BUSINESS & PEACE CASE STUDIES
The Coca-Cola Company in Myanmar: Due diligence and relationship management in a complex emerging market

PEACENEXUS CASE STUDY

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OCTOBER 2014
This case study is based on actual company policies and initiatives. However, situational descriptions are imagined.

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Case Study: The Coca-Cola Company in Myanmar

Part A: Due Diligence

Introduction

On the 7th of January 2013, a meeting had been hastily arranged for lunch in one of the Trader Hotel’s meeting rooms in downtown Yangon. In attendance were the twenty senior executives of the US Coca-Cola Company (Coca-Cola) that had been involved in the due diligence process in preparation for the business’ re-entry into Myanmar. That morning, the local news had published an article claiming Coca-Cola had been given the green light by the Myanmar Investment Commission to set up four bottling plants. This was a major announcement, and expectations had to be managed. Coca-Cola was not ready for this to go public, as the company was still vetting partners. Though the announcement implied Coca-Cola was ready to commence the project, the company still had significant due diligence to complete before any final decision on investment could be made.

This was particularly concerning as Coca-Cola’s October 2012 due diligence of potential bottling sites in Yangon had uncovered a number of challenges for the company’s potential return to Myanmar, including gender discriminatory hiring practices, poor health and safety standards, and environmental degradation (see exhibit 1). Furthermore, broader consultation and research had alerted the company to the following:

- ‘Issues related to government involvement, ingredient supply and quality, and retaining local talent’
- ‘The regulatory and business environment [being] complicated and challenging, with regulations changing frequently and without advanced notice’
- Challenges in terms of corruption and facilitation payments.
- ‘Potential risks related to:
  - Discrimination against women and ethnic minorities
  - Poor wages and excessive hours of work
  - Health and safety
  - Forced labour, the presence of child labour
  - Abuses by military forces, limitations on freedom of association’
  - Land rights, environmental degradation’

Given these concerns, upon learning of that morning’s Yangon Times news article, Karen Thompson, the then Public Relations and Communications Director for Coca-Cola Myanmar, swiftly arranged for the executive team to assemble. Though Coca-Cola had always known that Myanmar would be a complex investment environment, the company did not want to re-enter the market by compromising the business principles and values enshrined in its Code of Business Conduct. As the due diligence process had not yet determined whether these principles could be upheld in Myanmar, the morning’s article in the Yangon Times risked tarnishing Coca-Cola’s image before the company had even started operating in the country. Furthermore, it could damage relationships with key partners: the executive team was well aware of the role that trust played in Myanmar culture, and a perceived breach of expectations could jeopardise any business deal. The purpose of the meeting was to establish whether the rest of the team shared Karen’s worries about the potential impact of the article, and to determine how to address the risks it posed for Coca-Cola’s operations.
Context and Due Diligence: Coca-Cola’s return to Myanmar

‘Entering a complex context like Myanmar is also a question of timing.’ Belinda Ford, Public Affairs and Communications Director, Coca-Cola Pinya Beverages Myanmar Co, since 2014.

Coca-Cola’s first operations in in Burma (Myanmar as it was known then) commenced in 1927. In 1960, 33 years later, the company left the country.

The 1950s and early 1960s were a period of great instability in Myanmar. In 1962, General Ne Win and the military took power. With dictatorship, the General also brought a socialist approach to managing the economy.

Military rule persisted over the coming decades. Following the brutal repression of the pro-democracy student protests of 1988 and the nullification of the 1990 elections in favour of the National League for Democracy led by Aung San Suu Kyi, the EU, USA and other Anglophone countries adopted sanctions against the junta. At the same time, an international campaign against the military regime began gaining ground and companies investing in Myanmar were scrutinised and criticised for their involvement with the military government.

Despite deposing General Ne Win in 1988, as well as facing considerable international sanctions and campaigning throughout the 1990s, the military continued to hold power. It promised a transition to democracy in seven-steps, which were laid out in the ‘Roadmap to Democracy’. At the turn of the millennium, a number of Western companies divested from Myanmar as a reaction to the campaigns.

Despite an internal change in leadership in 2004, the military kept to their Roadmap. A new constitution was drafted and approved by referendum in 2008. The constitution foresaw general elections in 2010 and a parliament with an upper and a lower house; with 25% of parliamentary seats reserved for the military. However, the constitution effectively barred democracy icon Aung San Suu Kyi from running for president. Through this process the junta hoped to bring to an end the intermittent conflicts with the political insurgents as well as the ethnic groups which had been fighting for over four decades. It was hoped the ‘Roadmap to Democracy’ would also appease demands for democratic rule.

These years of dictatorship, ‘divide and rule’ policies and conflict left divisions in society along political, ethnic and religious lines. Inequalities and mistrust were pervasive. The liberalization of the economy
and privatization process that started after General Ne Win's arrest had enabled a small number of well-connected individuals to accumulate vast fortunes in a short span of time. Some of these individuals had a reputation of using unscrupulous means. As a result, the US Department of State had included these individuals, along with key military personnel, in the list of Special Designated Nationals targeted by sanctions. Among other restrictions, this specifically barred US companies from dealing with these individuals.

It was in this difficult context that, Coca-Cola began considering re-entering Myanmar in 2009. Though the sanctions preventing American companies from doing business in Myanmar were still in place, Coca-Cola had been advised that these sanctions would likely soon be lifted. Coca-Cola products had always been available in the South East Asian country. They were imported by third parties and passed through neighbouring nations. A bottle of Coke was sold for 1000ks (almost US$1), making it a relatively expensive soft-drink (about the equivalent of one day's wage for most). The prospects of a change in US policy made Myanmar, with its approximately 50 million people, a potentially lucrative market. As a result, an initial fact finding mission was sent to assess the market size, key beverage players, and risks associated with working in the country.

Even with this initial fact-finding mission, Coca-Cola never anticipated the speed with which US sanctions would come to be lifted. In 2011, the country commenced an unprecedented drive of reforms led by former General U Thein Sein. After swapping his military uniform for civilian clothes in March 2011, Thein Sein came to power as the newly appointed President. In this role, he acknowledged the need for change in the country and oversaw a number of political and economic reforms. This included un-blocking websites that had expressed critical views of the previous government. He also promulgated a bill permitting freedom of association, reversing the previous ban on unions. New overtures were made to different armed ethnic groups, marking the beginning of a new peace process which resulted in a number of cease fire agreements signed in early 2012. One black mark cast shadows over the progress of change - the renewed war in Kachin State. After 17 years of cease-fire the Myanmar military and the Kachin Independence Army renewed hostilities in June 2011. Despite this, the Western countries that had imposed sanctions responded to the process of change throughout 2011 by pledging aid and gradually easing economic sanctions.

This opened space for investment from Coca-Cola. Like many international investors, Coca-Cola planned to set up shop in Yangon, where the various ethnic and religious groups, although relatively segregated, had coexisted without major turmoil. In other parts of the country ethnic conflict was still present, but with the exception of the war in Kachin State, each had promising peace processes in place. In the summer of 2012, this stability was partially undermined when violence between the Muslim-Rohingya and the Buddhist-Rakhine broke out in Rakhine State, causing over 80 deaths. Radical Buddhism also began to spread, most notably through the ‘969’ movement.

These challenges did not discourage Coca-Cola however, and in January 2012 the company sent a team of 20 senior executives to Myanmar to carry out the appropriate due diligence for possible investment. Each member of the team brought experience from one of the specific areas it was going to investigate.
Areas of expertise represented by Coca-Cola's internal team:

<table>
<thead>
<tr>
<th>Environment</th>
<th>Human Resources</th>
<th>Quality</th>
<th>Technical &amp; Supply Chain</th>
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<tbody>
<tr>
<td>Ethics &amp; Compliance</td>
<td>Marketing &amp; Sales</td>
<td>Tax</td>
<td>Treasury</td>
</tr>
<tr>
<td>Global Workplace Rights</td>
<td>Mergers &amp; Acquisitions</td>
<td>Legal</td>
<td>Finance</td>
</tr>
</tbody>
</table>

The due-diligence process was informed by four key global company policies which Coca-Cola would also implement in Myanmar:

- The Human Rights Statement
- Global Mutual Respect Policy
- Workplace Rights Policy
- Supplier Guiding Principles

The US State Department Human Rights report, the Institute for Business and Human Rights country report and the Transparency International Corruption Perception Index (CPI) were key references. A social compliance audit firm was commissioned to report on 'potential human and workplace rights risks'. Stakeholders from a number of areas were consulted (see exhibit 2) as well as members of the local community.

This due diligence process made it clear for the company that a key priority was finding a reliable and well-reputed partner with whom it could work, and it was this process that Coca-Cola was completing when the Yangon Times made the company's plans for Myanmar public.

**Vetting Partners for Coca-Cola**

'It was not an easy task: we were looking for someone with similar values to ours, no connection to the regime and who was successful.' Belinda Ford.

In looking for a partner, Coca-Cola put out feelers in a number of directions, including to several Thai firms with which they had worked previously. Eventually, Pinya Beverages Co. Ltd (Pinya), an existing soft drinks bottling company with two plants in Yangon, was identified as a potential joint venture partner. Distributors and whole-sellers were also selected.

All potential partners were audited with the assistance of PWC and another firm. Coca-Cola carried out its own investigations as well. As part of the audit, land acquisition was looked into. All audits assessed the same issues, enabling Coca-Cola to cross-reference the findings. Human and workplace rights assessments were carried out in two bottling plants and two independent distributors in October 2012, with follow-ups planned for April and November 2013.

**Coca-Cola and the community**

As the due diligence process developed the Coca-Cola Foundation pledged a US$3 million grant to the international NGO Pact in June 2012. The organisation, renowned for its work in health, economic empowerment and food security would use the fund for its WORTH program that focussed on financial literacy training and the development of community banks to support the start-up of small enterprises (see exhibit 3).
‘Coca-Cola wanted to send the message that it was choosing to come to Myanmar with a long-term perspective, as a business that took social concerns seriously.’ Belinda Ford

The US Company felt it was important to clearly show its commitment to Myanmar. In July, one month after the agreement with Pact, and a month before its rival Pepsi, Coca-Cola announced its plans to invest US$200 million in the country and create approximately 22,000 jobs.

In September 2012, when Coca-Cola made its first official shipment to the country in 60 years, CEO Muhtar Kent met with opposition leader and democracy icon Aung San Suu Kyi who by then had been elected as a Member of Parliament. In fact the NLD, which had boycotted the 2010 general elections, had re-entered the political arena that spring winning 43 of the 45 seats contested (out of a total 440) at the by-election. The election results strengthened the hope for the future of democracy. At the same time, the re-flourishing civil society became vocal on environmental concerns, historical heritage, and political issues as well as against foreign companies’ exploitation.

The Decision for the Executive Team

In this context, Karen Thompson and the rest of the executive team faced a number of different pressures. Given the country’s turbulent history and experience with sanctions, the possibility of significant economic investment from Coca-Cola had the attention of a wide range of important stakeholders. By suggesting that Coca-Cola had finalised their business plan for Myanmar, the morning’s announcement risked creating dangerously high expectations among both the Myanmar government and local business partners, as well as attracting the attention of community and activist groups that would closely scrutinise the company’s engagement. At the same time, the ongoing due diligence process was raising a number of red flags that could jeopardise the venture. Even without the pressure created by the morning’s news, Coca-Cola was facing ambiguous signals and difficult questions on the management of issues like labour rights, gender discrimination, and environmental degradation. With these concerns in mind, the executive team had to decide on a course of action that would both reassure and moderate the expectations of local partners, while still allowing for the due diligence process to proceed with full rigour.
Part A: Exhibits

Exhibit 1 – Findings of the Coca-Cola October 2012 human and work place rights assessment\textsuperscript{10}

- Discrimination: There was an indication of discriminatory hiring and payment practices.
- At the time of the assessment women were paid approximately 11% less than male colleagues.
- Hours of Work: Overtime above legal limits was observed and rest days as well as annual leave were not properly provided.
- Wages and Benefits: Overtime payment were either not provided or improperly calculated.
- Health and Safety: Improvements were required in areas such emergency exit signage, handrails and seating for workers. Potable water was available, but access could have been expanded through an increase in water stations.
- Clinic and childcare facilities: Despite applicable regulation there was no clinic or childcare facility at either plant site.
- Environment: Issues related to environmental degradation were discovered. At the time of the October 2012 assessment, water for use in plant operations was extracted without a permit and wastewater was being discharged without treatment.

Audits of a sample of distributors reflected similar issues. Distribution facilities visited generally employ approximately 20 people and consist of a few buildings which include residences for workers. Due to the small scale of the operations poor record keeping raised issues related to age documentation, minimum and overtime wages as well as lack of benefits. Gender discrimination was also apparent. There are poor health and safety practices such as lack of fire extinguishers and fire alarms. Living quarters provide minimal provisions such as a mat for sleeping and bag for personal item storage. Minimal restrooms and shower facilities are available.
### Exhibit 2 - Stakeholder engaged and consulted by Coca-Cola:

<table>
<thead>
<tr>
<th>Governmental</th>
<th>International Organisations</th>
<th>INGOs/NPOs</th>
<th>NGOs/NPOs</th>
<th>Academia</th>
<th>Private Sector</th>
<th>Media</th>
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<tbody>
<tr>
<td>British Council</td>
<td>CDA, Cambridge MA</td>
<td>Danish Institute for Human Rights, Copenhagen</td>
<td>Union of Myanmar Federation of Chambers of Commerce and Industry, Yangon</td>
<td>University of Washington Law School, Seattle</td>
<td>Unilever</td>
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<td>House of Lords, London</td>
<td>Christian Solidarity Worldwide, New Malden</td>
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<td>Shell, Singapore</td>
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<td>Ministry of Foreign Affairs, Copenhagen</td>
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<td>Chevron</td>
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<td>British Embassy, Yangon</td>
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<td>Ministry of Foreign Affairs, The Hague</td>
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<td>Foreign &amp; Commonwealth Office, London</td>
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<td>Ministry of Foreign Affairs, Oslo</td>
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<td>National Commission of Human Rights of Myanmar, Yangon</td>
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<td>UK Trade and Investment, London</td>
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WASHINGTON, D.C., USA | JUNE 20, 2012 – Pact’s award-winning approach toward helping empower women in Myanmar has been awarded a $3 million grant from the Coca-Cola Foundation, the charitable giving arm of The Coca-Cola Company.

The Coca-Cola Foundation identified Pact’s WORTH program as an ideal investment to help support families and economic development in Myanmar, a country undertaking sweeping changes to improve its people’s lives. Coca-Cola announced the grant in a news release last week.

“We have seen the tremendous resilience and entrepreneurial energy of the people of Myanmar,” said Mark Viso, president and CEO of Pact, a nongovernmental organization based in Washington, D.C., and at work in 29 countries.

“The Coca-Cola Foundation’s generous contribution will allow even more women to tap their own potential, earn a dignified living and lift their families out of poverty, while also helping all of Myanmar realize the promise of a brighter future.”

Pact has been serving women and families in Myanmar for 15 years and is the largest international NGO in the country today.

Myanmar, also known as Burma, has been rapidly implementing economic and democratic reforms under the leadership of President Thein Sein. Coca-Cola has not done business in Myanmar in more than 60 years but expects to begin business in the country as soon as the U.S. government issues a general license allowing American companies to make investments there.

“The Coca-Cola Company has always stood for optimism at times of change and progress around the world,” said Coca-Cola Chairman and CEO Muhtar Kent.

“From the fall of the Berlin Wall to the establishment of normal U.S. relations with Vietnam to the rise of political and economic freedoms in Myanmar, Coca-Cola has proudly been there to refresh, invest, partner and bring hope for a better tomorrow.”

WORTH encourages small groups of up to 25 women to save together to develop village banks that make low-interest loans to members to fund entrepreneurial efforts. In addition to developing more income for their families from their small enterprises and dividends from interest payments, the women learn to read, apply basic math skills, confront public health issues and exercise influence in community affairs.

To date, WORTH has benefitted nearly 60,000 people in 31 townships in Myanmar. Pact developed the WORTH program in Nepal in 1999.

Like Pact, Coca-Cola builds local promise. The company has a general practice of operating as a local business in every market it serves, including selling, distributing, manufacturing and hiring locally.

Coca-Cola is the latest corporation to join Pact in its efforts to help those in poverty build lasting solutions at the local level. Corporations and/or their philanthropic arms interested in innovative local solutions to challenges facing their workforces and families around the world should contact Suzanne Rexing at srexing@pactworld.org.

Part B: Coca-Cola Operations Start

The day following the meeting, Karen Thompson was ready to make a statement. “The Coca-Cola Company applied to the Myanmar Investment Commission [MIC] for a Foreign Investment Licence. Discussions with the MIC continue to advance, with some further steps still required to complete the process,” she told the weekly English language newspaper The Myanmar Times. The US company made it clear that it had not come to the end of its decision making process. The overall due diligence process was very complex and Coca-Cola was determined to complete it. The news was published on the 14th January.

Over the next six months, the Muslim-Buddhist unease, initially thought to be connected to the conflict in Rakhine State, spread to several other parts of Myanmar. Tensions emerged in towns like Taunggyi, the capital of Shan State, and in March 2013 sectarian violence exploded in Meiktila, Mandalay Division, resulting in 40 dead and 12,000 displaced. At the same time, and despite hard fighting, the KIO and the Military reached an agreement to hold talks in Kachin State. There was also political progress, as the ban on gatherings of more than 25 people was lifted, the debate on constitutional reform intensified, and the EU lifted its remaining sanctions.

Eventually, in June 2013, a joint venture was formed between Coca-Cola and Pinya Beverages, Coca-Cola Pinya Beverages Myanmar (CCPBM), giving management control to the US Company. The Coca-Cola due diligence team had been able to trace back by 18 years the land deeds for the property where the Pinya Beverages Co, was situated. However it had been impossible to clarify how the land had been obtained by the government prior to that. The company acknowledged the difficulties of distancing itself from government land ownership in Myanmar, since 70% of the land is owned by the government. Restrictions on foreign ownership made it impossible for CCPBM to buy the land or the lease. However, CCPBM was clear that when appropriate, it would obtain Free, Prior and Informed Consent before any acquisition.

The assessments of the joint venture partner highlighted issues which “included gender and age based discrimination and poor wastewater treatment. Violations of current and in-process Myanmar workplace laws were also detected. However, other areas identified as potential risks during initial research were not found. For instance, there was no indication of forced or child labour.” In addition, with the two CCPBM bottling plants located in stable Yangon, the company itself would not directly operate in an area of conflict (although its products would be distributed there by distributors and wholesalers).

