



30 August 2019

“BUSINESS INVOLVEMENT IS ESSENTIAL IF MYANMAR IS TO ACHIEVE LGBT+ EQUALITY”

About 60 participants from around 20 Myanmar and international businesses, as well as LGBT+ rights groups, trade union rights, international organisations, experts and lawyers discussed attended a workshop on 28/29 August at the Rose Garden Hotel, Yangon to discuss how businesses can support LGBT+ equality in Myanmar.

The workshop was co-organised by Colors Rainbow, the Institute of Human Rights and Business, and Myanmar Centre for Responsible Business, with support from Open Society Foundation to:

- 🏳️ Ensure businesses interested in combatting discrimination have an understanding of LGBT+ rights issues and advocacy in Myanmar
- 🏳️ Encourage businesses to promote diversity and a culture of respect and equality both in the workplace and in the communities where they and their business partners operate
- 🏳️ Connect businesses and LGBT+ rights advocates and promote cooperation
- 🏳️ Learn from experience in the region, including of legal challenge to Article 377 of the Penal Code and the role which business has played
- 🏳️ Identify possible follow up activities and sources of support

Vicky Bowman, Director of MCRB, introduced the workshop saying that *“Since 2016 we have been exploring with Colors Rainbow how to bring to business into their movement to promote LGBT+ equality in Myanmar. In 2019, we stepped up our joint actions, and encouraged businesses in Myanmar to fly the Rainbow Flag for the first time on IDAHOT on 17 May”.*

“We hope that this workshop will deepen the connections between the LGBT+ community groups and local and international businesses in Myanmar. We intend over the coming years to work further with Colors Rainbow, the Business Coalition on Gender Equality, and other like-minded organisations, including the businesses represented in this room, to build coalitions to change discriminatory attitudes and practices in Myanmar”.

Salil Tripathi, Senior Advisor, Global Issues at the Institute for Human Rights and Business (IHRB) (one of MCRB’s co-founder organisations) spoke about the development of the 2017 Standards of Conduct for Business from the UN Human Rights Office which he co-authored. *“The UN Standards highlight how businesses should respect LGBT+ rights in whatever they do, including through ensuring no discrimination in the workplace and supporting LGBT+ employees. But they also encourage businesses to look beyond their walls, and be active in the public sphere to work with partners to change societal attitudes and discriminatory laws.”*

He highlighted how businesses globally were taking action, noting that *“Sometimes there will be an urgent need for business to speak out publicly as has happened in the USA, Uganda, India and Singapore. Supporting LGBT+ rights is one way that companies can contribute to the aim of Sustainable Development Goals, which is to “Leave No-one Behind”.*

(The Myanmar Government's 2018 Myanmar Sustainable Development Plan Strategy 4.5 notes that: *"Myanmar is committed to supporting the rights of individuals to freely pursue decent work within an environment **free from discrimination and abuse, protected by law**..... Myanmar shall focus on actions that will ensure our nation's places of work are safe from the indignity of **oppression, discrimination and harassment**....."*. Action Point 3.2.3 states that the government will *'Introduce and enforce regulations and protections related to workplace safety, **inclusivity and non-discrimination in all forms**.....'*.)

Hla Myat Tun, Deputy Director of Colors Rainbow presented on the current state of discrimination in the workplace. His explanation of the concept of Sexual Orientation, Gender Identity, and Expression (SOGIE) was particularly appreciated by the participants, many of whom worked in human resources for their companies, and further training for their staff was requested.

He, and other participants, also reflected on the lessons, both for business, and for the LGBT+ community, of the suicide in June 2019 of a gay employee at Myanmar Imperial University. *"LGBT+ discrimination is too expensive for business to ignore. It has a human and financial cost, particularly when it contributes to the tragic suicide of an employee. But businesses should also recognise the positive economic case for equality and a respectful workplace. Happy employees are motivated and stay with their employer"*.

Hla Myat Tun continued: *"As for Colors Rainbow and the LGBT community, Kyaw Zin Win's suicide has also led us to reflect on how we need to react. We are angry, but we must not be hateful on social media. We should look for ways to use this tragedy constructively to work for an end to discrimination including through cooperation with business. We will also be raising with the President our concerns about the inadequate enquiry by Human Rights Commission, and encouraging the government to consider the case for legal reform"*.

Ellen Maynes and Dean Laplonge of the IFC presented some of the findings related to discrimination and harassment of LGBT+ employees, and [to launch the Myanmar version](#) of their March 2019 study in partnership with the Dana Facility on Respectful Workplaces: Exploring the Costs of Bullying and Sexual Harassment to Businesses in Myanmar. The IFC experts, and Kyawt Kaythi Win of the Business Coalition on Gender Equality, whose founding member Shwetaung Group attended the workshop, highlighted training on offer to address discrimination in the workplace.

The meeting heard from experts from India, Singapore and Thailand on how business was working towards LGBT+ equality.

Midnight Poonkasetwattana, Executive Director at the Asia Pacific Coalition on Male Sexual Health (APCOM) in Thailand explained how businesses in Thailand were supporting the goal of equality: *"In Thailand, we are currently discussing civil partnerships for LGBT+ people. But the private sector can always get ahead of legal requirements, and introduce equal workplace benefits for same-sex couples, for example. LGBT+ community organisations also want business to be an active ally to bring visibility of the issues that LGBT+ communities face in their daily lives, and to provide financial and moral support for their advocacy. It was good to hear from speakers at the workshop how businesses in India and Singapore had helped amplify the work of the LGBT+ movement on decriminalisation."*

Remy Choo from Singapore, Singaporean lawyer active in the movement to repeal the law criminalizing same-sex relationships in Singapore, shared the story of Singapore's Pink Dot, an annual festival which had grown from 2,500 participants in 2009 to 28,000 in 2015. *"Business has always been a major sponsor of Pink Dot. When the Government blocked foreign companies from sponsoring it in 2016, 118 Singapore*

companies and many more individuals contributed a quarter of a million Singapore dollars for the event". He continued: "There are two parts to Singapore's struggle for LGBT+ equality: changing social attitudes, through events like Pink Dot, and changing the law, where we are still working to repeal Section 377A of the Penal Code".

