



Myanmar Centre for
Responsible Business

Corruption and Business in Myanmar – what needs to change?

Parami Talk Series, Parami Institute, Yangon
30 September 2017

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS



My background

- ❑ Director of Myanmar Centre for Responsible Business (MCRB) since July 2013
- ❑ Mining company Rio Tinto: HQ lead on transparency, human rights and resource nationalism/resource curse issues
- ❑ Civil servant/Diplomat:
 - Director of Global & Economic Issues
 - UK ambassador to Myanmar 2002-2006 (and 2nd Secretary 1990-1993)
 - European Commission, Cabinet of Commission Chris Patten, External Relations
 - Press spokeswoman



Myanmar Centre for Responsible Business

Founders:



THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

www.myanmar-responsiblebusiness.org and www.mcrb.org.mm

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myanmar.responsible.business

Current core funders:

- UK DFID
- DANIDA
- Norway
- Switzerland
- Netherlands
- Ireland

MCRB's Objective

To provide an effective and legitimate platform for the creation of **knowledge, capacity and dialogue** concerning responsible business in Myanmar, based on local needs and international standards, that results in more responsible business practices.



Briefing Paper

Combatting Discrimination by Business and in the Workplace in Myanmar

September 2017

Myanmar Centre for Responsible Business



အနှစ်ချုပ်စာလွှာ

မြန်မာနိုင်ငံရှိ စီးပွားရေးလုပ်ငန်းများနှင့် လုပ်ငန်းခွင်၌ ခွဲခြားဆက်ဆံမှုများအား တိုက်ဖျက်ခြင်း

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Myanmar Centre for Responsible Business



Briefing Paper

Children's Rights and Business in Myanmar

April 2017

+95 1 510069 | info@myanmar-responsiblebusiness.org | www.mcrb.org.mm

Briefing papers for Business (in Burmese and English)

www.mcrb.org.mm



Corporate Social Responsibility and Disability (CSR-D) A Guide for Companies in Myanmar



စီးပွားရေးလုပ်ငန်းများ၏ လူမှုတာဝန်ယူမှုနှင့် မသန်စွမ်းမှု မြန်မာ့ကုမ္ပဏီများအတွက် လက်ခွဲလမ်းညွှန်



Operational level grievance mechanisms

လုပ်ငန်းခွင်အဆင့် နှစ်ဆူတိုင်ကြားသွက်မှုတို င်စဉ်းစမ်းချက် ဗဟိုရုံး

IPIECA Good Practice Survey



BRIEFING PAPER

Indigenous Peoples' Rights and Business in Myanmar

FEBRUARY 2016



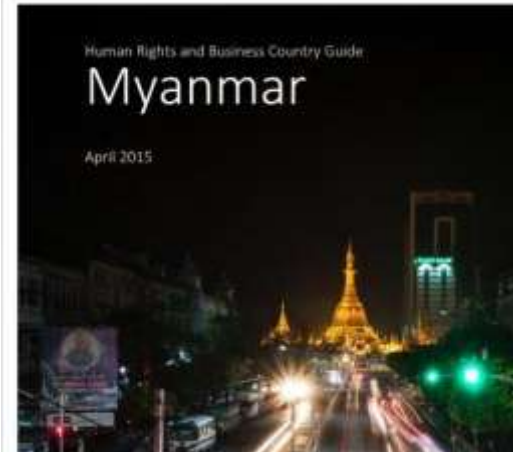
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Myanmar Centre for Responsible Business
BRIEFING PAPER
March 2015

Human rights and Business Country Guide

Myanmar

April 2015



INDIGENOUS PEOPLES RIGHTS



Sector Wide Impact Assessment

Myanmar Oil & Gas Sector Wide Impact Assessment



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Sector Wide Impact Assessment

Myanmar ICT Sector-Wide Impact Assessment

September 2015



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Sector Wide Impact Assessments



Sector Wide Impact Assessment

Myanmar Tourism Sector Wide Impact Assessment



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Institute for
Human Rights and Business



Myanmar Mining Sector Wide Impact Assessment on Limestone, Gold and Tin

DRAFT FOR CONSULTATION

Commenting on the MINING SWIA draft

- MCRB welcomes comments on this draft from all interested stakeholders to be sent to info@myanmar-responsiblebusiness.org with a subject line of "Mining SWIA Consultation Draft Feedback" by 16 October 2015.
- Submission of written feedback to the e-mail above will be posted on the MCRB website with each commentator's submitted name and organisation unless you tell us that you do not want your comments posted on our website.
- In making comments, please be as specific as possible, including identifying the relevant section or example being discussed.