When operations started, observers reminded the Company (and the public) of the challenges of working in Myanmar. The Irrawaddy, a monthly magazine, wrote:

‘Human Rights Watch cautioned US companies against rushing to invest in the former pariah nation, saying: “Doing business in Burma involves various human rights risks that the US rules do not fully address,” referring to recently enacted requirements from the US government that dictate conditions that US companies investing in Burma must meet.’

A critical voice also raised concerns over public health. Benn McGrady wrote for the US based O’Neill Institute for National and Global Health Law:

‘The investment comes with some benefits for Myanmar in the form of an estimated 22,000 jobs and a three-year corporate social responsibility program targeted at assisting women improve their financial literacy. In this
context, and with human rights, ethnic conflict and other issues overshadowing health, the possible health impacts of Coca-Cola bottling in Myanmar barely rate a mention. The core concerns of the public health community ought to be that the prevalence of soft-drink consumption will increase and that total consumption by existing consumers may also increase (ultimately leading to increases in morbidity).  

Overall however, the joint venture was an achievement. The Coca-Cola team had completed its task. From this point onward, CCPBM’s management, including Karen Thompson, needed to develop and implement plans to address issues raised in the due diligence. Furthermore, Karen Thompson’s term in Myanmar was almost at an end. In addition to the plans, she had two remaining tasks for 2013: ensuring that the report for the US State Department in compliance to the ‘Responsible Investment Reporting Requirements’ applicable to American companies investing more than US$ 500,000 in Myanmar would be completed, and preparing the handover to her successor. To manage these challenges, Karen Thompson and the broader Coca-Cola Myanmar team applied a number of strategies.

Action plans: Following through on due diligence

Actions to address the identified issues were developed in the following areas:

- Anti-corruption anti-bribery
- Human and Workplace Rights
- Environment
- Technical issues

A community and stakeholder engagement plan was also devised.

The synopsis below outlines some of these measures taken regarding anti-corruption, human and work place rights (including contractor policy, grievance), and community engagement. The company’s efforts are summarised in the report that Coca Cola produced at the time, Responsible Investment in Myanmar, for the US State Department.

<table>
<thead>
<tr>
<th>Anti-corruption and anti-bribery</th>
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<tr>
<td>During negotiation period that led to the formation of CCPBM, the company’s Chief Ethics &amp; Compliance Officer travelled to Myanmar meeting shareowners and senior management of Pinya Manufacturing Co., Ltd. Meetings were set up on an individual and a joint basis. Shareholders and Manager were informed of the company’s Code of Business Conduct and Anti-Bribery Policy.</td>
</tr>
<tr>
<td>As soon as CCPBM was formed a Senior Compliance Manager began awareness and training sessions with the new company’s senior managers (March, April, and July 2013). A mixture of capacity building, communications, monitoring, compliance, screening and whistleblowing mechanisms were set up (see exhibit 4).</td>
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<tr>
<td>As a learning drawn from experiences made in other countries wallet cards were printed for truck-drivers specifying that they will not pay any facilitation fee and they would be obliged to report any incident to the company.</td>
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<table>
<thead>
<tr>
<th>Human and Work Place Rights</th>
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<tr>
<td>In addition to the company policies published on its website, the Workplace Rights Policy and Supplier Guiding Principles Policy were translated into the Burmese language. The plan addressed the specific issues highlighted in the assessments and identified steps for the short (3 months), medium (3-15 months) and long-term (over 15 months). Continuous capacity building as a key tool for culture change (see exhibit 5), has been planned.</td>
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<td>CCPBM was able to report by the end of 2013, a drop in the staff attrition rate from 60% to 19%. Much effort and investment had been put to achieve this (see exhibit 6). Yet, specific contextual challenges</td>
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</table>
have emerged, for example in relation to feedback. Despite the company’s efforts to explain the appraisal process, as well as the aim and the value of feedback, the first round of staff annual reviews were challenging for some. Unused to the critical feedback, performance reviews proved to be quite an emotional process. Some people felt offended and left the company.

- CCPBM began supporting the formation of local unions, which still need to organise themselves. Company union officials were invited to conduct trainings for local union representatives. Improving the ability to bargain collectively is a benefit for employees and the company as it simplifies labour relations for management.

Contractors
- All company suppliers and distributors are expected to comply with Coca-Cola’s Code of Business Conduct and relevant key policies. Supplier Guiding Principles details have been included in all CCPBM contracts. An awareness session was held in June 2013 for CCPBM’s sole distributor and delivered by the British Council and ILO. A formal communication was sent to all suppliers and distributors outlining CCPBM’s requirements for compliance. This was followed by training sessions in July 2013.
- Contractors too are expected to comply with standards and policies set by Coca-Cola. Such policies had some unforeseen practical implications in Myanmar where standards for example of health and safety are generally lower than those followed by the US Company. When CCPBM for instance requested its contractors working on the refurbishment of the Yangon plants, to provide protective gear for workers, the welding costs increased substantially from the original quotations as the equipment had to be bought. On other occasions, people who came to work on refurbishments without shoes had to be turned away. CCPBM now provides shoes and safety gear to workers, however some refuse to wear it and cannot work on the site.

Grievance Procedures
- In addition to reporting issues and human rights and workplace rights violations to local Management, Human Resources, Legal or Security departments, the company also set up Ethics Line. The website and a toll-free number, is available in Burmese and English for any complaints related to the company’s activities. Any letter or e-mail that raises rights or ethics issues to senior company officials is also investigated. Myanmar is a place where complaining is not really part of the culture. Except for once, the lines have been silent (as of February 2014). However, managers insist that they need to be manned all the time.

Community and stakeholder engagement
- A new programme focuses on engendering continuous dialogue with stakeholders on company activities, seeking feedback and suggestion for improvement. A Myanmar Advisory Council is been established with members of civil society to provide advice on a number of issues ranging from health to women’s empowerment. A communication manager has been appointed to develop and manage a formal community engagement programme.

The report: managing Myanmar’s challenges transparently

Different actors had put pressure on Coca-Cola to produce their Responsible Investment in Myanmar report. For example, EIRIS Conflict Risk Network (a network that includes institutional investors, financial service providers and related stakeholders) wrote a letter to the Company’s CEO on the 28th October, urging its delivery.17 When the report was issued, it was well received by international organizations.

Jonathan Kaufman of the renowned human rights watchdog, EarthRights International (ERI) stated:

‘[T]he report should be commended for stating up-front both the successes and the challenges of doing business responsibly in Myanmar, and for giving stakeholders a basis for understanding and questioning the company’s practices. [...] Crucially, the Coke report avoids many of the pitfalls that make the reports submitted by other companies under the Reporting Requirements inadequate and, in some
cases, non-compliant with the terms of the General License that allows U.S. companies to do business in Myanmar. Coke discloses the name of its principal local partner [...]. It willingly acknowledges the responsibility to conduct due diligence and discloses its policies and procedures in full detail."18"

Donna Guest of the Institute for Human Rights and Business (IHRB) opined:

‘Coke’s report is by far the most substantive and comprehensive of the six which have been made public since the requirements came into force in May 2013. IHRB commends Coca-Cola for publicly reporting not only on the positive steps it has taken but also on-going human rights challenges it faces. [...] The report serves as a rare example of a company reporting transparently on how it has undertaken human rights due diligence in line with the UN Guiding Principles on Business and Human Rights. [...] This process appears to be driven not by regulatory requirements but to meet the company’s internal policies and to figure out how it would do so in a high-risk environment like Myanmar. [...] The word on the street is that the due diligence and audit procedures Coca-Cola has undertaken to put its global policies and procedures in place in Myanmar have cost the company millions of dollars. [...] A company of Coca-Cola’s size, seeking to make a long-term investment in a growth market, can afford to do this. Indeed, given scrutiny of its operations worldwide, it can’t afford not to.”19

The Director changes: new challenges

At the beginning of 2014 Belinda Ford replaced Karen Thompson as Public Affairs and Communications Director for CCPBM. As CCPBM consolidates and grows, existing and new challenges need to be dealt with.

Belinda Ford is continuing implementation of the plans developed as a result of the due diligence process. The assessment of distributors and wholesalers is one of her priorities.

There is a persistent rumour that associates CCPBM with one of the people who have benefited from close connections to the military regime. The origin of this rumour is a similarity in brand names, between the neighbouring Max Cement and the soft drinks previously bottled by Pinya: Max and Max Plus. Belinda is conscious that something needs to be done to safeguard the company’s reputation.

CCPBM will need to expand its production facilities. CCPBM Operations Director Rehan Khan just before the handover had in fact announced to the press "The two factories cannot cover the whole market. We plan to extend our production lines to Mandalay and Upper Myanmar,”20 CCPBM is clear that it will not expand in areas where there is conflict, like Kachin Sate and Rakhine State.

CCPBM is also trying to influence wider business practices by promoting a food and beverage association both for local entrepreneurs and multinationals.

‘There are so many shared issues that we could discuss as an association: supply chain, land rights etc. We are currently importing much of what we need, but it is our intention to be able to source more locally, hence there is a benefit for us to work with others in the same industry. There is also scope to build capacities in government and show how industry self-regulation can work.’ Belinda Ford
Part B: Exhibits

Exhibit 4- Other elements of the CCPBM Anti-Bribery Program in Myanmar (summary)²¹

- A management training program was established. It will be delivered in Myanmar and English on an ongoing basis to build understanding and managerial capacity around anti-corruption. The first in-person awareness training took place in the second quarter of 2013 with the then Pinya Manufacturing Co. Ltd leadership team and management staff who will act as train the trainers in CCPBM going forward.
- A senior management committee was set up to specifically monitor, manage and ensure action on Code of Business Conduct, Anti-Bribery and Workplace Rights challenges.
- A Local Ethics Officer was appointed in July 2013. His/her role is to work with the Ethics & Compliance Office to promote compliance with all applicable regulations.
- A copy of the Code of Business Conduct and the Anti-Bribery Policy was provided to all employees via the CCPBM Employee Handbook.
- On-going communication from the Managing Director of CCPBM to all employees on the importance of the Code of Business Conduct and the Anti-Bribery Policy has been set up. The importance of the Code and of the Policy is continually emphasized with all senior managers.
- Both web-based and in-person training is underway with a majority of employees having undergone initial training August – October 2013. Further training for remaining staff is planned.
- Relevant material has been translated in the Burmese language including Code of Business Conduct, Supplier Code, Company’s Anti-Bribery Policy and supporting communication materials including Due Diligence Questionnaire.
- Code of Business Conduct and Anti-Bribery Policy posters have been displayed in highly visible areas of all 14 of the CCPBM facilities in Myanmar.
- The EthicsLine [was established] for Myanmar employees encouraging them to utilize this confidential free service for support or to register concerns.
- A new grievance procedure has been implemented to proactively address concerns. This includes details of the ‘Complaints Process’ in the employee handbook, forms and receptacle boxes for employees to make confidential or anonymous complaints. Both oral and written complaints can be made. The process clearly sets out that each complaint will be investigated, an understanding or agreement is made or remediation implemented.
- Third parties screening as foreseen by company policy has begun. The company has a robust global process that requires screening and background checks of third-parties who will interact with government officials on the company’s behalf to identify any corruption risks. This includes Myanmar. In addition, the company established protocols to screen potential customers and suppliers in Myanmar to ensure that we did not enter into business with any parties that have been classified as Specially Designated Nationals by the U.S. Office of Foreign Assets Control (OFAC).
- Training for suppliers who will interact with the government on the company’s behalf has been arranged.
- Repeated communication to all employees that the use of facilitation payments to government officials or others is neither a responsible nor acceptable
business practice.
- Legal counsel has been assigned to support the local operation, including on-going risk assessment and corruption mitigation efforts.
- The Ethics and Compliance department has developed a compliance management action plan to broaden the distribution of the Code of Business Conduct, conduct training of employees on ways to eliminate such prohibited payments, and to encourage reporting of any violations.
- Supplier and distributor training took place on July 31. The content of the training included:
  - Basic labour rights concepts and international standards presented by the Myanmar Office of the ILO
  - Basic human rights concepts and the journey for Myanmar presented by the Myanmar Centre for Business and Human Rights and the British Council
  - TCCC Supplier Guiding Principles presented by TCCC Global Workplace Rights
  - TCCC Business Ethics presented by TCCC Ethics and Compliance

Exhibit 5 – CCPBM mitigation and correction plan outline (summary)²²

The issue of age and gender discrimination exemplifies how the tiered remediation planning works. Age and gender was removed as a criterion from job requirements and vacancy advertising as an immediate corrective action; in the medium term, workplace rights training in August – October focused on discrimination and diversity, with on-going training at set intervals in 2014 onwards to ensure this is embedded in the culture and day to day business practices.

Follow-up audits in April and November 2013 revealed improvements had been made however gaps requiring capital investments remained in-progress as did the systemic hours of work findings. Further improvements were documented during the November assessment. Below are some of the improvements noted in the April and November follow-up assessments.

- Discrimination: Eliminated pay discrimination against women by moving pay to same level as men in the same job grade/classification; as well as the elimination of age and gender as a job criteria (as above)
- Wages and Benefits: Improved record of piece rate worker payments to ensure proper payment, including overtime, although there are still a few piece rate worker payments to be remediated.
- The onsite medical clinics required at each plant remained an open issue during the April 2013 follow-up, but was rectified ahead of the November 2013 assessment
- High awareness among employees of the Code of Business Conduct and Anti-Bribery Policy
- Health and Safety gaps identified in the October assessment were addressed by the April and November assessments.
- Environment: Obtained all relevant permits by the April 2013 assessment

The wastewater treatment at both plants and child care facilities remained an open issue during the April and November 2013 follow-up assessments, but CCPBM has a solid plan in place to address in the medium term.

The April assessment also identified that further steps were needed to fully comply with hours of work requirements. To address this, shift patterns have been changed in some functional areas, a third shift was added, and additional staff have been hired. This has led to an overall downward trend of staff working in excess of the maximum overtime law
and working on their rest days. However, during the month of October, there was a slight increase in hours of overtime worked in a few operational areas. CCPBM has refocused efforts to ensure that this is one-off occurrence rather than an ongoing issue.

Follow-up assessments will be scheduled every six months until all standard gaps are corrected and annually thereafter until the sites can demonstrate sustained compliance over time. Thereafter, the sites will be placed on our cycle assessment timeline of every one to three years depending on compliance performance.

Capacity building and follow-up human and workplace rights assessments will be iterative and ongoing to support a culture of compliance. We are partnering with local organizations and exploring collaboration with other companies to develop and deliver training on workplace standards.

Exhibit 6 – CCPBM staff retention and development efforts

<table>
<thead>
<tr>
<th>In the six months from June 2013 to the end of that year:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• 100% of employees were offered and signed new offer letters with contractual terms equal or better than previous employment terms.</td>
</tr>
<tr>
<td>• Each employee has undertaken competency assessments, upon which training and development programs have been implemented.</td>
</tr>
<tr>
<td>• Hundreds of hours of capability training have been undertaken across all functional areas.</td>
</tr>
<tr>
<td>• Staff engagement activities such as town hall meetings, regular meetings, and a celebratory event for all CCPBM employees have been implemented</td>
</tr>
</tbody>
</table>
Glossary

**Coca-Cola and CCPBM** - Coca-Cola is used to refer to the corporation, CCPBM to the corporation’s operations in Myanmar.

**Earth Rights International (ERI)** – is one of the more renowned human rights advocacy groups working on Myanmar. It has conducted a lengthy campaign for private sector divestment when the previous regime was in power, including against Total.

**Human Rights Watch (HRW)** – is an international human rights group.

**Institute for Human Rights and Business (IHRB)** - is an NGO based in the UK. It is one of the partners supporting the work of the Myanmar Centre for Responsible Business in Yangon.

**Imports of Coca-Cola products** - during the sanctions period were mainly occurring as grey imports through border crossings and by third parties, in particular from Thailand.

**Land ownership** – Private ownership is permitted in Myanmar, however it ultimately resides with the State. Although there has been reform, the state can still acquire (forcibly) land for, public (including military), and business purposes. Foreign investors may lease land from the government or an individual for up to 50 years.

**Myanmar Investment Commission (MIC)** – Any foreign investment in Myanmar must be approved by the MIC (which consists of representatives of the government, business sector, and non-governmental institutions). It is a government body, although there are proposals to turn it into an independent one.

**Myanmar Times** – An English language newspaper present in Myanmar since the 1990s. It was the result of a joint venture between an Australian and a local investor. It is said to favour a pro-government line, however, some of the article published are quite critical of the government. Though it was published as a daily between 2002 and 2013, it is a weekly publication.

**Yangon Times** – A daily publication in Burmese language started after restriction on the media were lifted. It is privately owned. The main source of information before the change in law was the state owned New Light of Myanmar published in Burmese and English.
Teachers Notes

The following questions and answers are only a selection of what teachers could discuss with students and of the options available. They should serve as a rough guidance and additional solutions be considered as equally suitable. As this field is quickly developing, alternative ideas of best practice may be found from other countries or companies that you may want to incorporate into the discussion.

Learning Objectives

- To understand the importance of Human Rights Due Diligence for the company before the start of operations
- To understand the importance and challenges around assessments of partners and the expansion of operations
- To understand the challenges around stakeholder engagement, the strategic collaborations for socio-economic development and around lobbying activities
- To be able to critically analyse good company practices to take them to the next level global company policies to a complex environment, by learning from an acclaimed example

Overview of the cases study

The experience of Coca-Cola in Myanmar is a good example of how a multinational can approach working in a complex environment. It also offers an opportunity to discuss: how much preparation and due diligence is sufficient? When is enough really enough? In the initial stage of this process, the US Company’s emphasis has been on human rights. Less reference has been made to a conflict analysis or conflict sensitive approach. While this is potentially appropriate given the type of investment Coca-Cola planned, it is also leads to the questions about the differences between human rights and conflict sensitivity, as well as the limits and opportunities for company action.

Audience

- University level students reading CSR, management in emerging markets, MBA and executive MBAs
- Managers working or about to work in complex or fragile environments
- Community Relation Managers, Public Relation Managers, Liaison Officers

Part A: Recommended Questions:

Q1: What were the drivers behind Coca-Cola’s thorough due diligence process?

Coca-Cola’s due diligence process was extensive and driven by the need to ensure the implementation of company global policies also in Myanmar, as the commentary by IHRB notes.