Jayna Kothari, a lawyer who was among the senior advocates who argued for the repeal of the law criminalizing same-sex relationships before the Indian Supreme Court, explained how almost twenty years of advocacy and litigation had been needed to obtain the historic Supreme Court ruling in September 2018 decriminalizing Section 377 to allow consensual relationships between adults. She said *"Myanmar has inherited the same colonial Penal Code as India, in which Section 377 criminalises 'unnatural' sexual acts: we hope our hard-fought reform in India can influence similar change in Myanmar"*.

She described how there had been setbacks over the two decades, but the movement for reform had grown in strength: *"The legal victory was achieved because of a society-wide coalition of LGBT+ activists, families, academics and health groups, as well as prominent businessmen, all of whom petitioned for change"*.

Participants in the workshop were polled using Mentimeter on whether they thought legal reform in Myanmar was possible. 59% expected it to happen within 5 years, and a further 36% within 10 years. Asked which the biggest obstacle was to legal reform, the audience was evenly split between 'lack of awareness of the issue', 'discriminatory attitudes amongst political leaders', 'discriminatory attitudes in society' and 'religious conservatism'. On the UN Standards, broadly equal numbers (30%) thought that the most important thing business could do was to respect LGBT+ rights in the workplace, and eliminate discrimination, with 20% favouring action by business in the public sphere.




Background

For further information about the organisers, see www.mcrb.org.mm, www.ihrb.org and www.colorsrainbow.org


LGBT+ means Lesbian, Gay, Bisexual, Transgender/Transsexual plus. The "plus" is inclusive of other groups, such as asexual, intersex, queer, questioning, etc.

2017 Standards of Conduct for Business


In September 2017, the United Nation's Human Rights Office, in its Free and Equal campaign, published five '[STANDARDS OF CONDUCT FOR BUSINESS](#)' to support the business community in tackling discrimination against lesbian, gay, bi, trans and intersex (LGBTI) people. These Standards, which are consistent with the UN Global Compact and the UN Guiding Principles on Business and Human Rights, to which many Myanmar companies, and foreign companies in Myanmar are committed, encourage companies at all times to:

-  **RESPECT HUMAN RIGHTS.** Businesses should develop policies, exercise due diligence, and remediate adverse impacts to ensure they respect human rights of LGBTI people. Businesses should also establish mechanisms to monitor and communicate about their compliance with human rights standards.
-  **ELIMINATE DISCRIMINATION.** Businesses should ensure that there is no discrimination in their recruitment, employment, working conditions, benefits, respect for privacy, or treatment of harassment.
-  **PROVIDE SUPPORT.** Businesses should provide a positive, affirmative environment so that LGBTI employees can work with dignity and without stigma.

In the Marketplace

 **PREVENT OTHER HUMAN RIGHTS VIOLATIONS.** Businesses should not discriminate against LGBTI suppliers, distributors or customers, and should use their leverage to prevent discrimination and related abuses by their business partners.

In the Community

 **ACT IN THE PUBLIC SPHERE.** Businesses are encouraged to contribute to stopping human rights abuses in the countries in which they operate. In doing so, they should consult with local communities to identify steps they might take — including public advocacy, collective action, social dialogue, support for LGBTI organizations, and challenging abusive government actions.






Since then over 250 global companies have made a commitment to the standards (including a number who either operate in Myanmar or source from the country (full list available from MCRB).

MCRB wrote to the Myanmar National Human Rights Commission on 27 June as they embarked on their Enquiry into the MIU suicide, to draw their attention to the Standards. See: <https://www.myanmar-responsiblebusiness.org/mnhcr-draft-strategic-plan-2020-2024.html>

In September 2017, MCRB published a [Briefing Paper on Discrimination by Business and in the Workplace in Myanmar](#), which summarized the nature of discrimination in Myanmar, including LGBT+ discrimination, and made recommendations to business to combat it.

In 2018 Colors Rainbow published baseline assessments of the situation of LGBT+ people at workplaces in Yangon and Mandalay, based on interviews with employers, legal support workers, LGBT+ focus groups and other key informants. This identified the societal discrimination faced by LGBT+ people in Myanmar, from school onwards, and the importance of – and opportunity for - companies putting their anti-discrimination policies into practice. It also showed that there was little awareness of LGBT+ people in the workplace, partly due to many remaining in the closet, and that many misconceptions exist in Myanmar about homosexuality, and this, and LGBT+ people themselves contribute to a need to change stereotypes.

The Yangon report recommended that:

-  Colors Rainbow and others should conduct advocacy to business and the government to adopt policies against discrimination and sexual harassment in the workplace
-  Human rights education including on minority and LGBT+ rights should be expanded for all, from childhood onwards, and media stereotypes addressed
-  LGBT+ people should be supported to undertake vocational training and provided career support
-  More peer support is needed, inside and outside workplaces, including by paralegals, and training for LGBT+ people on their rights
-  Networks and cooperation should be built with trade unions, and also business associations, building on principle 6 of the UN Global Compact (elimination of discrimination)

The [International Day Against Homophobia](#) was celebrated in Myanmar on 17 May (2019 theme: Justice and Protection for All). In 2018 several employers in Myanmar 'flew the flag' in support of LGBT+ equality and in 2019 MCRB and Colors Rainbow worked together to encourage almost 20 members of the business community, both foreign and Myanmar, to join them.

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