IHRB

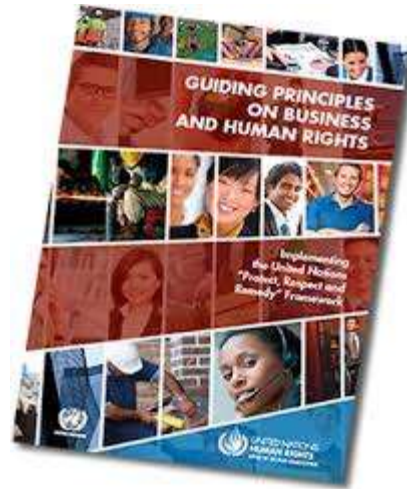
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International Standards and Responsible Business

MCRB defines 'responsible business' as 'business activities that work for the long-term interests of Myanmar and all its people'. A responsible business:

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



MCRB's work on business integrity and anti-corruption

- Part of 'responsible business 101' training for companies, government, civil society,
- Anti-corruption training for companies: Sept 2014, March 2016, August 2017
- Translation of Transparency International's Business Integrity principles for SMEs
- Collaboration with British Embassy/Coffey on the December 2016 anti-corruption toolkit
- Engagement with local civil society organisations and NGOs with an interest in transparency and anti-corruption
- Cooperation with UN Office on Drugs and Crime
- Collaboration with World Bank/IFC on corporate governance training and plans to establish a Myanmar Institute of Directors, drawing on Thai IoD and other IoD expertise and experience (Myanmar Corporate Governance Initiative)
- Testing the system: Ngwesaung sand mining case submitted to Anti-Corruption Commission and State Counsellor's office
- Pwint Thit Sa report (Transparency in Myanmar Enterprises)



MCRB's Transparency in Myanmar Enterprises (TiME) aka Pwint Thit Sa Report

- Our aim: incentivise greater publication of information by Myanmar companies by publicly recognising them for transparency
- Websites of 100 large Myanmar companies (chosen on basis of top taxpayers list) ranked for information disclosure
- Based on 35 questions (2/3 drawn from a Transparency International methodology) :
 - Anti-corruption programmes
 - Organisational Transparency (e.g. ownership, financial information)
 - Human Rights and HSE, including grievance mechanisms
- Civil society organisation/public input sought and recent media reports scanned.
- Recommendations to Myanmar companies, government, the Myanmar Parliament, institutional investors, civil society and the media.



Pwint Thit Sa/Transparency in Myanmar Enterprises 2016: Rankings based on disclosure of information on websites

Company name	2016 position	2015 position	Anti-corruption	Organisational transparency	Health, safety, environmental and human rights	Total score
First Myanmar Investment	1	NA	2.82	3.33	3.17	9.32
Serge Pun & Associates	2	1	2.82	2.92	3.17	8.91
Max Myanmar Group	3	2	3.08	2.41	3	8.49
Smart Technical Services	4	5	2.95	2.78	1.83	7.56
MPRL E&P Group	5	8	2.44	1.67	2.83	6.94
AYA Bank	6	9	2.56	2.33	2	6.89
KBZ Group	7	3	2.56	2.64	1.67	6.87
City Mart Holding Company	8	4	2.56	1.85	2	6.41
Parami Energy Group	9	6	2.31	2.04	1.67	6.02
Dagon Group	10	10	2.18	1.48	0.83	4.49
Shwe Taung Group	11	7	2.5	1.11	0.83	3.99
Asia World	12	12	2.44	0.37	0.67	3.48

TiME/Pwint Thit Sa 2018

- The scope of the report/assessment will be broadened to include more focus on corporate governance and sustainability,
- Information sought will begin to be aligned with the ASEAN Corporate Governance Scorecard currently used in Thailand, Singapore, Malaysia, Philippines, Indonesia and Vietnam
- MCRB will collaborate with Yangon-based sustainability consultancy Yever who have previously conducted a similar survey
- Approximately 100 of the largest Myanmar family-owned companies, YSX listed companies, public companies, and those which have volunteered to be benchmarked in the mini-Pwint Thit Sa survey will be assessed
- Initial information about the scope of the report will be sent to companies in September/October
- Scoring will take place between October and February, with the report published in March 2018 (we hope!)

