIAs.⁴²

Lessons Learned, Looking Ahead

An independent evaluation of MCRB's first five years was conducted in 2018.⁴³ Based on the changing context, and experience to date, MCRB's program for the 2019-2021 period will focus more on capacity-building, advocacy and dialogue, and less on field research and building knowledge, although it will continue to collect Myanmar good practice examples and case studies to use in training.

Demand for MCRB's team as resource persons by others is growing, and the Centre is working hard to ensure that more of its training material is available in Burmese language, and in a sufficiently simple and relevant format to engage local participants, whether business, civil society or government officials, most of whom have little if any knowledge of how business relates to human rights or the Myanmar legal framework which supports the government's "duty to protect."

From its own activities and observation of the human rights education provided by others, MCRB has seen much human rights training activity by development partners and international experts wasted through an assumption of too much prior knowledge, too great a focus on international standards, poor translation of slides and written material and poor interpretation (bearing in mind that accurate Burmese translation requires around 50 percent longer time than the original English).

MCRB will therefore step up its efforts to find Myanmar examples that resonate with Myanmar audiences, such as the human rights and business issues associated with Facebook, or Letpadaung copper mine, and good practice examples by companies in Myanmar. The Centre will look for ways to present material in Burmese, and to encourage the audience to interact and express a view, whether through quizzes, polling or other activities.

In the meantime, to address the other challenge of capacity-building in Myanmar, namely the duplication of effort, MCRB will continue to make its training materials freely available on its website, and also publicize its activities through the media, Facebook, and a monthly e-newsletter.

Endnotes

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