Coca-Cola invested a substantial amount of human and financial resources in the preparation stage and was not willing to compromise its analysis and due diligence, preferring to postpone the start of operations. Given its involvement in a number of controversies in the past, for example in relation to human rights abuses and the killing of trade union leaders in Colombia and environmental disasters in India, Coca-Cola cannot afford to do differently. There are four key drivers to the adoption of the approach used by the US Company to which the case study refers to.
• Requirements of Coca-Cola code of conduct and company policies.
• The increasing stakeholder expectations to meet certain standards with regards to environment, society and human rights. Such expectations do not exclusively come from civil society and governments, but also from investors as the letter from EIRIS Suggests.
• The high level of scrutiny on companies investing in Myanmar by advocacy groups, as the comment on the Responsible Business report by ERI suggests. (The degree of scrutiny is still probably higher for Western companies. However, pressure is also being placed on Asian companies operating in Myanmar, by media and NGOs).
• Legislation that demands companies to comply with certain standards as the Dodd–Frank Wall Street Reform and Consumer Protection Act or regulations as the Responsible Investment Reporting Requirements in this case study.

Q2: How much preparation and due diligence is sufficient?

The answer will depend on the context, the size and nature of the business, the market and industry and the level it operates. Clearly however, a company needs to make its engagement, monitoring and improvements a continuous process beyond the due diligence itself.

Myanmar is an excellent example of a complex environment. In addition to issues related to regulatory systems, policy implementation, lack of capacity and know-how, quality and availability of infrastructure (including the financial system); the legacies of the past (remote and present) should not be neglected. Currently, some part of the country experiences violent conflict, between armed groups and the military or between different religious groups. The violence can be attributed to a political dimension (for example referring to the degree of autonomy envisaged by the parties involved or to political manipulation in view of elections). Some conflicts have a stronger political-economy dimension (for example, the control of natural resources or the smooth running of gas pipelines). However, conflicts are also fuelled by patterns in factors like social exclusion, discrimination, access to opportunities, fear, prejudice, identity, and grievance.

Areas like Yangon which do not experience open violence still show the same lines of tension that underpin the existing conflict. While it is not the role of the business sector to address political issues, it still has to be aware of how its operations impact conflict dynamics, both positively and negatively.

Q3: What is the relation between human rights and conflict sensitivity?

Human rights are: “rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible. [...] Universal human rights are guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.”

The business sector too is expected to observe human rights prevent their violation (knowingly or unknowingly). Today, in fact, most business codes of conduct refer to the UN charter of human rights.
Assessment and compliance tools are increasingly made available\textsuperscript{25} and there are increasing legal requirements for companies to meet.

While the observation of human rights in a complex environment is a minimum requirement, it may not be sufficient. The tensions and lines of rupture often go beyond the violation of human rights and require specific conflict sensitivity:

Conflict sensitivity is “the ability of your organisation to:

- understand the context in which you operate;
- understand the interaction between your interventions and the context;
- Act upon the understanding of this interaction, in order to avoid negative impacts and maximise positive impacts.”\textsuperscript{26}

Conflict sensitivity is not a tool. It is a lens\textsuperscript{37} through which one sees and shapes company policies, structures, systems, operations, partnerships, relationship and more generally the interdependencies that exist between a business and the context it is in. In addition to helping a company evaluate and address its own impact, conflict sensitivity supports the minimisation and/or management of risks that in contexts like Myanmar may arise unexpectedly. A company may become embroiled in the local political dimension unknowingly and unwillingly. For example, the Qatar telecommunications company Oredoo, which is developing a mobile network in urban areas, has risked being at the centre of a boycott campaign incited by radical Buddhists as it comes from a Muslim country. Informal and formal leaders of the country have stepped in to council against such a boycott. If the company had developed a reputation for inclusivity and promoting cohesion, it may have been less at risk.

Conflict sensitivity is developed through a conflict analysis, capacity building of staff, behaviour change, policies and processes, adjustments teach context and organisational learning across the organisation.

**Q4: As a Senior Coca-Cola Executive preparing for starting operations in Myanmar, which key issues, challenges and stakeholders would you consider and analyse with regards to conflict and conflict-sensitive business?**

Coca-Cola’s approach was thorough. The most substantial area that is unexplored is that related to conflict dynamics and conflict sensitive approaches which should also be part of the initial due diligence.

<table>
<thead>
<tr>
<th>Issue &amp; Challenge</th>
<th>Stakeholders</th>
</tr>
</thead>
<tbody>
<tr>
<td>As identified by Coca-Cola</td>
<td>As identified by Coca-Cola</td>
</tr>
<tr>
<td>• Operational environment</td>
<td>• National government department</td>
</tr>
<tr>
<td>• Government approach towards business</td>
<td>• Business associations</td>
</tr>
<tr>
<td>• Regulatory business environment</td>
<td>• International and national private sector</td>
</tr>
<tr>
<td>• Corruption and facilitation payments.</td>
<td>• Informal leaders (e.g. academia and civil society)</td>
</tr>
<tr>
<td>• Land rights</td>
<td>• Media</td>
</tr>
<tr>
<td>• Environmental degradation</td>
<td>• International (relevant) government departments</td>
</tr>
<tr>
<td>• Discrimination against women and ethnic minorities</td>
<td>• International organisations</td>
</tr>
<tr>
<td>• Poor wages and excessive hours of work</td>
<td>• International and national NGOs, CSOs and institutions</td>
</tr>
<tr>
<td>• Health and safety</td>
<td></td>
</tr>
<tr>
<td>• Forced labour</td>
<td></td>
</tr>
<tr>
<td>• Abuses by military forces</td>
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</tr>
</tbody>
</table>
- Presence of child labour
- Limitations on freedom of association

| Conflict dynamics: understanding which dynamics, business operations and relationships may be affected (e.g. by social exclusions, inequality etc.) This should include (among many others): business partners, recruitment, workplace policies | SMEs representatives
Informal leaders (religious, teachers doctors)
Potential consumers (focus groups) |
| Company impacts on the local community: as above, to understand how operations and presence of company may affect local dynamics and opportunities. This should include (among others): land acquisition, use of resources, housing, hiring requirements and policies, workplace culture. | Representatives of local communities
Other groups (land rights, human rights, indigenous activists, etc.) |

Examples of how these conflict-related issues are relevant to Coca-Cola/CCPBM:

- Years of erratic policies and discrimination have contributed to varying standards in education. Those who could afford it (usually urban and affluent families) used private education. CCPBM has hiring policies based on merit. What is the impact of this policy at local level on the pre-existing inequalities?

- Skilled staff comes at a premium in Myanmar today. The attrition rate in companies is high. In the garment sectors the average worker stays at a sewing operation for about 90 days. How can CCPBM enlarge the existing pool of skilled labour?

- As a result of the conflict, society has clustered along religious and group identity lines. Do CCPBM’s contractors, suppliers, distributors and wholesalers mirror this pattern too? What kind of interests do they reflect? Do the company’s operations (and/or those of its associates) inadvertently contribute to exclusion?

- What are the implications for the Company to operating in areas inhabited by different communities which have experienced? How will it address prejudice and fear in the workplace?

How to analyse:

- Review of secondary sources: Reports from World Factbook, International Crisis Group, Embassies, conflict-related reports by embassies or aid agencies, UN organisations, etc.

- Addressing conflict and conflict sensitivity aspects in stakeholder consultations

- Conduct a COMPREHENSIVE conflict assessment or mapping for the company. A traditional risk assessment focusing on mere physical installations and internal conflict will not suffice.

- Contrasting and comparing experiences of Coca Cola in other countries with this situation, consulting with other companies or development organisations in the area

Given the complexity of these issues and the number of stakeholders involved, it may have been advisable for Coca-Cola to engage in a formal conflict mapping or conflict analysis process. This would have helped ensure that no significant relevant factors were overlooked, and also provide a professional and comprehensive reference document to support the company’s future work in Myanmar. There are many guidelines and toolkits developed for this purpose.
Q5: What strategies and actions would you suggest as a result of your analysis?

CCPBM focussed on the following areas to address:
- Anti-corruption anti-bribery
- Human and Workplace Rights (including gender and age)
- Environment

When operating in Myanmar it is important to be also mindful about the following:
- Discriminations on the following basis:
  - Age
  - Gender
  - Religion
  - Ethnic group
  - Sexual orientation
- Social exclusions and inequalities may be aggravated by:
  - Social networks
  - Access to education/capacity level
  - Political orientation
  - Access to health services
- Communication and information availability
- Others, as relevant to the industry company size and level of operations

It is the responsibility of the company to ensure that, at the very least and as initial step, it does not contribute to adding to the exclusions and discriminations by relying on or engaging with the already privileged. In general terms it is important for a company to understand the situation as a whole, gaining a systemic view of what needs to be done, so that a broad plan can be devised. Appropriate resources must be allocated to improve way of working and behaviours. However, if resources are not sufficient to cover all aspects of such a plan, implementation of initiatives does not need to be a big bang. In fact progressing incrementally is more advisable if the resources available do not allows for wide scale action. Prioritisation should be informed by pushiness (responsible) objectives.

A company’s social engagement is most effective:
- at micro level, where a business has the greatest potential for impact
- as an interim solution, in the absence of an institutional provider of services, and never exclusively as a service deliverer
- when it is relevant and adds value to the business
- when it works in partnership (with other businesses, organisations and institutions) to contribute to addressing macro-level issues.
- When it builds on local capacities and empowers instead of making stakeholders dependent

As an example the company could consider the following:
- Supporting ‘disadvantaged’ groups through education/vocational training efforts. It could also nurture small, disadvantaged enterprises to build their capacities and the company’s supply chain.
- Whether there is any scope for promoting good relations between different cultures (including religious) within the company. For example, this could be done through balanced recruitment and promotion, celebratory events, personal accounts on company newsletter, or during team meetings
- Coca-Cola’s brand, is closely associated to sports and the company’s marketing effort is substantial in that area. This presents an opportunity to support intercultural community
sports events.

- The focus on women empowerment is commendable. Considering the conflict environment, it would be advisable to look into offering conflict resolutions skills those women. These could be useful at home (in some countries it has been noted that empowering women has led to an increase of domestic violence) and in the community (women are often the peace builders in community).

- If the company faces conflicts, it might be smart to train staff in skills like conflict management, constructive negotiation, or communication, and then encourage corporate volunteering so that they train others outside the company. Maybe even together with the women entrepreneurs to build relations and encourage informal mentoring and coaching.

- Engaging the company stakeholders in work that promotes cohesion either through existing initiatives or at local level.

The tables in the following pages offer a more comprehensive take on the different strategies that CCPBM could adopt to address different issues. These tables list far more strategies than Coca Cola would need to implement in any individual country, and are intended to provide both a sense of the range of initiatives possible and a variety of practical ideas for class discussion.
### Strategies available to CCPBM to improve practice both internally, and with business partners

<table>
<thead>
<tr>
<th>Issue</th>
<th>Internal options – practices applied within a company that can be adapted to improve sensitivity to local challenges</th>
<th>External options – practices which can encourage business associates to adopt more responsible practices</th>
</tr>
</thead>
</table>
| **Motivation**<br>Difficulties motivating stakeholders to change behaviour | Staff empowerment, recognition  
Develop a no-blame culture: mistakes are part of the learning process  
Reward good practice  
Promotion of personal initiative and leadership | Explain what is ‘in it for me’  
Work through a no-blame culture  
Soft influencing  
Reward good practice (for example by promoting the business, signalling that business for awards) |
| **Low capacity**<br>Stakeholders must have the relevant skills and know-how.. | Technical capacity building: including human resource management (awareness raising on discrimination & hiring)  
Soft-skill development: communications, delegation, leadership, management  
Skills promoting cohesion and coexistence: team work, cross cultural awareness raising, conflict management. For example, promoting good relations between different cultures within the company through celebratory events, personal accounts on company newsletter, or during team meetings | Support business associates in improving an area of weakness and ask for relevant feedback of company operations. Support can be given by sharing company policies and materials, secondments, job shadowing, sponsoring training |
| **Systems and policies**<br>There needs to be clarity about the stance of the company, its accountability for staff and the company, and good practice must be rewarded so that the organisation learns | Policies in English and Burmese (and other languages as appropriate) to include: ethics, human rights, code of conduct, purchasing and procurement, contractors, finance, human resources and so forth  
Balanced score cards to include effective team work and cohesion in the workplace, policy adherence included in staff appraisal  
Grievance and feedback mechanisms  
Accountability for potential externalities clearly stated in policy with processes for remedial action | Contractual obligations to include observance f company standards (with penalties)  
Appropriate (two-way) grievance & feedback mechanisms |
<p>| <strong>Communications</strong>&lt;br&gt;Ensure that the stance and | Internal communications should include a variety of channels, means and people (written documents, posters, illustration, intranet, email, team | Transparent and open communications about company policy and expectations is general and specifically to |
| commitment of the company is known to stakeholders; ensure that the company keeps abreast of changes in the context | communications, personal experiences in company newsletters, sharing relevant experience within company or in industry, messages should come from HQ, team leaders, co-workers etc.) Transparency about company policy and action should be the focus, with clear feedback of outcomes of processes/initiatives (including grievance and feedback). Communications about the type of external initiatives the company promotes and supports will reinforce the message internally. Encourage/seek continuous feedback from stakeholders on contextual and local dynamics | potential business associates before any engagement. During business negotiations including support needed/offered. Repeated communications through time Encourage/seek continuous feedback from stakeholders on contextual and local dynamics |
| M&amp;E and organisational learning | Learn from what is implemented and ensure institutionalisation; ensure that company is abreast of changes | Staff appraisals and score cards/key performance indicators to include aspect relating to conduct and promotion of diversity. With reference to specific functions, it should also include conflict management (e.g. those in certain management positions) Analysis (for learning purposes) of grievances and feedback best solutions for particular issues. Include local personnel in global communities of practice and relevant networks | Sharing best practice and lessons learnt Audits and support for remedial action Encourage accountability |</p>
<table>
<thead>
<tr>
<th><strong>Strategy</strong></th>
<th><strong>Local communities</strong></th>
<th><strong>Wider community</strong></th>
<th><strong>Business sectors</strong></th>
<th><strong>Institutions</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Motivation</strong></td>
<td>Be open about benefits that company can bring (direct/indirect)</td>
<td>Create a sense of necessity for sustainable (fair) development</td>
<td>Link to international standards and expectations, long term effectiveness and competitiveness</td>
<td>Create a sense of necessity for sustainable development and stability Link to international standards and expectations,</td>
</tr>
<tr>
<td><strong>Capacity building</strong></td>
<td>Specific support to vulnerable groups in order to give them a fair chance to apply for positions/bid for company contracts Support local content development Actively engage community in open communications Engage in community development Encourage staff to volunteer time and expertise to the community (both in technical skills and soft skills)</td>
<td>Support initiatives that have connection to the business event if not a direct one (for example HIV/AIDS charities if HIV/AIDS is an issue affecting company staff.) and include a conflict resolution/peacebuilding element in the programme. Support initiatives that promote cohesion, inclusion, and justice directly and indirectly.</td>
<td>Contribute to seminars/conferences raising awareness of specific issues Support/develop business associations to address shared issues collectively</td>
<td>Build local capacities by contributing to existing initiatives. Raise awareness of issues that may affect the community negatively (e.g. corruption). Support institutional efforts (tax payment)</td>
</tr>
<tr>
<td><strong>Systems and policies</strong></td>
<td>A wide range of communication channels Feedback (and grievances) mechanisms</td>
<td>Feedback (and grievances) mechanisms</td>
<td>Promote industry/business associations Feedback (and grievances) mechanisms</td>
<td>Support the promotion of fair and inclusive policy through soft influencing Support government participation to (relevant government initiatives) Feedback (and grievances) mechanisms</td>
</tr>
<tr>
<td><strong>Communications</strong></td>
<td>Ensure company is aware of changes in the context, by building a varies and extensive network of contacts Open and transparent communication to reinforce image of responsibility Immediate acknowledgment of accountability as necessary</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>M&amp;E</strong></td>
<td>Monitor impact of activities against objectives set as appropriate in consultation with relevant stakeholders</td>
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</tr>
</tbody>
</table>
Q6: Which of the approaches and initiatives taken by Coca-Cola do you consider recommendable and why?

Mapping challenges to company policies and operations:

The company clearly set out:

- to understand issues which may arise from operating in Myanmar and identify which company policies may be affected;
- to evaluate how key global company policies could be implemented;
- to identify challenges emerging from policy implementation and which actions could be taken to address these challenges.

In order to understand the context the US Company used a number of tools: commissioning an impact study, existing reference material, legal counsel, and stakeholder engagement. The range of business areas represented by the team of twenty senior executives tasked with the due diligence also indicates that the company is aware of possible interdependencies between issues.

A comprehensive approach to addressing challenges:

The actions taken by the company to address the issues point to a comprehensive strategy to implement change. Different dimensions and levels within the organisation are considered. Action is taken at structural level, for example, by promoting and translating company policies. Capacities are built through repeated assessments and training, planned for and delivered over time. Training and support is arranged to address technical issues and behavioural change. The spreading of training sessions over a period of time makes sustainable change more likely. Of interest, but not included in this case study, is the company’s awareness of the importance of connecting the global and local dimensions of its operations. While in the midst of its due diligence in Myanmar, Coca-Cola raised the issues of operations in complex environment by inviting the ILO Liaison Officer for Myanmar to speak and chair a panel at its 6th Annual Conference on Human Rights in Atlanta in 2013.

A wide range of individuals within the CCPBM are involved in capacity building efforts, starting from the senior management team. It is unclear how the company is fostering bottom-up change. However the attention paid to feedback mechanisms foreseen by the grievance process and the efforts put in explaining the value of feedback (in relation to appraisals) suggest that CCPBM is open to change (and innovation) initiated at different levels within the organisation and not exclusively in a top-down fashion (which is current practice in Myanmar). Interestingly, the case study highlights how feedback is connected to cultural aspects. In Myanmar, as in other contexts characterised by conflict and repression, one can note reluctance of people to give feedback. This is partly associated to patriarchal and hierarchical societal structures. However, it is also linked to the repression of anything that has been perceived as opposition. Giving feedback in such contexts becomes a risk: self-censorship may become ingrained when the experience is repeated over generations.

Organisational learning:

In the case study there is a brief but valuable reference to how the Coca-Cola has been able to transfer learning across contexts, in the case of the wallet cards. The ability of an organisation to capitalise on experiences made elsewhere is essential for its ability to grow and adapt. Information on CCPBM is on the early stages of its operations; this probably explains why not much is available on the learning processes adopted by the company. It would be interesting to know more about how the CCPBM institutionalised best practices in Myanmar as well as between CCPBM and global operations (and vice versa).
Transparency and responsibility:

Noteworthy is the degree of transparency in the company’s 2013 report. Coca-Cola divulges the name of its partner and is open about the challenges it faced during the due-diligence process (for example with regards to land deeds). This way the company opens itself to criticism, it becomes accountable for decisions and actions and it shows its willingness to take responsibility. In fact it admits limitations and commits itself to future corrective action. In the author’s view this is positive. Working in complex environments like Myanmar implies having to deal with issues that are real conundrums (for example how one can completely distancetoneself from the actions of the former regime and/or from people who have benefited from the military rule).