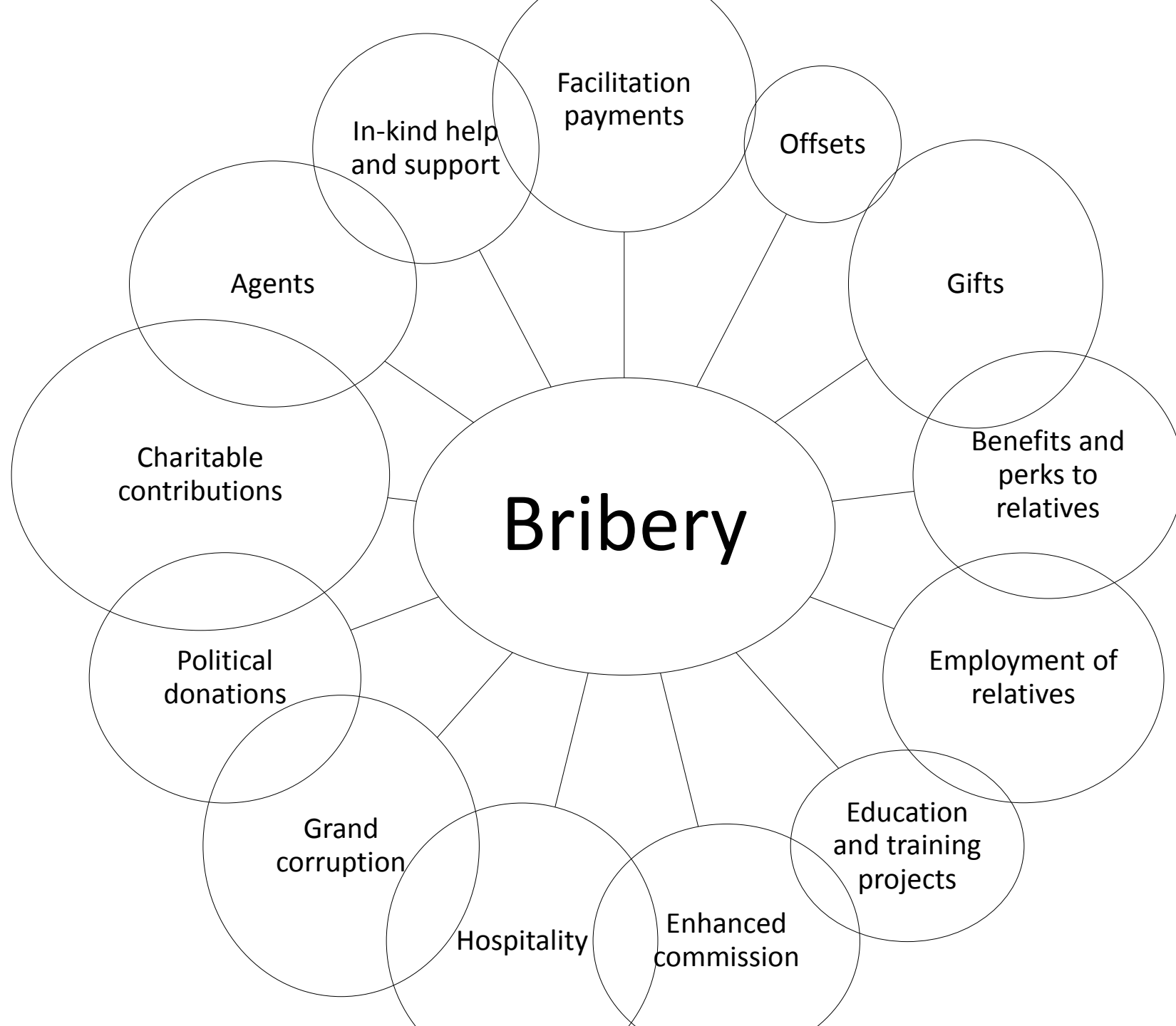


Corruption and Bribery: Definitions.....

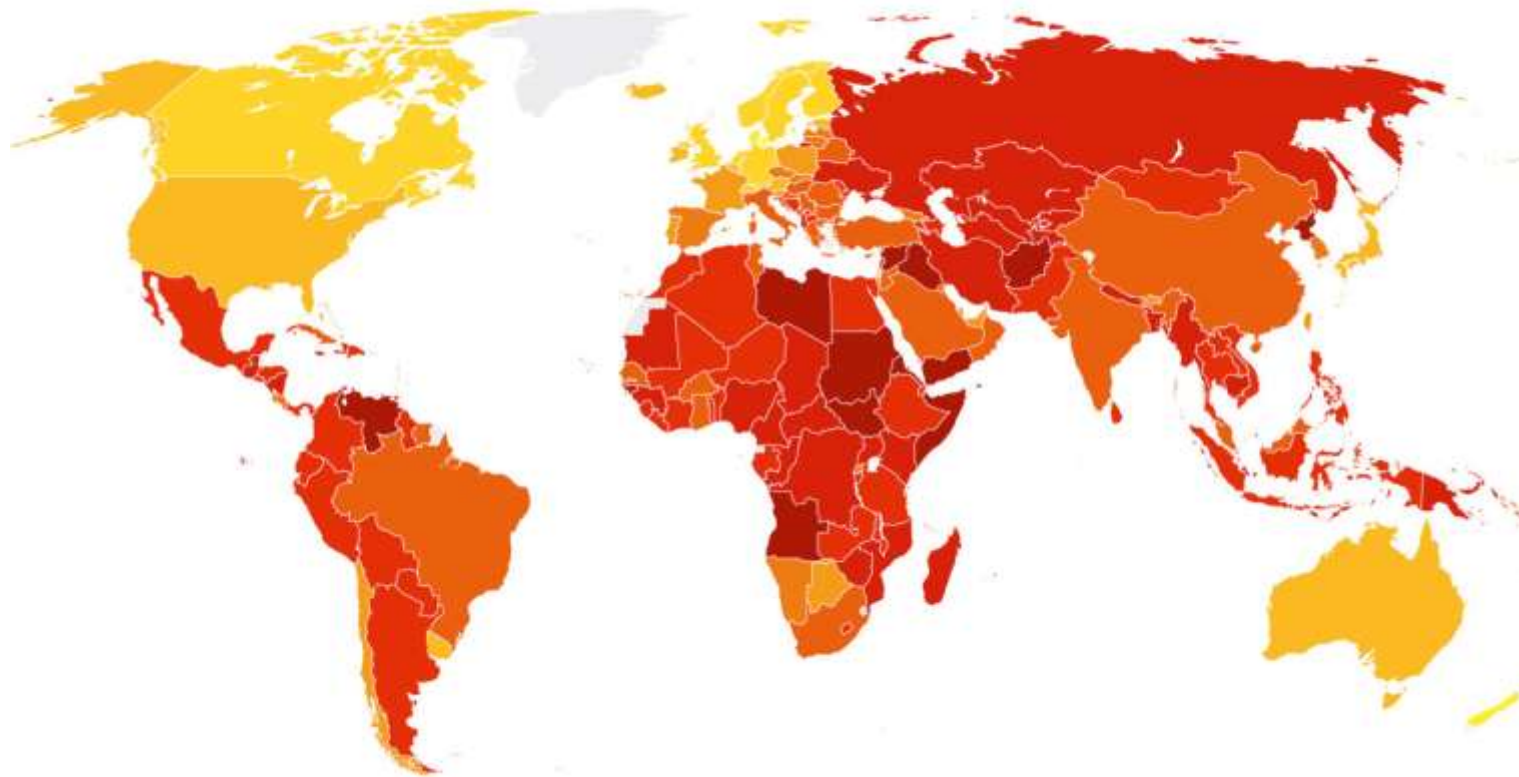
There is no comprehensive, and universally accepted definition of **corruption**. Most working definitions are variations of "**the misuse of a public or private position for direct or indirect personal gain**".

“Bribery is the offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal, unethical or a breach of trust”

(Business Principles for Countering Bribery, Transparency International)



Transparency International Corruption Perceptions Index: how does Myanmar score?