Grievance procedures:

The number of channels to report issues is an indication of the company’s willingness to receive feedback. There is scope in the future, to encourage more feedback. Other methods like SMS surveys or group discussions, more transparency about the process and information on cases solved, could all help in this regard. Stakeholders and representatives of local communities may also be involved in this process.

Stakeholder engagement:

As part of its preparation and due diligence process, Coca-Cola consulted a number of stakeholders from different sectors. These include international organisations, international and local civil society and NGOs, media, diplomatic missions, governmental departments of several nations, academia and private sector organisations (national and international). CCPBM has also set up an interesting stakeholder engagement plan which focusses both on soliciting feedback to the company and support to the company’s community engagement programme. This initiative seems promising; it will be interesting to see how it develops and links to organisational learning. Possibly, in the future there will be scope to involve members of the local communities directly. Other companies have used village communications committees to understand sensitive issues and prevent potential human rights abuses.

Additional questions for discussions

Organisational learning and continuity:

Expat managers usually rotate between locations every 3-5 years hence organisational learning is particularly essential. Learning from experiences made elsewhere (as Coca-Cola seems to have done) reduces the learning curve and ensures continuity when entering a new context. How does a company ensure consistency of approach and continuity? How is learning incorporated in organisational practice and policies to insure it becomes part of the culture? What are the elements of an effective handover process?

The core business:

There are increasing controversies that links sugary drinks to obesity and morbidity. The comment from the O’Neill Institute offers an opportunity to students to consider possible implications for the CCPM itself and its responsibilities towards consumers as well as for the government in terms of public health policy. This discussion could include alternative product development as a move towards more responsible core business strategies.
**Founding an association:**

Traditional commodity associations serve the purposes of joint lobbying for sector- or business-friendly legislation, education of members, marketing, etc. An association that aims at addressing inequalities/exclusions/unintended favourisms would probably face the challenge of limited interest or the agenda changing towards more traditional work on core business interests. Students could discuss how these risks could be addressed and/or if there could be alternatives like ‘integrity circles of CEOs’.

**Working with PACT:**

Would students have also chosen a partnership with an (I)NGO in order to create good-will before the launch? Is PACT a good partner and women entrepreneurship the most suitable or important cause? Would it have been more aligned with Coca Cola policies to invest in anti-corruption or another of their engagement areas? In how far is the company ‘buying’ the public consent but could have achieved more with the same amount invested in its own good business practices or along the value chain?

**Part B: Recommended Questions**

**Q1 Compare and contrast the issues, challenges and stakeholders you identified as well as the strategies and actions you have developed for Coca-Cola in Part A, to those adopted by CCPBM. (Explain the rationale behind similarities and differences)**

There is no right or wrong answer for these questions. The purpose of this question is to stimulate debate among students on:

1. Actions taken by the company, their advantages and disadvantages as well as areas for improvement
2. Conflict sensitive options available to the company as well as their advantages, disadvantages and feasibility.
3. Consider opportunities and challenges for implementation in terms of: scale and time

It is important that students consider and review the options available (but maybe not considered by the company regarding the points below:

- Conflict analysis
- Stakeholder engagement
- Community support (like relationship with Pact)

In discussing these points it is worth examining what they believe the rationale behind Coca-Cola’s choice; and what is the rationale behind choosing alternative options and variants.

**Q2: With regards to CCPBM three future challenges (assessments, expansion, and rumours): what strategies would you recommend adopting?**

Assessments

- It is important that the company understands the role wholesaler and distributors play in their context, in terms of contribution to human rights abuses, community relations, social inclusivity, good business practice and management (including the environment).
- Company ethics, capabilities and systems should be assessed too.
- For those business operating in areas of violent conflict, it is also important for the CCPBM to
explore how the that particular business safeguards the health and safety of its staff, what crisis and risk management plans are in place in case of an outburst of violence.

- Assessments should have a capacity building and an organisational learning focus (for CCPBM and its partners).
- Plans for capacity building and organisational development could be broadly discussed while the assessment is discussed and prepared.

Expansion

- A conflict sensitive lens is necessary in planning expansion, especially in those areas that have experienced communal violence. In addition to the strategies described in question two, the following could also be considered: engaging stakeholders (informal leaders) in feedback processes, cohesion programmes supported by the company, effective and constructive information sharing, contributing to media capacity development.

Addressing the rumour

- Publishing list of directors and CCPBM shareholders on website and newspaper
- Encourage news items that address the rumours

Additional Questions:

**Shared Value:**

In which way could Coca Cola try and create shared value (value for the company and the stakeholders)? What about adding more healthy options to their product line? Would it be possible to address some health issues in the country for example through fortified drinks? Are there any traditional herbal products that could be used for the production of healthy drinks and to create revenue for small farmers? Are there ways to include micro-entrepreneurs into the value chain? What about local sourcing of raw materials instead of importing?

**Learning from mistakes:**

How can the company include its learnings from mistakes made in other countries while considering their expansion? How could the company prevent something like the depletion of ground water levels which caused harm and a public scandal in India? How could it ensure that issues like the oppression (and killing) of trade unions by bottlers in Colombia and Guatemala would not happen again? How would it have to screen its bottling partners in Myanmar to prevent this? How can the local management ensure that their learnings are fed back to headquarter and used in other subsidiaries?

**Complaint Mechanism:**

Which would be the means to encourage stakeholders to use the complaint mechanism? Are there other ways of communication to reach those who are not familiar or afraid to use the ones provided? Could trust be built by publishing complaints and the actions taken in response and in which form should this publication happen? Could the company work with NGOs to encourage feedback? What are the benefits to the company in lowering the barriers of communication?
References

4. Responsible Investment in Myanmar, The Coca-Cola Company, December 12 2013, pg. 5
5. Responsible Investment in Myanmar, The Coca-Cola Company, December 12 2013, pg. 5
7. Coca-Cola Pops the Top on First Burma Bottling Operation in 60 Years, By Andrew Kaspar, The Irawaddy, June 4, 2013
12. Coca-Cola Pops the Top on First Burma Bottling Operation in 60 Years, By Andrew Kaspar, The Irawaddy, June 4, 2013
21. For example the HRCA by The Danish Institute for Human Rights http://www.humanrightsbusiness.org/compliance+assessment
23. Rights based approaches and Humanitarian Interventions in Conflict Situations, A Learning and Discussion Document, Produced by the UK InterAgency Group on Rights Supported by ActionAid & CARE International, March 2009
24. Survey conducted by an employment agency in Yangon? Myanmar

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The Coca-Cola Company in Myanmar: Due diligence and relationship management in a complex emerging market

PEACENEXUS CASE STUDY

FRANCESCA CERLETTI

OCTOBER 2014
This case study is based on actual company policies and initiatives. However, situational descriptions are imagined.

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Teachers Notes

The following questions and answers are only a selection of what teachers could discuss with students and of the options available. They should serve as a rough guidance and additional solutions be considered as equally suitable. As this field is quickly developing, alternative ideas of best practice may be found from other countries or companies that you may want to incorporate into the discussion.

Learning Objectives

- To understand the importance of Human Rights Due Diligence for the company before the start of operations
- To understand the importance and challenges around assessments of partners and the expansion of operations
- To understand the challenges around stakeholder engagement, the strategic collaborations for socio-economic development and around lobbying activities
- To be able to critically analyse good company practices to take them to the next level global company policies to a complex environment, by learning from an acclaimed example

Overview of the cases study

The experience of Coca-Cola in Myanmar is a good example of how a multinational can approach working in a complex environment. It also offers an opportunity to discuss: how much preparation and due diligence is sufficient? When is enough really enough? In the initial stage of this process, the US Company’s emphasis has been on human rights. Less reference has been made to a conflict analysis or conflict sensitive approach. While this is potentially appropriate given the type of investment Coca-Cola planned, it is also leads to the questions about the differences between human rights and conflict sensitivity, as well as the limits and opportunities for company action.

Audience

- University level students reading CSR, management in emerging markets, MBA and executive MBAs
- Managers working or about to work in complex or fragile environments
- Community Relation Managers, Public Relation Managers, Liaison Officers

Part A: Recommended Questions:

Q1: What were the drivers behind Coca-Cola’s thorough due diligence process?

Coca-Cola’s due diligence process was extensive and driven by the need to ensure the implementation of company global policies also in Myanmar, as the commentary by IHRB notes.

Coca-Cola invested a substantial amount of human and financial resources in the preparation stage and was not willing to compromise its analysis and due diligence, preferring to postpone the start of operations. Given its involvement in a number of controversies in the past, for example in relation to human rights abuses and the killing of trade union leaders in Colombia and environmental disasters in India, Coca-Cola cannot afford to do differently. There are four key drivers to the adoption of the approach used by the US Company to which the case study refers to.
- Requirements of Coca-Cola code of conduct and company policies.
- The increasing stakeholder expectations to meet certain standards with regards to environment, society and human rights. Such expectations do not exclusively come from civil society and governments, but also from investors as the letter from EIRIS Suggests.
- The high level of scrutiny on companies investing in Myanmar by advocacy groups, as the comment on the Responsible Business report by ERI suggests. (The degree of scrutiny is still probably higher for Western companies. However, pressure is also being placed on Asian companies operating in Myanmar, by media and NGOs).
- Legislation that demands companies to comply with certain standards as the Dodd–Frank Wall Street Reform and Consumer Protection Act or regulations as the Responsible Investment Reporting Requirements in this case study.

Q2: How much preparation and due diligence is sufficient?

The answer will depend on the context, the size and nature of the business, the market and industry and the level it operates. However, a company needs to make its engagement, monitoring and improvements a continuous process beyond the due diligence itself.

Myanmar is an excellent example of a complex environment. In addition to issues related to regulatory systems, policy implementation, lack of capacity and know-how, quality and availability of infrastructure (including the financial system); the legacies of the past (remote and present) should not be neglected. Currently, some part of the country experiences violent conflict, between armed groups and the military or between different religious groups. The violence can be attributed to a political dimension (for example referring to the degree of autonomy envisaged by the parties involved or to political manipulation in view of elections). Some conflicts have a stronger political economy dimension (for example, the control of natural resources or the smooth running of gas pipelines). However, conflicts are also fuelled by patterns in factors like social exclusion, discrimination, access to opportunities, fear, prejudice, identity, and grievance.

Areas like Yangon which do not experience open violence still show the same lines of tension that underpin the existing conflict. While it is not the role of the business sector to address political issues, it still has to be aware of how its operations impact conflict dynamics, both positively and negatively.

Q3: What is the relation between human rights and conflict sensitivity?

Human rights are: “rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible. […]Universal human rights are guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.”

The business sector too is expected to observe human rights prevent their violation (knowingly or unknowingly). Today, in fact, most business codes of conduct refer to the UN charter of human rights.
Assessment and compliance tools are increasingly made available and there are increasing legal requirements for companies to meet.

While the observation of human rights in a complex environment is a minimum requirement, it may not be sufficient. The tensions and lines of rupture often go beyond the violation of human rights and require specific conflict sensitivity:

Conflict sensitivity is “the ability of your organisation to:

- understand the context in which you operate;
- understand the interaction between your interventions and the context;
- Act upon the understanding of this interaction, in order to avoid negative impacts and maximise positive impacts.”

Conflict sensitivity is not a tool. It is a lens through which one sees and shapes company policies, structures, systems, operations, partnerships, relationship and more generally the interdependencies that exist between a business and the context it is in. In addition to helping a company evaluate and address its own impact, conflict sensitivity supports the minimisation and/or management of risks that in contexts like Myanmar may arise unexpectedly. A company may become embroiled in the local political dimension unknowingly and unwillingly. For example, the Qatar telecommunications company Oredoo, which is developing a mobile network in urban areas, has risked being at the centre of a boycott campaign incited by radical Buddhists as it comes from a Muslim country. Informal and formal leaders of the country have stepped in to council against such a boycott. If the company had developed a reputation for inclusivity and promoting cohesion, it may have been less at risk.

Conflict sensitivity is developed through a conflict analysis, capacity building of staff, behaviour change, policies and processes, adjustments teach context and organisational learning across the organisation.

Q4: As a Senior Coca-Cola Executive preparing for starting operations in Myanmar, which key issues, challenges and stakeholders would you consider and analyse with regards to conflict and conflict-sensitive business?

Coca-Cola’s approach was thorough. The most substantial area that is unexplored is that related to conflict dynamics and conflict sensitive approaches which should also be part of the initial due diligence.

<table>
<thead>
<tr>
<th>Issue &amp; Challenge</th>
<th>Stakeholders</th>
</tr>
</thead>
<tbody>
<tr>
<td>As identified by Coca-Cola</td>
<td>As identified by Coca-Cola</td>
</tr>
<tr>
<td>• Operational environment</td>
<td>• National government department</td>
</tr>
<tr>
<td>• Government approach towards business</td>
<td>• Business associations</td>
</tr>
<tr>
<td>• Regulatory business environment</td>
<td>• International and national private sector</td>
</tr>
<tr>
<td>• Corruption and facilitation payments.</td>
<td>• Informal leaders (e.g. academia and civil society)</td>
</tr>
<tr>
<td>• Land rights</td>
<td>• Media</td>
</tr>
<tr>
<td>• Environmental degradation</td>
<td>• International (relevant) government departments</td>
</tr>
<tr>
<td>• Discrimination against women and ethnic minorities</td>
<td>• International organisations</td>
</tr>
<tr>
<td>• Poor wages and excessive hours of work</td>
<td>• International and national NGOs, CSOs and institutions</td>
</tr>
<tr>
<td>• Health and safety</td>
<td></td>
</tr>
</tbody>
</table>
- Presence of child labour
- Limitations on freedom of association

| Conflict dynamics: understanding which dynamics, business operations and relationships may be affected (e.g. by social exclusions, inequality etc.) This should include (among many others): business partners, recruitment, workplace policies | SMEs representatives
Informal leaders (religious, teachers doctors)
Potential consumers (focus groups) |
| Company impacts on the local community: as above, to understand how operations and presence of company may affect local dynamics and opportunities. This should include (among others): land acquisition, use of resources, housing, hiring requirements and policies, workplace culture. | Representatives of local communities
Other groups (land rights, human rights, indigenous activists, etc.) |

Examples of how these conflict-related issues are relevant to Coca-Cola/CCPBM:

- Years of erratic policies and discrimination have contributed to varying standards in education. Those who could afford it (usually urban and affluent families) used private education. CCPBM has hiring policies based on merit. What is the impact of this policy at local level on the pre-existing inequalities?
- Skilled staff comes at a premium in Myanmar today. The attrition rate in companies is high. In the garment sectors the average worker stays at a sewing operation for about 90 days. How can CCPBM enlarge the existing pool of skilled labour?
- As a result of the conflict, society has clustered along religious and group identity lines. Do CCPBM’s contractors, suppliers, distributors and wholesalers mirror this pattern too? What kind of interests do they reflect? Do the company’s operations (and/or those of its associates) inadvertently contribute to exclusion?
- What are the implications for the Company to operating in areas inhabited by different communities which have experienced)? How will it address prejudice and fear in the work place?

How to analyse:

- Review of secondary sources: conflict-related reports by NGOs/agencies, UN organisations involved in peace building, business and peace, conflict sensitivity.
- Addressing conflict and conflict sensitivity aspects in stakeholder consultations
- Conduct a COMPREHENSIVE conflict assessment for the company. A traditional risk assessment focusing on mere physical installations and internal conflict will not suffice.
- Contrasting and comparing experiences of Coca Cola in other countries with this situation, consulting with other companies or development organisations in the area

Given the complexity of these issues and the number of stakeholders involved, it may have been advisable for Coca-Cola to engage in a formal conflict mapping or conflict analysis process. This would have helped ensure that no significant relevant factors were overlooked, and also provide a professional and comprehensive reference document to support the company’s future work in Myanmar. There are many guidelines and toolkits developed for this purpose.
Q5: What strategies and actions would you suggest as a result of your analysis?

CCPBM focussed on the following areas to address:
  o Anti-corruption anti-bribery
  o Human and Workplace Rights (including gender and age)
  o Environment

When operating in Myanmar it is important to be also mindful about the following:
  • Discriminations on the following basis:
    o Religion
    o Ethnic group
    o Sexual orientation
  • Social exclusions and inequalities may be aggravated by:
    o Social networks
    o Access to education/capacity level
    o Political orientation
    o Access to health services
  • Communication and information availability
  • Others, as relevant to the industry company size and level of operations

It is the responsibility of the company to ensure that, at the very least and as initial step, it does not contribute to adding to the exclusions and discriminations by exclusively relying on or engaging with the already privileged. In general terms it is important for a company to understand the situation as a whole, gaining a systemic view of what needs to be done, so that a broad plan can be devised. Appropriate resources need be allocated to improve way of working and behaviours. If resources are limited, progressing incrementally is advisable. Prioritisation should be informed by business (responsible) objectives.

A company’s social engagement is most effective:
  • at micro level, where a business has the greatest potential for impact
  • as an interim solution, in the absence of an institutional provider of services, and never exclusively as a service deliverer
  • when it is relevant and adds value to the business
  • when it works in partnership (with other businesses, organisations and institutions) to contribute to addressing macro-level issues.
  • When it builds on local capacities and empowers instead of making stakeholders dependent

As an example the company could consider the following:
  • Supporting ‘disadvantaged’ groups through education/vocational training efforts. It could also nurture small, disadvantaged enterprises to build their capacities and the company’s supply chain.
  • Whether there is any scope for promoting good relations between different cultures (including religious) within the company. For example, this could be done through balanced recruitment and promotion, celebratory events, personal accounts on company newsletter, or during team meetings
  • Coca-Cola’s brand, is closely associated to sports and the company’s marketing effort is substantial in that area. This presents an opportunity to support intercultural community sports events.
  • The focus on women empowerment is commendable. Considering the conflict environment, it would be advisable to look into offering conflict resolutions skills those women. These
could be useful at home (in some countries it has been noted that empowering women has led to an increase of domestic violence) and in the community (women are often the peace builders in community).

- It might be smart to train staff in skills like conflict management, constructive negotiation, or communication, and then encourage corporate volunteering so that they train others outside the company. Maybe even together with the women entrepreneurs to build relations and encourage informal mentoring and coaching.
- Engaging the company stakeholders in work that promotes cohesion either through existing initiatives or at local level.