Not exact science (perceptions only) but Myanmar's ranking is improving:

- 2013 new Anti-Corruption Law
- 2016 new NLD government

	Position (out of approx. 175)	Score
2016	136 th	28
2015	147 th	22
2014	156 th	21
2013	157 th	21
2012	172 nd	15

2016 World Bank Enterprise Survey – Corruption Indicators: Business owners/top managers in 607 firms interviewed Oct 2016-Apr 2017 http://www.enterprisesurveys.org/data/exploreeconomies/2016/myanmar Green – improvement, Yellow minor deterioration, Red significant deterioration	Myanmar 2016 (2014 in brackets)	East Asia & Pacific	All
Bribery incidence (% of firms experiencing at least one bribe payment request)	29.3 (42.9)	29.4	17.5
Bribery depth (% of public transactions where a gift or informal payment was requested)	26.7 (35.4)	23.3	13.7
Percent of firms expected to give gifts in meetings with tax officials	20.4 (37.1)	20.3	12.9
Percent of firms expected to give gifts to secure government contract	9.8 (32.5)	45.6	28.9
Value of gift expected to secure a government contract (% of contract value)	0.2 (1.0)	2.4	1.7
Percent of firms expected to give gifts to get an operating license	37.1 (38.9)	21.7	14.1
Percent of firms expected to give gifts to get an import license	26.4 (53.5)	29.9	14.1
Percent of firms expected to give gifts to get a construction permit	47.6 (46.5)	42.4	23.1
Percent of firms expected to give gifts to get an electrical connection	35.6 (55.8)	21.0	15.7
Percent of firms expected to give gifts to get a water connection	29.5 (30.1)	23.7	15.8
Percent of firms expected to give gifts to public officials "to get things done"	16.5 (26.8)	52.1	22.2
Percent of firms identifying corruption as a major constraint	6.3 (9.3)	15.9	32.5
Percent of firms identifying the courts system as a major constraint	5.3 (9.2)	6.3	14.5

NLD anti-corruption policy

Basic principle

It is forbidden for members of the government, or of Commissions or organisations established by the government, or public employees to receive or accept Gifts from any person or organization which are offered due to their official position.



လက်ဆောင်ပစ္စည်းလက်ခံခြင်းနှင့် ပတ်သက်သည့်
နိုင်ငံတော်သမ္မတရုံး၏ လမ်းညွှန်ချက်

Gifts from persons and organizations which are prohibited

A person or organization that is seeking a favour based on one's position or authority;

A person or organization that is doing business or seeking to do business with an organization that is under one's responsibility or supervision;

A person or organization that will benefit from an action pursuant to one's responsibilities; or

A person or organization that will benefit from an omission to act pursuant to one's responsibilities.

Exceptions

(a) Gifts with a value of no more than 25,000 kyats (the maximum value of gifts which may be received from a person or organization within a year shall be 100,000 kyats);

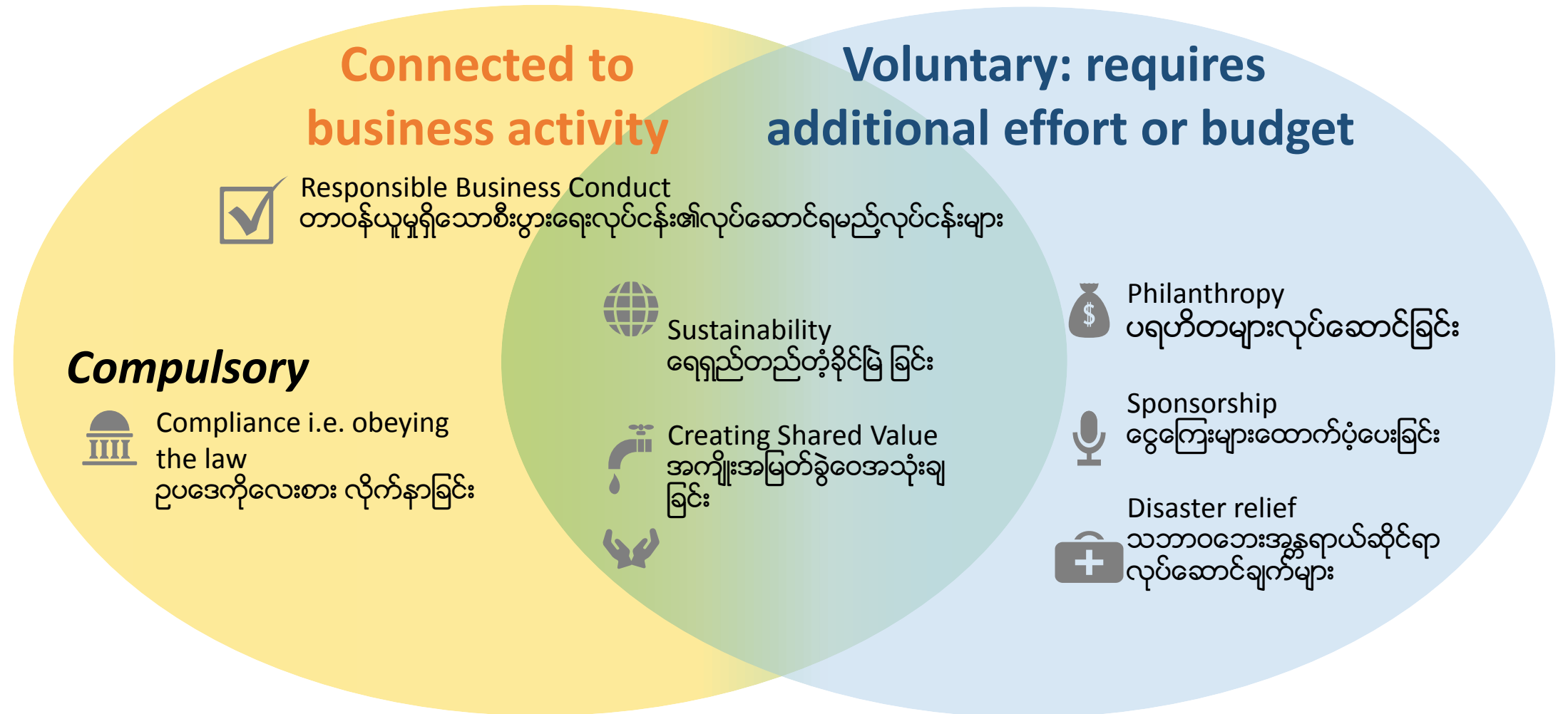
(b) Gifts which are received not because of one's official position but because of family relationship or personal relationship, unless one of the situations in section 5 pertain; and

(c) Gifts with a value of no more than 100,000 kyats and which are given on a special annual occasion such as Christmas or Thadingyut.

Myanmar: What needs to change?

- Greater government transparency:
 - Better tendering procedures
 - More procedures put on-line instead of face to face
 - Publication of fees and processing times
- Better regulation, less paperwork, reduced red tape and unnecessary check and controls
 - E.g. guesthouse licencing study by Myanmar Business Forum
<http://myanmarbusinessforum.org/wp-content/uploads/2017/04/MBF-Hotel-and-Tourism-WG-License-Issues-Position-Paper-February-2017-English.pdf>
- Visible enforcement of government anti-corruption legislation and codes as a deterrent
- A pro-active Anti-Corruption Commission focussed on corruption hotspots
- More transparency and accountability: active parliaments, freedom of the media, civil society activism (NB 66(d) is a deterrent to investigate journalism)
- Business commitment
 - by individual businesses, starting from the Chairman/CEO;
 - collectively

The Spectrum of Corporate (Social) Responsibility



Creating Shared Value 'CSV': Myanmar examples

Creating Shared Value is the development of business strategies that are both profit making and respond to social needs; building competitive advantage by solving social problems

A bank develops mobile money services which are accessible and affordable for those without access to bank accounts.

A hotel trains and provides initial support to local farmers to grow vegetables safely, and buys them for use in their catering. The farmers sell the excess production on the wider market.

A company making toothpaste and soap runs a nationwide programme in schools on handwashing and oral hygiene

A hotel trains local young people in English and hospitality skills and offers all of them jobs on graduation

To build a local supply chain, a drinks factory funds a social enterprise to train local SMEs in business management and on how to submit tenders and meet their contractual commitments, including compliance with labour laws, and safety

Business responsibility is individual and collective:

UN Global Compact Principle 10: Anti-corruption

Businesses should work against corruption in all its forms, including extortion and bribery.