The tables in the following pages offer a more comprehensive take on the different strategies that CCPBM could adopt to address different issues. These tables list far more strategies than Coca Cola would need to implement in any individual country, and are intended to provide both a sense of the range of initiatives possible and a variety of practical ideas for class discussion.
<table>
<thead>
<tr>
<th>Internal options – the majority of this refer to practices which would, at least in some form, already be applied within a company. It would be a question of adapting them to include diversity/team work.</th>
<th>Options available with regards to business associates – most of these can be part of existing practices/processes</th>
</tr>
</thead>
</table>
| **Motivation** | Explain what is ‘in it for me’  
Work through a no-blame culture  
Soft influencing  
Reward good practice (for example by promoting the business, signalling that business for awards) |
| Staff empowerment  
Staff recognition  
Develop a no-blame culture: mistakes are part of the learning process  
Reward good practice  
Promotion of personal initiative and leadership | **Capacity building**  
Technical capacity building: including human resource management (awareness raising on discrimination & hiring)  
Soft-skill development: communications, delegation, leadership, management  
Skills promoting cohesion and coexistence: team work, cross cultural awareness raising/diversity, conflict management, information management training that encourages verification and responsibility. For example, promoting good relations between different cultures (including religious) within the company through, celebratory events, personal accounts on company newsletter, during team meetings  
What is already covered by CCPBM: Anti-corruptions and bribery, human and work place rights, HS&E |
| **Systems and policies** | Support business associates in improving an area of weakness and ask for relevant feedback of company operations. Support can be given by sharing company policies and materials, secondments, job shadowing, sponsoring training  
Contractual obligations to include observance f company standards (with penalties)  
Appropriate (two-way) grievance & feedback mechanisms |
| Policies in English and Burmese (and other languages as appropriate) to include: ethics, human rights, code of conduct, purchasing and procurement, contractors, finance, human resources, staff development, clear roles and responsibilities which for example should include management of conflicts  
Policy adherence included in staff appraisal  
Balanced score cards to include effective team work and cohesion in the workplace |
| Grievance & feedback mechanisms | Accountability of potential externalities clearly stated in as policy with process for remedial action. Establish ‘systems’ for ‘intelligence’ gathering on changing dynamics within context. |
| Communications | Internal communications should include a variety of channels, means and people (written documents, posters, illustration, intranet, email, team communications, personal experiences in company newsletters, sharing relevant experience within company or in industry, messages should come from HQ, team leaders, co-workers etc.). Transparency about company policy and action should be the focus, with clear feedback of outcomes of processes/initiatives (including grievance and feedback). Communications about the type of external initiatives the company promotes and supports will reinforce the message internally. As appropriate a mix of internal and external communication will help reinforce the message internally. Encourage/seek continuous feedback from stakeholders on contextual and local dynamics. |
| M&E and organisational learning | Staff appraisals & Score cards/key performance indicators to include aspect relating to conduct and promotion of diversity. With reference to specific functions, it should also include conflict management (e.g. those in certain management positions). Analysis (for learning purposes) of grievances and feedback best solutions for particular issues. Arranging competition for best solutions. Include local personnel in global communities of practice and relevant networks. |
|  | Transparent and open communications about company policy and expectations is general and specifically to potential business associates before any engagement. During business negotiations including support needed/offered. Repeated communications through time Encourage/seek continuous feedback from stakeholders on contextual and local dynamics. |
|  | Sharing best practice and lessons learnt Audits and support for remedial action Encourage accountability. |
## Strategies available to CCPBM in interaction with other stakeholders

<table>
<thead>
<tr>
<th>Strategy</th>
<th>Local communities</th>
<th>Wider community</th>
<th>Business sectors</th>
<th>Institutions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Motivation</strong></td>
<td>Be open about benefits that company can bring (direct/indirect)</td>
<td>Create a sense of necessity for sustainable (fair) development</td>
<td>Link to international standards and expectations, long term effectiveness and competitiveness</td>
<td>Create a sense of necessity for sustainable development and stability Link to international standards and expectations,</td>
</tr>
<tr>
<td><strong>Capacity building</strong></td>
<td>Specific support to vulnerable groups in order to give them a fair chance to apply for positions/bid for company contracts</td>
<td>Support initiatives that have connection to the business event if not a direct one (for example HIV/AIDS charities if HIV/AIDS is an issue affecting company staff.) and include a conflict resolution/peacebuilding element in the programme.</td>
<td>Contribute to seminars/conferences raising awareness of specific issues Support/develop business associations to address shared issues collectively</td>
<td>Build local capacities by contributing to existing initiatives. Raise awareness of issues that may affect the community negatively (e.g. corruption). Support institutional efforts (tax payment)</td>
</tr>
<tr>
<td><strong>Systems and policies</strong></td>
<td>A wide range of communication channels Feedback (and grievances) mechanisms Processes and systems that strengthen company accountability</td>
<td>Feedback (and grievances) mechanisms</td>
<td>Promote industry/business associations Feedback (and grievances) mechanisms</td>
<td>Support the promotion of fair and inclusive policy through soft influencing Support government participation to (relevant government initiatives) Feedback (and grievances) mechanisms</td>
</tr>
<tr>
<td><strong>Communications</strong></td>
<td>Ensure company is aware of changes in the context, by building a varies and extensive network of contacts Open and transparent communication to reinforce image of responsibility Immediate acknowledgment of accountability as necessary</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>M&amp;E</strong></td>
<td>Monitor impact of activities against objectives set as appropriate in consultation with relevant stakeholders</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
Q6: Which of the approaches and initiatives taken by Coca-Cola do you consider recommendable and why?

**Mapping challenges to company policies and operations:**

The company clearly set out:

- to understand issues which may arise from operating in Myanmar and identify which company policies may be affected;
- to evaluate how key global company policies could be implemented;
- to identify challenges emerging from policy implementation and which actions could be taken to address these challenges.

In order to understand the context the US Company used a number of tools: commissioning an impact study, existing reference material, legal counsel, and stakeholder engagement. The range of business areas represented by the team of twenty senior executives tasked with the due diligence also indicates that the company is aware of possible interdependencies between issues.

**A comprehensive approach to addressing challenges:**

The actions taken by the company to address the issues point to a comprehensive strategy to implement change. Different dimensions and levels within the organisation are considered. Action is taken at structural level, for example, by promoting and translating company policies. Capacities are built through repeated assessments and training, planned for and delivered over time. Training and support is arranged to address technical issues and behavioural change. The spreading of training sessions over a period of time makes sustainable change more likely. Of interest, but not included in this case study, is the company’s awareness of the importance of connecting the global and local dimensions of its operations. While in the midst of its due diligence in Myanmar, Coca-Cola raised the issues of operations in complex environment by inviting the ILO Liaison Officer for Myanmar to speak and chair a panel at its 6th Annual Conference on Human Rights in Atlanta in 2013.

A wide range of individuals within the CCPBM are involved in capacity building efforts, starting from the senior management team. It is unclear how the company is fostering bottom-up change. However the attention paid to feedback mechanisms foreseen by the grievance process and the efforts put in explaining the value of feedback (in relation to appraisals) suggest that CCPBM is open to change (and innovation) initiated at different levels within the organisation and not exclusively in a top-down fashion (which is current practice in Myanmar). Interestingly, the case study highlights how feedback is connected to cultural aspects. In Myanmar, as in other contexts characterised by conflict and repression, one can note reluctance of people to give feedback. This is partly associated to patriarchal and hierarchical societal structures. However, it is also linked to the repression of anything that has been perceived as opposition. Giving feedback in such contexts becomes a risk: self-censorship may become ingrained when the experience is repeated over generations.

**Organisational learning:**

In the case study there is a brief but valuable reference to how the Coca-Cola has been able to transfer learning across contexts, in the case of the wallet cards. The ability of an organisation to capitalise on experiences made elsewhere is essential for its ability to grow and adapt. Information on CCPBM is on the early stages of its operations; this probably explains why not much is available on the learning processes adopted by the company. It would be interesting to know more about how the CCPBM institutionalised best practices in Myanmar as well as between CCPBM and global operations (and vice versa).
Transparency and responsibility:

Noteworthy is the degree of transparency in the company’s 2013 report. Coca-Cola divulges the name of its partner and is open about the challenges it faced during the due-diligence process (for example with regards to land deeds). This way the company opens itself to criticism, it becomes accountable for decisions and actions and it shows its willingness to take responsibility. In fact it admits limitations and commits itself to future corrective action. In the author’s view this is positive. Working in complex environments like Myanmar implies having to deal with issues that are real conundrums (for example how one can completely distance oneself from the actions of the former regime and/or from people who have benefited from the military rule).

Grievance procedures:

The number of channels to report issues is an indication of the company’s willingness to receive feedback. There is scope in the future, to encourage more feedback. Other methods like SMS surveys or group discussions, more transparency about the process and information on cases solved, could all help in this regard. Stakeholders and representatives of local communities may also be involved in this process.

Stakeholder engagement:

As part of its preparation and due diligence process, Coca-Cola consulted a number of stakeholders from different sectors. These include international organisations, international and local civil society and NGOs, media, diplomatic missions, governmental departments of several nations, academia and private sector organisations (national and international). CCPBM has also set up an interesting stakeholder engagement plan which focusses both on soliciting feedback to the company and support to the company’s community engagement programme. This initiative seems promising; it will be interesting to see how it develops and links to organisational learning. Possibly, in the future there will be scope to involve members of the local communities directly. Other companies have used village communications committees to understand sensitive issues and prevent potential human rights abuses.

Additional questions for discussions

Organisational learning and continuity:

Expat managers usually rotate between locations every 3-5 years hence organisational learning is particularly essential. Learning from experiences made elsewhere (as Coca-Cola seems to have done) reduces the learning curve and ensures continuity when entering a new context. How does a company ensure consistency of approach and continuity? How is learning incorporated in organisational practice and policies to insure it becomes part of the culture? What are the elements of an effective handover process?

The core business:

There are increasing controversies that links sugary drinks to obesity and morbidity. The comment from the O’Neill Institute offers an opportunity to students to consider possible implications for the CCPM itself and its responsibilities towards consumers as well as for the government in terms of public health policy. This discussion could include alternative product development as a move towards more responsible core business strategies.
Founding an association:

Traditional commodity associations serve the purposes of joint lobbying for sector- or business-friendly legislation, education of members, marketing, etc. An association that aims at addressing inequalities/exclusions/unintended favouritisms would probably face the challenge of limited interest or the agenda changing towards more traditional work on core business interests. Students could discuss how these risks could be addressed and/or if there could be alternatives like ‘integrity circles of CEOs’.

Working with PACT:

Would students have also chosen a partnership with an (I)NGO in order to create good-will before the launch? Is PACT a good partner and women entrepreneurship the most suitable or important cause? Would it have been more aligned with Coca Cola policies to invest in anti-corruption or another of their engagement areas? In how far is the company ‘buying’ the public consent but could have achieved more with the same amount invested in its own good business practices or along the value chain?

Part B: Recommended Questions

Q1 Compare and contrast the issues, challenges and stakeholders you identified as well as the strategies and actions you have developed for Coca-Cola in Part A, to those adopted by CCPBM. (Explain the rationale behind similarities and differences)

There is no right or wrong answer for these questions. The purpose of this question is to stimulate debate among students on:
1. Actions taken by the company, their advantages and disadvantages as well as areas for improvement
2. Conflict sensitive options available to the company as well as their advantages, disadvantages and feasibility.
3. Consider opportunities and challenges for implementation in terms of: scale and time

It is important that students consider and review the options available (but maybe not considered by the company regarding the points below:
• Conflict analysis
• Stakeholder engagement
• Community support (like relationship with Pact)

In discussing these points it is worth examining what they believe the rationale behind Coca-Cola’s choice; and what is the rationale behind choosing alternative options and variants.

Q2: With regards to CCPBM three future challenges (assessments, expansion, and rumours): what strategies would you recommend adopting?

Assessments
• It is important that the company understands the role wholesaler and distributors play in their context, in terms of contribution to human rights abuses, community relations, social inclusivity, good business practice and management (including the environment).
• Company ethics, capabilities and systems should be assessed too.
• For those business operating in areas of violent conflict, it is also important for the CCPBM to
explore how the that particular business safeguards the health and safety of its staff, what crisis and risk management plans are in place in case of an outburst of violence.

- Assessments should have a capacity building and an organisational learning focus (for CCPBM and its partners).
- Plans for capacity building and organisational development could be broadly discussed while the assessment is discussed and prepared.

Expansion

- A conflict sensitive lens is necessary in planning expansion, especially in those areas that have experienced communal violence. In addition to the strategies described in question two, the following could also be considered: engaging stakeholders (informal leaders) in feedback processes, cohesion programmes supported by the company, effective and constructive information sharing, contributing to media capacity development

Addressing the rumour

- Publishing list of directors and CCPBM shareholders on website and newspaper
- Encourage news items that address the rumours

Additional Questions:

Shared Value:

In which way could Coca Cola try and create shared value (value for the company and the stakeholders)? What about adding more healthy options to their product line? Would it be possible to address some health issues in the country for example through fortified drinks? Are there any traditional herbal products that could be used for the production of healthy drinks and to create revenue for small farmers? Are there ways to include micro-entrepreneurs into the value chain? What about local sourcing of raw materials instead of importing?

Complaint Mechanism:

Which would be the means to encourage stakeholders to use the complaint mechanism? Are there other ways of communication to reach those who are not familiar or afraid to use the ones provided? Could trust be built by publishing complaints and the actions taken in response and in which form should this publication happen? Could the company work with NGOs to encourage feedback? What are the benefits to the company in lowering the barriers of communication?
References

2 For example the HRCA by The Danish Institute for Human Rights http://www.humanrightsbusiness.org/compliance+assessment
4 Rights based approaches and Humanitarian Interventions in Conflict Situations. A Learning and Discussion Document, Produced by the UK InterAgency Group on Rights Supported by ActionAid & CARE International, March 2009
5 Survey conducted by an employment agency in Yangon, Myanmar
Total E&P Myanmar: Human rights and conflict sensitivity in an unstable business environment

PEACENEXUS CASE STUDY

FRANCESCA CERLETTI
This case study is based on actual company policies and initiatives, however, the individuals, their characterisation, attributed actions and situational descriptions are imagined.

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Case Study: Total E&P Myanmar

The controversy

In Yangon, on a day late in the dry season of 2005, a printed email sent from Paris was on the table of George Villeneuve, General Manager of Total E&P Myanmar (TEPM).

To: George Villeneuve  
From: Directorate E&P  
Subject: Norwegian Pension Fund

George,

FYI, the Norwegian Ministry of Finance has published the recommendations of the Ethics Council.

“Recommendation concerning whether investments in Total, due to the company's operations in Burma, are contrary to the Petroleum Fund's ethical guidelines”

Let’s talk,

Rgds,

Villeneuve printed the document the Paris office had referred to. It was a copy of a letter addressed to the Ministry of Finance from the Ethics Council of the Norwegian Pension Fund, which included recommendations on whether the fund’s investments in Total were contrary to its ethical guidelines, due to Total’s presence in Myanmar and alleged complicity in human rights abuses. A negative result in these recommendations could have serious consequences, including both immediate financial repercussions and long-term damage to Total’s reputation.

Reading the recommendations, Villeneuve in fact let out a sigh of relief. The letter concluded:

“Having assessed the content of the accusations against Total SA in light of paragraph 4.4 in the ethical guidelines, the Petroleum Fund’s Advisory Council on Ethics will not recommend the company’s exclusion from the Petroleum Fund on grounds of the company’s operations in Burma.”

Sliding back into his chair, George Villeneuve knew that while the conclusions by the Council brought relief, it did not mean his work was over when it came to managing the challenges of doing business in Myanmar. While the country presented opportunities, this was just the latest step in navigating its complex risks. With the underlying problems unresolved, Total would still have many more such obstacles to overcome.
The History of Total’s Myanmar Operations

There had been allegations of complicity in human rights abuses almost from the start of the Yadana Project in 1995. Yadana is the gas-field off the coast of Myanmar in the Andaman Sea. The French corporation, Total S.A. (Total), through its subsidiary TEPM, is the operator company of the joint venture project that produces and transports natural gas from there to Thailand and Myanmar.

The Yadana Project was one of the ventures that resulted from Total’s 1990 exploration drive led by the then executive management. In 1992 the French company had signed a Memorandum of Understanding with the Myanmar Ministry of Energy which was then formalised in a ‘Production Sharing Contract’ in July of the same year with the state-owned company Myanmar Oil and Gas Enterprise (MOGE). The Yadana joint venture was formed with four investors: Total (31.2%), Unical (28.3%), PTT-EP (25.5%) and MOGE (15%). The first phase of the project, the construction of the pipeline, began in 1995 and lasted three years.

Reports published by advocacy groups like Karen Human Rights Group and Earth Rights International (ERI) began appearing in 1996 and 1997, soon after this project commenced. These reports accused Total of relying on forced labour, causing forced displacement, contracting the army for its security, and giving the military regime ruling Myanmar the excuse to maintain a strong military presence in the area. Local (mainly based in Chiang Mai, Thailand) and international campaigners had been advocating action against the junta of Burmese military since the late 1980s, after the military had crushed a student uprising in 1988. One of the strategies pursued by the campaigners was to put pressure on foreign companies operating in Myanmar to divest.

Soon ERI and national level organisations in a number of countries – like the UK Burma Campaign in Great Britain and InfoBirmanie in France – spearheaded a vocal campaign in Western Europe and the Anglophone world against Total. Aung San Suu Kyi, leader of the democratic opposition to the Junta summarised the campaigner’s argument in claiming: “As long as there is no accountable government in Burma, I do not think the money generated by the gas pipeline can be said to be invested for the country as a whole.” Advocacy organisations had picketed Total’s European offices, smearing the pavements with red paint, and frazzled shareholders attended the AGM with questions about the company’s behaviour. The escalation of the campaigns had contributed to a parliamentary investigation in France in 1999.

While the enquiry was being held, Total was going through one of its most significant changes in its history. In 1999, the French company took over the Belgian firm Fina, and a year later merged with the French state-owned Elf Aquitaine. On completing this consolidation early in the new Millennium, Total (TotalFinaElf as it was known then) became one of the top five privately owned oil and gas companies in the world.

Activists continued their campaign during this time. Encouraged by the court case in the USA against Total’s American partner Unocal, legal proceedings against the French conglomerate were initiated in 2002, first in Nanterre, and then in Brussels. The Belgian courts dismissed the claim. The Unocal and the Nanterre legal proceedings ended with a settlement.

As the proceedings were unfolding in 2002, Premier Oil, a UK based oil and gas company, announced its withdrawal from the Yadana’s neighbouring project, Yetagun. The Yetagun gas field South-East of Yadana ran an identical and parallel overland pipeline to the one operated by the French Company. The British company had sold its interests to the Malay state oil and gas company Petronas.
Total, however, had decided to stay. The following year, in 2003, EarthRights International published another report that threatened Total’s operations:

As part of our efforts to document ongoing forced labor throughout Burma, in October 2001 EarthRights International released *More of the Same: Forced Labor Continues in Burma*. This report confirms that the Burmese military’s use of forced labor has not stopped, and a supplement to the report specifically documents that villagers continue to be conscripted by pipeline security forces. The villagers themselves are aware that they are benefiting the pipelines:

‘In 2001, I had to go porter about ten times. Most of the portering we did was for LIB 282 and LIB 273. They are patrolling for pipeline security, and we had to carry their food and supplies whenever they needed us....The foreigners who work for the gas pipeline came to my village very often, and they also know that we had to porter for LIB 273 and LIB 282 who took security for them. They did not say anything about portering [for their] security’s soldiers. We did not get payment for being porters for these soldiers.’

*As Total Denial Continues* documents, LIB 273 and LIB 282 are known as “Total battalions” due to their role in providing pipeline security.


**Total’s response**

George Villeneuve was well aware that the situation had been (and still was) extremely delicate. In Myanmar, his predecessors, aware of the sensitivities of the context, had adopted a Code of Conduct for the subsidiary five years before the company as a whole introduced its own in 2000. A Socio-Economic Programme (SEP) had been set up offering support to 25 villages within the pipeline corridor. When in 1995 abuses came to the attention of the French company, the then management had taken a number of measures.

1. Made it known at all appropriate levels that recourse to forced labor would not be tolerated and that civilians working for the army had to consent and be paid.
2. MGTC, which was building the pipeline, provided victims of forced labor whose cases were reported by the villagers with support in kind or in cash, calculated as if the people concerned had been employed, not conscripted. The same process was applied when equipment such as boats or buffalo carts were requisitioned. These humanitarian gestures were not compensation, since neither Total nor MGTC was even indirectly the cause or beneficiary of the forced labor, but were intended to send a strong message that forced labor was unacceptable and to oblige the army to change the way it operated.
3. Total asked the communication officers and physicians in its Socio-Economic Program to closely monitor relations between the villagers and the army to prevent abuses, to intervene immediately if any occurred and to ensure that the aid provided was received by the intended beneficiaries.
4. Finally, to prevent the heightened military presence from causing food shortages or driving prices up, Total deployed a food aid program that donated large amounts of rice, fish and other staples purchased outside the area.

Source: Total in Myanmar: A Sustained Commitment (2010)
At group level, soon after the merger the executive management team took action to strengthen the way of working and reputation of the company by establishing the company Ethics Committee (2000). The same year, Total joined a number of international initiatives on responsible business, such as the UN Global Compact. With regards to Myanmar, HQ had always denied the allegations.

**Total denies Burma allegations**

Tuesday, 23 May, 2000, 17:44 GMT 18:44 UK

The French oil company, Total, has denied charges of using slave labour in the construction of gas pipelines in Burma.

A Washington-based human rights and environmental group, EarthRights International, said on Monday that Total, and the American and British oil companies, Unocal and Premier, were profiting from slave labour and other human rights violations in Burma in building the gas pipelines.

A spokesman Michel Delaborde for Total in Paris said the company had known about the existence of slave labour before getting involved in the construction project, but had never used forced labourers itself.

He said Total worked to its own rules.

*From the newsroom of the BBC World Service*

In 2002, two years after the adoption of the Code of Conduct at group level, ethics training was rolled out throughout the company and assessments of company behaviour vis à vis its Ethic Charter were commissioned to British firm Good Corporation, the same year Total had joined the EITI initiative.

Still, the operations in Myanmar were regarded as a special case: they presented a unique challenge in terms of communicating with the public. Puzzled by the reactions sparked thus far, and convinced that the company was moving in the right direction with the Code of Conduct and SEP, in 2002 Total’s Ethics Committee tried adding a new component to the company’s strategy. Total began engaging with a USA non-profit organisation, CDA, to see how the company could improve its community relations.

By the time of the assessment by the Ethics Council of the Norwegian Pension Fund, CDA had made several visits to a number of subsidiaries, and reports outlining observations made by the visiting CDA team and options for improvements available to the company were publicly available on the internet. TEPM’s Code of Conduct had been modified in 2005 as a result of the engagement with CDA order to better reflect circumstances and expectations of the company from its stakeholders.

It was in this context, a few months before the autumn of 2005, that George Villeneuve took the post of General Manager. When starting in this role, he had been reminded again of company policy: “Protecting villagers and prohibiting the use of forced labor, which is still a real problem in Myanmar, has been Total's constant concern since 1995”. [...] Conscription of local villagers by the government and the Army to work without pay to build public infrastructure or to perform other tasks [was] a long-established practice in Myanmar

Villeneuve knew that such practices were common across the country. Furthermore, the army was expected to be able to ‘pay for itself’, and to be self-sufficient like this it had to draw on local
resources to meet its needs. What needed to change, Villeneuve felt, went well beyond what was happening in the pipeline area: every time there was a rotation in army personnel, there would be trouble. And in any case, the company had no control over the army. As long as TEPM was operating in Myanmar, George felt that in a way the company was a guest of the government – one of the many governments with poor civil and political rights records ruling countries where oil and gas reserves are found. The company was dependant on the regime’s authority to operate.

Villeneuve considered incidents of abuse extremely regrettable and despicable. Furthermore, company staff did not take allegation from advocacy groups lightly: they had a deeply demoralising effect. Widely publicised and distributed in general, the reports from the campaigners were also read by company staff, both in Paris and in Myanmar. Locally, staff had a hard time understanding why these organisations, vehement in their attacks, did what they did: was it an attempt to discredit Myanmar, or the company, or both? Total had brought badly needed jobs. Some staff had the opportunity to grow professionally within Total and had been sent to other subsidiaries to learn and develop their skills. It was difficult for those who benefitted by working for TEPM to reconcile with the bitter allegations made by campaigners.

Currently, when an incident came to the attention of the company, an investigation would follow suit. If allegations were corroborated, problematic behaviour would be raised with the military commander, through informal conversations with the representative located at Pipeline Centre (PLC) in Kanbauk of MOGE. The company would ask to remedy the situation and if necessary offer compensation to the person or people affected. Issues would be raised by the General Manager in writing to the Ministry of Energy.

However, Villeneuve knew that despite being alert, often TEPM came to know about incidents in the area only later, and in some cases through the reports of advocacy groups, which seemed to be the first to know about many issues. He was also aware of comments made by villagers reported by CDA in 2005: “The military knows they cannot force us to do work directly, so they ask us via the Head of Village in the assumption that Total will step in to do the work.”

Cognizant of these complex challenges, and spurred on by the pension fund’s scrutiny, the General Manager concluded that a review of the situation was necessary. Paris was also waiting for his opinion, though it would have to wait for a few days.

**Briefing Trade Union Representatives**

A buzz reminded the General Manager of his next meeting. A group of trade union representatives from headquarters in Paris were here to see the situation for themselves. Hosting visitors at PLC had become more regular, and partly a result of the recommendations made by Bernard Kouchener, founder of *Medecins sans Frontieres*, when he was invited by Total in 2003 to report on the conditions in the area. George Villeneuve recalled a previous conversation with one of the Western dignitaries who had visited the pipeline corridor.

“From what you read in the newspapers, I expected to see barbed wire and army personnel at every corner. If it were not for the rubbish lying around it could seem one of those holiday destinations with that wonderful flowery aroma that characterises the tropics. Roads are well maintained; villagers are friendly and engage with foreigners: I was really surprised. The actual Pipeline Centre in Kanbauk is kind of attractive with an excellent canteen, a wooden terrace, a gym, and sparkling clean rooms. I only saw military cars near the school attended by the officer’s children: I guess it was pick up
time. Why were we issued different internal and external ID badges when moving in and out of company perimeters?"

“It is important we clearly identify ourselves for internal security, but also for the villagers, you know the pipeline is in a restricted area to foreigners. The MOGE representative is also informed about all visitors” the General Manager replied, adding: “You may have also noticed how work-overalls are specifically colour coded to make it easier to distinguish the company for which an individual works for, and to identify whether they are contractors or employees.”

George had felt that pointing out how different everything looked during the monsoon was unnecessary. The heaviness of the air full of humidity sucked energy away with each breath. Travelling to the Tanintharyi Division during that period was not a pleasant experience. The roads outside the 25 villages that were part of SEP in what was referred to pipeline corridor by company personnel could turn in real mud-swamps and bridges collapsed. As a result some settlements were isolated for the entire season. Even flying was not a sure thing: Total’s flights connecting Yangon to Kanbauk were seriously bumpy and often delayed.

The door opened and the three trade union representatives came into the office. George Villeneuve took his notes (Exhibit A) and started briefing.

**Thinking about options – The General Manager prepares for a solution**

After accompanying the trade union representatives to Kanbauk, four days later, George Villeneuve was back at his desk in Yangon. It was time to discuss with the E&P Directorate at HQ potential options. George knew that following the Council of Ethics statements, Paris would be expecting a concrete workable proposal. As General Manager of the subsidiary he was given much independence. He knew he was expected to propose solutions that could be implemented soon, at least in part, and that were sustainable beyond his scheduled three years in Myanmar. Villeneuve knew that HQ would absolutely not want to see Total associated with human rights abuses.

The General Manager reflected on the information and resources available to him. He knew the cooperation with CDA was held in high regard by some at HQ: it had engaged key people and sparked the motivation to improve the company’s social responsibility approach. He had read their reports and liked their style. Parts of the visit reports, laid out on his desk, had been highlighted, pointing to both positive impact and limitations that would need to be considered.

More than once, we heard people express this by saying, “[Total] has allowed us to sleep soundly.” When we asked communities to discuss, in general, the advantages and disadvantages of having the pipeline in their region, they often mentioned as advantages jobs, income, trade, roads, clinics, and improved schools. Almost everyone immediately indicated that, even more important than these economic and social benefits, was the advantage of having recourse when the army requested labor. They said, “[Total] has the voice to be heard in high places. This keeps us from being forced to work for the army.”

There were also several other causes for optimism. The Village Act and the Town Act had been repealed, thus making forced labour illegal. Premier Oil (before its withdrawal) and Unocal had supported human rights training for civil servants and had worked with International NGOs in other parts of the country. Unfortunately, while in other countries companies could also leverage government through the Extractive Industries Transparency Initiative (EITI), the Myanmar Government had not joined the initiative.

The special fund that Total had agreed to establish as a result of the settlement of the Nanterre proceedings was going to become operational within the year. Total had in fact agreed to establish a €5.2 million solidarity fund to compensate the plaintiffs and any other individual who could demonstrate to have had experienced abuses in the pipeline corridor.

From a group perspective, although not part of the initial negotiations, the French company had subscribed to the Voluntary Principles on Security and Human Rights in 2004. A guide on the Voluntary Principles and on human rights had been distributed the same year and training was being organised. The annual appraisals had been modified in 2005 to include a question on the Company Code of Conduct.

With these steps already taken, and a variable record of success, it was clear to Villeneuve that he needed to analyse the situation carefully before giving Paris a concrete proposal.

**Defining a strategy going forward**

The review of the situation took place over the following months. The General Manager had several important interests to balance. He was keen to find a way for the company to be able to both respond to allegations of, and eventually prevent, human rights abuses effectively, fairly and sustainably. Yet it was also crucial to avoid taking on too many responsibilities, and to keep a low profile, which would avoid any complications with the military government for exposing malpractice.

By 2007 a new system was in place. The immediate response taken by the company was to review the steps currently followed to address allegations of human rights abuses and formalise the process in place into standard company procedure.

This process aimed to try and resolve problems at the lowest level possible, without having to escalate issues up the hierarchy of command. As previously, any incident, real or presumed, which...
came to the attention of the company, would immediately be followed by an investigation. If the investigation established that there had been a violation, the company and the local army commander would engage in conversations to address the issue. Such ‘conversations’ would always be held through the MOGE representative present at PLC. If the problem recurred or was not solved at that level, General Managers would document the event on a letter to Ministry of Energy officials, requesting appropriate actions to be taken.

Two aspects were essential to the efficacy of this approach. Firstly, addressing the issue locally avoided ‘disempowering’ or undermining the authority of local commanders by directly appealing to higher command levels. Secondly, communication with the local army commanders was, as far as possible, indirect. It would in fact be the external security consultant who would approach the MOGE representative to report the findings of investigation and request action. The MOGE representative would then directly engage with the local commander. If issues were not resolved locally, then the General Manager in Yangon would write to the Ministry of Energy, not to the military, to report the issue.

However, while this formalisation of the process into company procedures would ensure consistency and transparency in Total’s approach, it would clearly not be sufficient in itself. TEPM adopted over the coming three to four years a number of initiatives which would complement the response to alleged abuses process.

First, as part of a wider agreement between Total and UNITAR, the French company supported training for civil servants on International Standards and Conventions. The courses were jointly organised by UNITAR and the Myanmar Ministry of Foreign Affairs on “human rights, humanitarian, refugee, maritime and environmental law, the United Nations system and multilateral relations” viii

Second, as part of the reorganisation of SEP which occurred after the 2007 assessment of the programme, and in order to try and anticipate potential issues, the company increased the number of communications channels with the villagers. The role of Village Communications Committees was revitalised. Villagers were invited to provide feedback or alert the company on potential issues through letter boxes outside the PLC and the SEP office in Kanbauk. Anonymous notes would be considered as well. Issues could be raised directly with the village committee members or any of the TEPM staff. The company would take action even on the smallest incidents like a rumour of chicken being stolen.

Finally, in 2009-2010 TEPM piloted training sessions on relevant international human rights standards and consensus building with the Danish Institute of Human Rights (DIHR) and, later, with the International Labour Organisation (ILO). These sessions involved TEPM employees, MOGE, as well as pipeline area local authorities, villagers and local entrepreneurs. ix
Exhibits

Exhibit 1: Briefing outline for visitors

The Union of Myanmar, or Burma as it was known then, became independent from the British in 1948. “Myanmar is home to 135 different ethnic groups, the largest of which is the Burman, accounting for around 55% of the population. Other groups, such as the Shan, Kachin, Mon and Karen, have strong cultural identities and are also present in large numbers.”

The country has been governed by a succession of military regimes since 1962. A new generation of military rulers came to power in 1988 following student demonstrations against the lack of civil liberties and poor management of the country’s economy. The protests were repressed by the new government, which then declared that it would manage the transition to democracy. Elections were held in 1990, but when ruling authorities lost to the National League for Democracy (NLD), a coalition led by Aung San Suu Kyi, they refused to transfer power to the winners.

“Despite the pledges made, proponents of democracy were tracked down and imprisoned. No genuine political dialogue was established between the military junta and the party leaders, whose activities were severely restricted.”

“Aung San Suu Kyi [...] has been under house arrest since October 2003. Total voiced its concern in the wake of these events, which were a serious setback on the road to national reconciliation. In 2004, it appeared that national reconciliation was on the agenda, supported by the possible introduction of a new constitution, in line with the roadmap published by former Prime Minister Khin Nyunt.”

However, Prime Minister Khin Nyunt was placed under arrest in October 2004 and Senior General Than Shwe has headed the country since then. “Implementation of the roadmap continued, but at a much slower pace”.

Furthermore, “The social pact between the peoples of Myanmar is fragile, and very strong splintering forces have fuelled uprisings by a number of minorities – some of which, like the Karen, have been fighting for more than 50 years in pursuit of self-determination.”

The Myanmar Army, which perceives itself as the guarantor of national unity, has stepped up its actions against rebel minorities since 1988. Human rights activists have denounced the repression, which they allege has involved forced relocation, conscription, including of children, rape, torture, summary executions and the razing of villages.

Forced Labour

Recruitment without pay of local villagers is a “practice [that] dates back to British colonial times and was codified in the Town Act of 1907 and the Village Act of 1908.” It is an established practice, “as this is also the case in other underdeveloped countries that lack an established tax base.”

In 1998, “the ILO created a Commission of Inquiry to examine Myanmar’s observance of the Forced Labor Convention, 1930. [...] The report published served as a foundation for critical dialogue between the ILO and the Myanmar government [which led to the] repeal in 1999 of the Village Act and the Town Act, thereby making forced labor illegal in Myanmar.” Actual implementation is hard, and would require concerted and extensive action within Myanmar.
Exhibit 2: Total in Myanmar – the background to TEPM

Total signed a production sharing contract with MOGE in 1992 for the extraction, production and transport of gas from the Yadana gas field. There are four investors in this project: Total, (31.2%); a subsidiary of Unocal, (28.3%); Petroleum Authority of Thailand-Exploration & Production (PTT-EP, 25.5%); and MOGE (15%). Total through its subsidiary TEPM is the operator company of this project.

The contract is a 30 years agreement from the moment the gas was being extracted. Contractually Myanmar is entitled up to 20% of the gas produced, although up to now (2006), the country is taking about half that. The rest is exported to Thailand: specifically to the Ratchaburi and Wang Noir power plants near Bangkok. Gas from this pipeline covers 15% to 20% of Thai demand. Gas for Myanmar is transported via a pipeline owned by MOGE to Yangon.

The construction phase of the ended in 1998 and was a significant engineering feat, which the company is very proud of.

Figure 1 - Yadana Project early time line

The pipeline consists of a subsea part (347km) and an onshore one (63km). The onshore part crosses the narrowest part of the country in that area. It was built by the Maottama Gas Transportation Company, a joint venture between MOGE, PTT-EP, Unocal and another of Total’s subsidiaries.

Parallel to the Yadana onshore pipeline is another pipeline that transports gas from the Yetagun gas-field, South-East of Yadana. This was built by Premier Oil and is now operated by the Malay company Petronas, after the withdrawal of the UK company from Myanmar in 2002.
The region

In the past, the region had been disputed between the government and Karen force. During the late 1980s, a few years before Total signed the contract with MOGE, the military had been able to claim the land from Karen control and two battalions had been stationed there to maintain control and security over the area. The area had been declassified from black (an area where fighting occurs) to brown (an area under government control, but still contested by armed groups). Being a brown area travel to and from there is prohibited unless with special permission.

The inhabitants of the region are from different ethnic groups. Mon inhabit coastal villages around Daminseik. The centre is populated by Karen (who are mainly Christian). A subgroup of the Bamar (Buddhists) occupies the rest. Kanbauk is the main village there, located close to the PLC. In the village a small Muslim community can be found. There is also a Hindu temple. Relationships between the groups in the corridor seem cordial and stable.