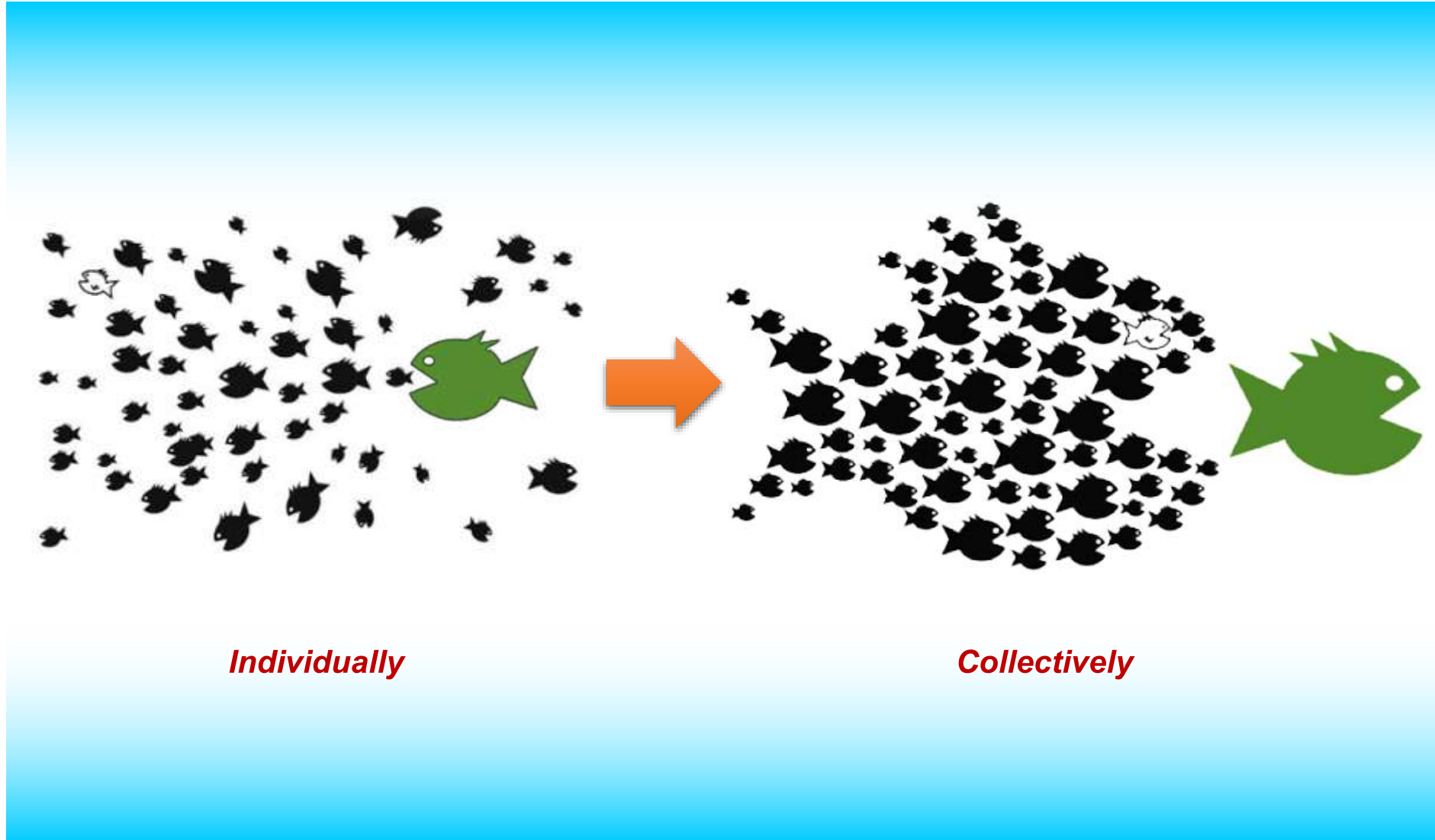
Through organisation change **at the company level**:

- companies are asked to integrate anti-corruption and compliance measures into their business strategies and operations.
- Companies develop their own **code of conduct**, including the implementation of a **zero tolerance** policy and a range of **rules and regulations** concerning **gifts, political contributions, charities and travel**.
- To apply these policies, companies implement a range of actions, including the establishment of **anonymous hotlines, employee training, supply chain management, risk assessment** and **disciplinary** measures.

Through collective action **at the country level**.

- companies are asked to take part in collective action, multi-stakeholder dialogue, and integrity or compliance pacts with industry peers.

Why Collective Action?



Examples of Collective Action:

Thai Institute of Directors: Coalition against Corruption

Signatory companies to the Coalition agree that they:

- Will work internally to assess risks related to corruption, implement anti-corruption policies and compliance programs and provide business conduct guidance to managers and employees.
- Will disclose and share internal policies, experiences, best practices and success stories to foster ethical, clean, and transparent business transactions in Thailand.
- Will reach out to industry peers, suppliers and other stakeholders via the Coalition and participate in joint activities to fight corruption.



Examples of Collective Action: Construction Sector Transparency Initiative (CoST)

Geoff French,
*Past President of Institution
of Civil Engineers (ICE) &
International Federation of
Consulting Engineers (FIDIC)*



“Corruption occurs in the shadows,
the great thing about CoST is it
shines a light on the dark areas and
illuminates them”



Global construction likely to be
worth **\$15.5 trillion** by 2030



Estimated that **10-30%** lost
through corruption



Potential savings of **\$5
trillion** annually

What does CoST do?

CoST drives better **value** from **public infrastructure** investment



**CoST increases
transparency &
accountability**



**CoST is a
global
standard**



**CoST is a game-
changer**



**CoST
changes
lives**

A growing international programme



- Afghanistan
- Botswana
- Costa Rica
- Ethiopia
- El Salvador
- Guatemala
- Honduras
- Malawi
- Panama
- Philippines
- Tanzania
- Thailand
- Uganda
- Ukraine
- United Kingdom
- Vietnam

Common Excuses for Company Inaction

INADEQUACY:
We thought our anti-bribery systems were up to the job

OUTSOURCING BRIBERY: We no clue our agent was paying....

SIEGE MENTALITY:
we can only compete if.....

PRETENDING IT'S NOT A BRIBE: It was only a helicopter trip and short holiday for him and his partner

IGNORANCE: If only we'd known that it would be regarded as a bribe.....

COMPLACENCY:
We've always done it

CITING CUSTOM: that's the way things work round here

Six Step Anti-Corruption Programme (Transparency International Business Integrity Toolkit)



Transparency International's Business Integrity Toolkit is a user-friendly six step process for building an effective corporate anti-corruption programme.

1. Commit to an anti-corruption programme 'from the top'
2. Assess the current status and risk environment
3. Plan the anti-corruption programme
4. Act on the plan
5. Monitor controls and progress
6. Report internally and externally on the programme



Online Tools for Addressing Corruption



Institute of Business Ethics **Say No Toolkit**

From responding to a demand for a facilitation payment, to offering a business partner a gift - **do your employees know what to do?**

Do you need an immediate and effective way of answering employee questions about what action to take?

The Say No Toolkit can help

The IBE Say No Toolkit is a decision making tool that has been designed to help organisations encourage employees to make the right decision in difficult situations. The Say No Toolkit delivers immediate guidance on a wide range of common business issues, especially those that could lead to accusations of bribery. Put simply it answers the question "what do I do?" and

<http://www.saynotoolkit.net/app/>

 [Avoid](#) 


[Help now](#) 

[Report](#) 

[Useful contacts](#) 

[Definitions](#) 


What is the situation that you need help with?


[I have been offered, given or received](#) 

[I have been asked to pay](#) 

[I want to offer](#) 

[I have been asked to authorise](#) 

[I have a conflict of interest](#) 

[I am in an anti competitive situation](#) 

[Immediate help](#) 



What would you like to offer?

A gift

Cash / money

Hospitality

To whom?

To a business contact

To a government / state contact

To a public official

To another contact

A small icon consisting of a grid of dots forming a square shape, with the text 'To whom?' to its right.

To whom?

To a business contact

To a government / state contact

To a public official

To another contact

ask

The company accepts that reasonable and proportionate hospitality is an accepted way of building and developing good business relationships. In the company some hospitality can be offered but it must be for this purpose only and should never be used to, or be interpreted by others as an attempt to influence, persuade or bribe. At the company we limit the value of hospitality that can be offered to reasonable amounts.

However particular care must be taken when we are working with public officials.

Speak to the Legal department or someone responsible for Government contracts before taking any further action.

<http://www.saynotoolkit.net/app/>

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myanmar.responsible.business

Thank You !