Economic activities mainly centre on fishing, rice cultivation and multi-crop subsistence farming (vegetables, animal husbandry, palm oil, cashew nuts and rubber trees). The main issue for villages is access to markets. The poor condition of infrastructure and transport hinders trade.

Security measures

Total contracts an external company to provide security personnel. Two external consultants are also hired who supervise the situation and review procedures as necessary. All personnel are unarmed. Within the perimeter of operations, security measures reflected “typical surveillance and monitoring precautions [which] include physical protection such as fences and guards at entry
points, security teams, movement and access (identification system/badges) regulations, and dedicated security communication and alert resources.\textsuperscript{xxi}

There was only one violent incident against company operations: that was during the construction period. Following an attack on a vehicle in 1995 five people died and 11 were injured. The attack was presumed to be by the hand of Karen militia. After the attack, security measures were strengthened including “security teams, very strict access and movement rules, protective enclosures around facilities, field work scheduled to avoid geographic scattering of personnel, and permanent radio links between field teams and the security control center. Security measures have always been purely passive; security personnel are not armed.”\textsuperscript{xxii} Communications with the Army are made through the site security officers and always via the local representatives of MOGE.

\textit{The Socio-Economic Programme}

TEPM started its Socio-Economic Programme (SEP) in 1995. It initially included only 13 villages, in 2001 ten more were added and another two in 2005. The programme is managed directly by a dedicated team, responsible to the General Manager, within the company located in the village of Kanbauk. Communications between villagers and the company occur via elected Village Communication Committees.

The programme has a number of focuses. It includes the provision and maintenance of infrastructure (for example roads and bridges). In terms of livelihood there are programmes on poultry farming, perennial and horticultural corps as well as animal husbandry. A microfinance initiative was set up in 1997 to facilitate credit to local farmers and entrepreneurs. The company also provides healthcare assistance by sponsoring local clinics and doctors. Last but not least, SEP supports local education by maintaining/building schools in the villages and offering educational material. In 2004 a scholarship programme was initiated to help students.

\textbf{Figure 3 - The pipeline corridor and the 25 villages included in SEP}
Endnotes


ii Recommendation concerning whether investments in Total, due to the company’s operations in Burma, are contrary to the Petroleum Fund’s ethical guidelines”

iii The Irawaddy, February 1998 http://www2.irrawaddy.org/article.php?art_id=7578

iv http://news.bbc.co.uk/2/hi/asia-pacific/761044.stm

v Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris

vi Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris


x Total (2010) Total in Myanmar: A Sustained Commitment. Total, Paris

xi Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris

xii Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris

xiii Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris

xiv Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris

xv Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris

xvi Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris

xvii Total (2009) Total in Myanmar a Sustained Commitment. Total, Paris

xviii Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris

xix Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris

xx Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris

xxi Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris

xxii Total (2010) Total in Myanmar a Sustained Commitment. Total, Paris
Total E&P Myanmar: Human rights and conflict sensitivity in an unstable business environment

PEACENEXUS Teaching Notes and References

FRANCESCA CERLETTI

NOVEMBER 2014
Teaching Notes

The following questions and answers are only a selection of what teachers could discuss with students and of the options available. They should serve as a rough guidance and additional solutions be considered as equally suitable. As this field is quickly developing, alternative ideas of best practice may be found from other countries or companies that you may want to incorporate into the discussion.

Learning objectives

- To learn how to approach a thorny issue such as the controversy on alleged human rights abuses: how to consider the stakeholders involved, the resources available, and how to balance countervailing pressures
- To learn how to implement solutions aiming at behavioural change

Overview of the case study

The case study outlines the solutions identified by the company in order to address human rights abuses. It highlights the following key points:

- The overall approach is not the result of a planned strategy, more an incremental path to change, with small steps taken at different times by different people. This highlights the degree to which the company had to learn and find its own way. Of great interest the formalisation of a systematic approach that seems to have work well for the company, government and army.
- Companies operating in complex environments often find themselves having to balance competing needs. In this case:
  - Being discreet towards a government that they depend on for their licence, and pressures from stakeholders who demand action and transparency from the company.
  - Being in a context which the company does not have control over (especially in terms of political events), and being themselves involved in the different social and political dynamics
- The importance of working in partnership
- Change is a multi-dimensional process, requiring multiple interventions.

Audience

University students reading CSR organisational change; (executive) MBA students, managers working in complex environments or about to do so

Further Background to Total’s Operations in Myanmar

The controversy regarding alleged complicity of Total/TEPM in human rights sat at the centre of a number of pressures and criticism. Some of these were external others internal to the company.

Violence/conflict

The company came into a country characterised by a highly politicised and militarised situation along distinct ‘us’ and ‘them’ lines. Furthermore, these conflicts were increasingly becoming at the centre of a vociferous campaign against the regime. The increasing international pressure for sanctions led by émigrés and advocacy groups fuelled paranoid and xenophobic tendencies within members of the regime. At the same time, the prolonged conflict promoted a lack of trust towards institutions and ‘the other’ among the different groups of the Myanmar population.
The region where the pipeline was going to be built had been disputed between the government and Karen forces. The inhabitants are of mixed ethnic origin and profess different religions (Buddhists and Christians). As mentioned earlier, the nature of the conflict affected the local population with the ‘usual’ array of abuses and displacement. At the time Total signed the contract with the government in 1992, the military had been able to claim the land from Karen control just a few years earlier. To maintain control and security over the area, the government stationed two battalions locally. However, some groups affected by the conflict perceived that Total was the reason for the extra security.

Initially considered secure, the situation in the area changed in 1995, following an attack on a vehicle in which five people died and eleven were injured. The company increased the level of its security measures (Total 2010a).

However, the attack, presumed to be by the hand of Karen militia, was not the only ‘consequence’ of the conflict. The presence of military forces put a strain on the local population as troops were (and still are) required to be entirely self-reliant. This resulted in human rights abuses and forced labour.

Strong allegations were consequently made against Total by advocacy groups. Most of the criticisms relate to alleged complicity in the abuses committed by the military in the area. At the base of these criticisms is the argument that as the army is there to protect the area and the pipeline (and therefore company interests), the company is responsible, albeit indirectly, for the abuses committed by the troops. With specific reference to the construction stage, advocacy groups stated and documented that the army had forcefully relocated villages to clear the area for the pipeline, had used forced labour while constructing the facilities there and committed an array of other serious abuses on the population including rape and killing (ERI 2003; Karen Human Rights Group 1997).

Total refutes the argument that the military are there for the company’s protection, and denies the allegations of forced labour and human rights abuse. The company conceded that in the early stages of the project some incidents of forced labour may have escaped its attention (forced labour became illegal in Myanmar only in 1999). Company managers have stated that they did attempt to rectify known episodes of forced labour, for example by paying those involved (Assemblée Nationale 1999). Furthermore, Total states that it never relied on forced labour (nor did its contractors), and that there never was a contractual agreement with the army. The company also affirms that most of the instances of abuse attributed to the presence of pipeline are in reality perpetuated by military involved in the maintenance of a railway nearby (Total 2010a).

As the controversy escalated, the two Western partners of the Yadana project were brought to court: Unocal in 1996 - the company settled in 2005; Total in 2002 both in Belgium and France - both cases were dismissed in 2007. However in 2005 the French company and Sherpa, the French NGO representing the Myanmar/Burma nationals who filed the complaint, reached a settlement agreement. A €5.2 million solidarity fund was created, to compensate the plaintiffs and any other individual who could demonstrate to have had similar experiences in the pipeline area (known also as corridor). The fund is administered by a committee appointed in 2006. About €4 million have been granted to both individuals and to organisations connected to refugees from the area along the Myanmar/Burma-Thai border and in Thailand. Individuals had to prove that they were present in the pipeline corridor between 1995 and 1997 and had been subjected to forced labour by the military. According to Total “none claimed to have worked on the Yadana.” (Total 2010a:51)

Echoes of the conflicts are reflected in two other examples. Firstly, in the visit report CDA related of a rumour among villagers living in the pipeline area that Total, as a French organisation would hire only Christians. CDA was careful in counter-balancing the statement with: “However, most people with whom we spoke agreed that such rumours find little fertile ground and that [TEPM]’s hiring practices show no preference for Christians.” (CDA 2002:5) Secondly, the following year (2003) CDA
suggested to the company to be transparent to dispel any rumour that the Socio-Economic Programme is used by the government for political reasons (CDA 2003a).

Other issues raised by external stakeholders

Advocacy groups such as the Burma Campaign UK (BCUK 2005) and Earth Rights International (ERI) (ERI 2009c) did raise the issue that extractive industries do not favour local economic development. The groups alleged that TEPM operations did not benefit the development of Myanmar/Burma. Though, this point was never pursued much from an economic perspective, and not as constantly and persistently as those relating to human rights. TEPM has tried to address the situation in different ways: establishing hiring quotas, putting in place a nationalisation plan, offering training and support to contractors and staff, and supporting education locally.

Total has been criticized for generating income for the military regime in Myanmar. An ERI report (ERI 2009c) ‘follows the money’ and claims that, taking advantage of the double exchange system (by declaring revenues received in US Dollars, in Kyats at the official rate and keeping the rest), those in power accumulated substantial personal fortunes. Many people in Myanmar, as well as academics like Turnell (2010), speculate that income from the gas pipeline has been used by those in government, at the expense of education and health, on unproductive projects like fanciful archaeological projects, the construction of the new capital Na Pyi Daw, on vicious wars against minorities with conspicuous human rights abuses, and on the suppression of democratic forces as well as for their own personal enrichment. Such criticism are voiced also by all main advocacy groups which have been insisting on this point over the years alongside the allegations of human rights abused (see for example BCUK 2005, ERI 2002, ERI 2003, ERI 2009c, IB 2005, IB 2005).

A number of campaigning organisations reported cases of forced relocation in the 1990s (IB 2005, KHRG, Karen Human Rights Group 1997). Allegations were made that Total was complicit in these abuses. The French company denied such accusations claiming that they had occurred before the arrival of the company in the area (in 1991); in its statement Total affirmed that, on the contrary, it had contributed to resettlement (Total 2010a). As the area is one of restricted access because of the ‘conflict’, immigration has been minimal. On the contrary, the area is characterised by strong emigration to Thailand for job opportunities.

One person raised the issue of higher salaries. Bernard Kouchner, co-founder of Médecins Sans Frontières, who visited the pipeline area in 2003 and whose report was published by Total, pointed to the relatively high salaries of doctors employed as part of the Socio-Economic Programme (SEP) compared to local physicians (Kouchner 2003). Kouchner also made other observations for improving SEP including greater participation from villagers, greater external communication, expanding the reach of programme to other parts of the area and nationally. He also advocated for a stronger affirmation of Total’s position in relation to the political situation. While reaffirming its commitment to the Myanmar people shown through the national level programmes, to the last point made by Kouchner, Total responded confirming its policy of non-interference (Total 2010a).

CDA too throughout the years has remarked on SEP, the national initiatives and the relationship with local communities (CDA 2002, CDA 2003a, CDA 2003b, CDA 2005a, CDA 2008a, CDA 2011). The overall stance was based on constructive criticism.

Tensions within Total

Reputational issues: Total’s CEO Christophe De Margerie admits Total is a company that has experienced its fair share of negative media spotlight (De Margerie 2009). There were the legacies from Elf involvement in a number of scandals: in 1994 concerning political meddling in Africa (Assemblée Nationale 1999), political favours, mistresses, jewels and slush funds; and the one connected to the Oil for Food Programme (which broke out in 2007). At the end of the last millennia
there was the oil spillage off the coast of Brittany from the oil tanker Erika (1999). The same year a French Parliamentary enquiry on the role of oil companies (Elf and Total - the merger had not yet occurred) in international politics and socio-environmental impacts (Assemblée Nationale 1999) took place. During the enquiry, Total managers did acknowledge awareness of the human rights situation in Myanmar, but disputed their involvement in them. In 2001 the AZF fertiliser plant exploded near Toulouse. This was followed by the two separate legal proceedings for complicity in human rights abuses in 2002, and in 2008 there was the scandal for bribery in Italy.

Total in France has tended to tread a fine line. There is a vociferous section of the French population in fact who is greatly disillusioned with the company. Former French presidential candidate Ségolène Royal, who commented on morning TV that “(Ce sont des cyniques qui se moquent du peuple Français” (These people [Total people] are cynics, who mock the French people) (Royal 2012) is not a lonely voice. In 2009 Total’s popularity ratings in France had dropped by 11% on the previous three years (Fournier 2009, Royal 2012).

Total’s efforts in dealing with the media and public opinion often have been unfortunate. Kouchner’s visit to Myanmar, for example, was followed by loud criticisms in the French press calling it a whitewash. On other occasions, they have just been graceless. For example De Margerie has been cited to have said to a Newsweek reporter: “[w]e will talk more, even if people don’t like it because it is easier to go and say nasty things on Total when we don’t speak. Today, they are trying to tell us you have no right to speak. They can go to hell” (McNicoll 2009).

As a result of the difficult relationship with the media, a specific choice was made in Total to reduce contact with media to a minimum and restrict the number of those entitled to speak for the company, especially on Myanmar issues, to a few individuals.

**Organisational tensions:** The fact that the company adopted a code of conduct in Myanmar in 1995, five years prior to the one at group level, seems to suggest that Total/TEPM was becoming sensitive to these demands. By 2000, the adoption and implementation of a socially responsible approach was underway in Total and the process of change was building momentum. During a process of change, tensions may arise also within organisations. Echoes of these tensions can be seen from the following examples.

When the partnership with Total and CDA was beginning (2002), a lively debate was occurring within the company on whether corporate social responsibility (CSR) was part of ‘core business’ or not or even whether it was part of Total’s remit to ‘be socially responsible’ or not. Some individuals needed to be convinced about the value of paying attention of societal issues. The Human Resources department had initially been perplexed about the feasibility of hiring personnel from different backgrounds to the traditional professions of their field, such as geologists and engineers. Total could have been stronger in both its internal and external communication. It could have been more effective in communicating information to its own staff to enable them to dispel the noise and unease created by the media reports on the scandals and their presence in Myanmar.
Questions for students:

The questions and answers provided below should only serve as recommendations. There are more issues to be discussed and more options or potential solutions that could not be covered.

From the perspective of the General Manager:

Q1. Who are the key stakeholders that the General Manager needs to take into consideration in this scenario? What do the various stakeholders in this scenario want and/or need?

It is important, in any kind of negotiation or conflict analysis, to differentiate between the positions (what people say they want) and their underlying interests (what they are really aiming at). The following table helps to do that:

<table>
<thead>
<tr>
<th>Stakeholders</th>
<th>Positions</th>
<th>Interests</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government of Myanmar – the government is run by a military junta. However the two can be separated in terms of military objectives (army) and political (government) objectives. Although highly militarised, the civil service is not entirely run by former military personnel.</td>
<td>The government has outlawed forced labour, but no consistent and effective implementation of the law. Local authorities/civil servants keep a very low profile and do what they are told.</td>
<td>Exercise control of the area. Financial revenue from gas. Acquire foreign know-how and technology. Earning a salary and staying in what are considered safe positions (some will abuse their power).</td>
</tr>
<tr>
<td>Army – this is not a monolithic group. The high ranking personnel tend to be in a world of their own. Furthermore the army is expected to find ways to pay for its own living and lodging.</td>
<td>As a whole the army has created an image of itself as the saviour of the unity of the country and grand patriarchs of the people of Myanmar (and as such save face). Appears as a monolithic bloc. Low ranking military keep a low profile, and often joined because of a lack of other income options.</td>
<td>High ranking: consolidating power and financial position. Some abuse their position and power. Low ranking: need to make a living. Ensure control of area and armed group containment.</td>
</tr>
<tr>
<td>Karen armed groups</td>
<td>Represent the interests of the Karen people. Protect ethnic identity.</td>
<td>Autonomy vs. the centralised and militarised government.</td>
</tr>
<tr>
<td>Local communities – this is not a monolithic group. Overall the local communities tend to bear the brunt of the conflict. However, it is possible to differentiate different reactions to the presence of the company.</td>
<td>Do not openly criticise army/government although dissatisfaction is widespread regardless of ethnic identity. Coexists relatively well. There are groups who have benefited from the company and are supported. Some are staunch critics of the company, in particular from the establishment of the National Park on the East of the areas, which has resulted in the loss of livelihood (hunting, logging) for some. As the park is mainly located in Karen inhabited areas, these are mainly Karen people.</td>
<td>Survive both in terms of safety and in the economic sense. Do not want to be abused by army.</td>
</tr>
<tr>
<td>National civil society</td>
<td>Over all, the civil society does not follow the controversy. Those active politically either consider the</td>
<td>Survive/live quietly. Some regime change.</td>
</tr>
</tbody>
</table>
### Presence of the Company

The presence of the company is useful as it creates jobs, or as a supporter of the military.

| International advocacy groups | No matter if they are supporters of the pro-democracy movement, or of ethnic causes, they generally are critics of the company’s presence in Myanmar and are determined to push for divestment | Regime change |
| International Organisations (ILO) | Tries to promote the implementation of labour standards | Has an interest in an example of good practice that can be sold as an ILO success and be promoted to other areas. |
| TEPM Staff | Do not understand the controversy, feel criticised without reason and see themselves as pawns in a bigger political game. TEPM is probably one of the pest employers in the country | Work for Total, do a good job and take pride in it. |
| Total staff | Some believe the company is doing no wrong (it is the army who is responsible for the abuses) and it is not their business to deal with political issue Some believe that the company’s responsibilities are changing and it is important to share benefits with the local communities. With regard to Myanmar, not much is communicated and staff find this frustrating | Do a good job and get recognition for it. |
| HQ | The controversy needs to go away. Lack of understanding why positive efforts made by the company are not acknowledged Concerned about possible negative impacts of the controversy on investments in the company More often than not the company has tended to respond defensively | Being perceived as a responsible company. Continue doing business in Myanmar |
| Other companies (Petronas, PTT-EP, CNCP, Daewoo) | Keep a low profile. As Asian companies are usually backed by their governments, they are relatively impervious to criticism | Keep doing business and expand |
| Other companies (Unocal) | Denies allegations of human rights abuses. Involved in a legal suit | Keep doing business |
| TEPM Management | Is caught between a hard rock and a stone. Developing capacities to deal with the controversy. Needs support from HQ | Take control of the issues, as far as possible Focus on running the company Get recognition for what the company does Maintain good relations with government and army Gain the support of HQ |
Q2. What are the key issues to consider for Total in reviewing how it needs to address this situation?

Gain the support from HQ – Given the extensive implications of the controversy, it is critical that any action plan is fully backed up by HQ and that any actions taken are in line with global policies, its mission, etc.

Legal implications – the company has been involved in lawsuits. It denies direct involvement in the human rights abuses. Legislation is under discussion (especially in Anglophone countries) which requires (more) disclosure of company behaviour and accountability also for actions of business partners

Investors relations – part of the financial world is paying more attention to company behaviours in contexts like Myanmar. Total shares are held in the countries where advocacy campaigners are most vocal and use shareholder meetings or other forms of engagement to put pressure on the company or its investors

Human suffering – Local communities are suffering from past conflicts, neglect, abuse and fighting which has greatly impoverished the people. Benefits need to be shared out of moral reasons but also to provide a ‘peace-dividend’: these tangible benefits from peace can prevent frustration and conflict from flaring up again. On a personal level no one in the company wants to contribute to human suffering

Communications – managing the image of the company’s operations in Myanmar has been a challenging issue so far and often backlashed (for example related to the 2003 visit by Bernard Kouchner who examined the company’s practices. In 2004 an exposure visit organised for journalists resulted in substantial criticism of the company in the media. It is important for TEPM that its efforts are acknowledged. TEPM wants to be perceived as open, transparent and trustworthy by the local communities but also the international public.

Staff motivation - The controversy has also had a demoralising effect on company staff

Training/skills/knowledge – There is a need for capacity building at different levels. For TEPM staff it is about building skills in community relations and community development as well as contextualising the controversy (i.e. understanding what it is all about). For Total it is about how to deal with civil society. For the army, local authorities and civil servants it is about building knowledge of international standards and expectations

Company reputation – it is important for a company as exposed as Total to that the company is perceived as a responsible business not only to attract investors or staff but also to avoid consumer boycotts or being de-listed as a potential partner by customers, other businesses or governments tendering extraction contracts.

Maintaining good relationships with government/army – TEPM is dependent on government permission to operate.

Monitoring system – A rigorous process of monitoring and investigation is required to discourage abuses. The value and benefit of the process will need to be recognised by all stakeholders.

Abuses are a systemic issue – The problem is connected to:

- policies (army is required to be self-sufficient, lack of implementation of force labour ban)
- customs (offering labour to the army is a substitute for tax paying and as a way of gaining ‘merit’),
- personal interests (capital accumulation)
- lack of knowledge in the army (low formal education levels and lack of exposure to international expectations)
- ignorance among corporate staff (financial and production targets do not leave much space for human rights considerations)
- wrong incentives for staff (managers’ bonuses depend on the achievement of short-term financial profits, they have no incentive to invest in building good-will or communities’ well-being)

A localised solution will not resolve the issue as when army personnel rotate the abuses rise again.

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1 “You cannot say, I am a player in the industry and I only go where I’m told to go. In Burma, I am bringing gas to Thailand. Bangkok was the world’s most polluted city. They switched from oil fuel to gas. Bangkok is clean now. We are proud of being part of this. We will talk more, even if people don’t like it because it is easier to go and say nasty things on Total when we don’t speak. Today, they are trying to tell us you have no right to speak. They can go to hell. If you want to ask somebody, don’t ask Total. Ask the government of Thailand, which buys Burmese gas.”
Q4. What would you draw on (international standards, previous experiences, existing initiatives, people, organisations etc.) to develop your response?

The list below is not comprehensive and is bound to change with time.

<table>
<thead>
<tr>
<th>Initiatives</th>
<th>International standards and principles/guidelines</th>
<th>People</th>
<th>Organisations</th>
<th>Experiences</th>
</tr>
</thead>
<tbody>
<tr>
<td>EITI</td>
<td>At the time</td>
<td>John Ruggie</td>
<td>ILO</td>
<td>Although for Total it is the first time to be involved in such a controversy, other companies (for example, Coca-Cola in Colombia) have been.</td>
</tr>
<tr>
<td>UN Global Compact</td>
<td>UN Universal Declaration on Human Rights</td>
<td>Individuals who are respected by the military, advocacy groups, or local communities, who could act as brokers/influencer</td>
<td>UN family</td>
<td>Companies which were present in Myanmar.</td>
</tr>
<tr>
<td>Total Ethics Committee</td>
<td>Equator Principles</td>
<td>The CEO</td>
<td>Other companies in the extractive sector operating in Myanmar</td>
<td>National business people (and in some case associates of TEMP)</td>
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<tr>
<td>Total legal counsel</td>
<td>IFC Performance Standards</td>
<td>The Head of the Ethics Committee</td>
<td>Expert organisations, for example in human rights</td>
<td>Conflict assessments and other relevant documentation made by Non-Government Organisations</td>
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<tr>
<td>Private sector initiatives like the Caux Round Table</td>
<td>OECD Guidelines for Multinational Enterprises</td>
<td>Other subsidiary managers operating in complex environments</td>
<td>Civil society organisation</td>
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<td>International Alert’s guide on <em>Conflict Sensitive Business Practice</em></td>
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<td></td>
<td>Voluntary Principles on Security and Human Rights</td>
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<td>FPIC (Free Prior and Informed Consent)</td>
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<td>Ethical and human rights assessments (DIHR, Good Corporation)</td>
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<td>ILO models for freedom of association &amp; 169: Indigenous and Tribal Peoples Convention</td>
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<td></td>
<td><em>More recently</em></td>
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<td></td>
<td>Protect, Respect, Remedy framework</td>
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<td>IPIECA’s guide <em>Operating in Areas of Conflict</em></td>
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<td>FAO voluntary guidance for land tenure</td>
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<td>Special rapporteur guidance for land eviction, land acquisitions and leases</td>
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<td>ISO 26000</td>
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</table>
Q5. What measures would you take to address the issue to ensure a systematic response by the company? Please explain and mention what would be:

- Your goals in choosing these measures
- Your timescales
- The key driver(s) of success for you?

It is important that the answer includes strategies and actions that aim at sustainable change. The overall goal is in fact that behaviours change. This usually is achieved when more interventions are put in place that tackle the issue from different perspectives and at different levels, including policies, process, capabilities, rewards, commitment, and motivation.

Emphasis should also be given to organisational learning, institutionalisation of best practice, and crucially, to designing incentive and performance appraisal systems that value relation building and long-term thinking.

<table>
<thead>
<tr>
<th>Measures</th>
<th>Goals</th>
<th>Timeframe</th>
<th>Driver of success</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rigorous process &amp; clear policies</td>
<td>• Allow investigation of allegations</td>
<td>As soon as possible</td>
<td>• Documentable, replicable, and consistent process</td>
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<tr>
<td></td>
<td>• Identify appropriate remedies</td>
<td></td>
<td>• Credible process</td>
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<td></td>
<td>• Recognised by relevant parties</td>
<td></td>
<td>• Sensitive to stakeholders</td>
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<td></td>
<td>• Ensure some form of monitoring</td>
<td></td>
<td>• Ensures security and safety of those involved</td>
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<td></td>
<td></td>
<td></td>
<td>• Widely communicated</td>
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<td></td>
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<td></td>
<td>• Transparent but of low profile</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• Company trusted by local communities</td>
</tr>
<tr>
<td>Transparent Communication with different stakeholders</td>
<td>• Ensure stakeholders perceive the company to be responsible and serious when tackling human rights abused</td>
<td>Repeated over time</td>
<td>• Based on different channels and means of communication (e.g. involving village communication committees, informal leaders, post boxes, staff members/meetings)</td>
</tr>
<tr>
<td></td>
<td>• Ensure understanding of why it is company responsibility to prevent them</td>
<td></td>
<td>• Tailored to the different audiences involved (e.g. one-to-one meetings with army commander, team meetings for staff, company reports for wider public)</td>
</tr>
<tr>
<td></td>
<td>• Ensure all those concerned are knowledgeable about what to do</td>
<td></td>
<td>• Includes higher profile communication for broader public (advocacy groups, investors, etc.), while being sensitive to the army/government</td>
</tr>
<tr>
<td></td>
<td>• Ensure communities understand the process</td>
<td></td>
<td>• Captures first-hand experience, emphasising on how trustworthy and responsive the company is in addressing needs. It does not have to specifically capture an experience concerning human rights abuses, but just works to build the credibility of the company.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Message is reinforced by HQ/CEO to emphasise commitment of company</td>
</tr>
</tbody>
</table>
| Capacity building about international standards and expectations for local authorities, villagers, civil servants, military, company staff etc. | • Ensure staff understands context to controversy, and identifies what can be done  
• Ensure relevant people know how to deal with the issue appropriately (confidentiality, sensitivity etc.)  
• Ensure there is at least an awareness of international standards and expectations among wider stakeholders (local authorities, communities etc.) | Over a number of years | • Contextualised content and of relevance to specific audiences  
• Delivered by credible sources, both external and internal to the company (e.g. ILO, Head of the Ethics Committee)  
• Fosters understanding of why the controversy is relevant and there is scrutiny on company  
• Enables relevant parties to identify different ways of meeting their needs other than through abuse  
• Allows the development of ownership of the issue |
| Soft influencing a number of key individuals within government, civil service, business etc. | • Personal and behavioural change within key people and institutions | As and when there is an opportunity | • Ensure that the person engages sees the advantage of behavioural change  
• Contribute to existing initiatives that promote change |
| Alliance building | • Engage other companies in issue (it is a shared issue after all)  
• Stimulate similar messages and collective action | As appropriate | • Sharing of experiences and of best practice, e.g. regular meeting of among operations staff or general managers  
• Communicates the same message (human rights abuses should stop) |
| Handover Procedures | • Ensure continuity and learning | As appropriate | • Captures key learning, including tacit knowledge  
• Transfers ownership |
| M&E/Organisational learning | • Learn from experience and adjust as appropriate | Continuous and at regular intervals over time | • Low profile but effective  
• Ensures capturing of lessons learnt and diffusion within the company as appropriate  
• Institutionalisation of good and replicable practice |
Questions from the perspective of Managers at Group Level:

Q6. Oil and gas is extracted in areas characterised by complexity. What would your criteria for successful action with regards to avoiding allegations of human rights abuses be?

In a similar way to Q4, it is important that students emphasise a strategy that takes a systemic approach. This answer should cover the importance of transparency and the appropriate balance between high and low profile initiatives.

Assessing the environment pre investment

- Evaluation of potential impact of operations that relies on rigorous analysis of the context including human rights conflict dynamics
- Engage stakeholder in consultation and appropriate strategy development
- Evaluation of impacts that other companies have had on the conflict
- Who benefits most from the conflict? What are the drivers? Who are the actors?
- Is the conflict increasing or diminishing?
- Who can help to conduct a professional, holistic conflict analysis?

Strategies and actions

- Due diligence process is needed before operations start and is to be repeated over time
- Remedial actions need to become part of the core business strategy
- Actions should aim at behaviour change and at systemic interventions
- Process to address potential issues should be fully integrated in company, include a M&E mechanism
- Support existing initiatives that promote change

Communications

- Company must be perceived as responsible, fair, transparent and accountable
- Communications should be transparent and challenges acknowledged. It would be repeated over time.

Capacity building

- Build relevant capacities
- Work in partnership with other companies, organisations and institutions

Organisational learning

- Set up or feed into learning process that share learning within the organisation and allow for best practice to be developed and institutionalised.

Q7. What lessons would you draw from the Myanmar experience and how would you capitalise on them?

Working with army commanders to demand remedy and encourage different behaviours – Working with the people at the level where the issues begin is a very effective form of conflict management. The experience could be shared with others within the company and contextualized and applied to other contexts where appropriate.

Raising the profile of human rights at different levels, directly and indirectly – this approach allows creating an environment for change. It also allows the company to manage the profile of the interventions as needed.
Working with other companies – If an issue is shared, the most effective way is to address it collectively. When a message is transmitted from different sources it has a bigger impact. Protection of human rights is not a competitive issue, it is in the interest of all companies in a particular area/sector to ensure that abuses occur, as the reputations of all are jeopardised when such abuses are uncovered. Such an approach does not need to be high profile.

Systemic approach – although the initiatives where not designed as a programme, it is possible to capitalise on the learning made to develop a multi-level and multi-dimension approach in the future.

**Q8. What strategies would you take to ensure that both practices and monitoring company behaviour become part of the company culture?**

**Structures, systems and policies**

- Promote relevant policies
- Establish independent committees for internal investigation
- Allocate adequate resources
- Ensure staff is accountable, for example their appraisal includes a section on human rights

**Capacity building**

- Commission external and independent audits
- Staff training/capacity building
- Build in-house expert knowledge
- Develop internal networks to share experiences and communities of practice

**Motivation**

- Ensure senior management and key and informal leaders support the new practices
- Allow initiative at local level
- Enable staff to experiment with ideas/actions (no blame culture)
- Implement incentive and performance appraisal systems that value relation building and long-term thinking

**Communications**

- Repeated communications in different formats, channels and levels
- Clear and consistent reinforcements from senior management

**Q9. What strategies would you take to ensure stakeholders perceive your genuine intent in taking those actions?**

- Involve a number of stakeholders either as witness of the company commitment or as contributors towards addressing the issues
- Openness and transparent communications including challenged and failures.
- Proactive and not reactive or defensive communication
- Demonstrate accountability though coherent and responsive action
- Work in partnership with other organisations
References


ERI (2009a) Getting it Wrong: Flawed “Social Corporate Responsibility” and Misrepresentations Surrounding Total and Chevron Yadana’s Gas Pipeline in Military Ruled Burma (Myanmar) [online]


Fresco in Myanmar: Overcoming challenges to responsible business

PEACENEXUS CASE STORY

FRANCESCA CERLETTI

OCTOBER 2014
The purpose of this case story is to show how a start-up businesses operating in a challenging transitional economy can address difficulties through responsible and business savvy choices. Through specialist knowledge, investment in local workers, flexibility, and determination Mr. Cerati managed to create an inclusive farming business in Myanmar’s Shan State.

Introduction

Mr. Cerati, an Italian agronomist, had been working in Myanmar since the mid-2000s. He first came to the SE Asian country as an NGO worker based in Taunggyi to help local small-hold agricultural development. With a passion for good food, he soon realised that there was an opportunity to grow quality vegetables and improve yields at the same time. He proposed the idea to his employers as a possible partnership between NGOs and private sector. The NGO was not ready for a cross-sector partnership and Mr. Cerati decided to pursue the venture on his own.

Fresco started in 2007 aiming to supply ventures catering for the nascent tourist industry in Bagan and Inle Lake. A niche had developed for safe quality local products instead of the ones imported from Thailand and China, the safety of which was questionable given the lack of controls.

At the time, the military were ruling the country. During the early 1990 as part of an appeasement plan and a means to raise much needed foreign currency, the government had opened a few gems of historical and natural beauty to tourism. Bagan and Mandalay, in the prevalent Bamar Mandalay Division, and Inle Lake in eastern Myanmar’s Shan State, were part of these. Inle Lake became an oasis of stability, in one of the areas of Myanmar seeking independence and scarred by conflict, including human rights abuses and land grabbing mostly by the army and/or in favour of business ventures. In an effort to improve the stagnant economic situation and respond to the political uprising of 1988, the government had begun replacing the Burmese Way to Socialism with favouring ‘Economic Champions’ of their choosing. With privileged access to concessions and privatisation of state owned enterprises, a small number of powerful tycoons had emerged; some were known to be very unscrupulous.

The first things Fresco had needed were a farm and a market. The area near Taunggyi, the capital of Shan State, proved to be the most adequate in terms of climate, soil and vicinity to customers. Shan State is one of the areas characterised by ethnic conflict. A number of the ethnic groups in Myanmar have been fighting for self-determination since the late 1940s. Cease fires have been agreed with; some during the 1990s, some only in 2012. Taunggyi has been under government control for a few decades. The military have stationed a stronghold there and have been wary of losing the area to the armed groups: with the exception of the tourist areas, tight travel restrictions have been imposed until recently.

In starting, Fresco did not want to risk getting embroiled in land ownership which would end being disputed. Nor it wanted to grab the attention of some powerful businessman who could easily put him out of business.

Land acquisition, local challenges and growth

Securing land in a responsible way was a priority for Fresco. With the help of his local agronomist, who was independent from the government, a suitable plot had been identified near Taunggyi. Once the soil was tested and Mr. Cerati and the agronomist were satisfied, the legal procedures were put in motion, but these were not enough.

With the agronomist, Mr. Cerati devised a small community engagement process to investigate the history of the land. They met with local community elders and other community members, explained
their project and enquired about the history of the land and the prospective seller’s situation. The seller was also asked to provide proof that the land had been in his family for a few generations.

During this time, though Mr. Cerati noticed a few raised eyebrows at the thought that a foreigner was interested in growing vegetables in rural Shan State, his arrival was mainly seen as an opportunity. The agricultural sector had been plagued by unproductive large nationalised ventures, policies that had brought Myanmar to be a net importer of rice, from being the rice bowl of SE Asia and by subsistence farming characterised by poor know-how and reliance on chemicals. Taunggyi was no different, and desolation was widespread. The norm for farmers was to bet on a yearly crop trying to maximise yields, but inefficient practices and chemical overuse could result in low yields and deaths from food poisoning. If the climate or the market price did not meet expectations the family’s yearly income could vanish. Furthermore, because of the poor infrastructure, produce was not competitive in price in the urban areas, compared with imports from China and Thailand.

For potential customers, Mr. Cerati approached the small, independent hotels and restaurants, which were mostly managed or set up by foreigners and those not linked to the regime, following the opening to tourism. While building the business, he was keen to keep a low profile: the business opportunity provided by growing tourism could have attracted other entrepreneurs, connected to the regime, who could have put him out of business. Similar situations had been known to happen in the country.

On 15th August 2007, a few months after Fresco had set up, the daily routine was shaken by political events. Picking up the country’s fatigue, Buddhist monks hit the road. Mr. Cerati certainly had not foreseen what was later called the Saffron Revolution. Nor he could have predicted the natural disaster in May of the following year, Cyclone Nargis, that caused 138,366 victims. With the downturn in tourism that resulted, Fresco’s main market had vanished.

Mr. Cerati was adamant to continue doing business only with individuals who were not connected to the military. Fresco diversified its customer base and started supplying City Mart – a small but growing supermarket chain set up by a Myanmar woman of Chinese origins. However, the events still set Fresco back by almost two years. The business was constantly on the verge of closure.

Mr. Cerati had used the land acquisition process and sharing effective agricultural techniques to build rapport with the local communities, but there were still several challenges. In the first week he had been surprised no-one turned up for work: apparently he had insulted the local men. He had proposed better than average wages and the same pay for men and women. The latter was a totally unacceptable and unsurmountable proposition. Much to Mr. Cerati’s dismay no form of engagement could move the local community from its stand. Furthermore, when people did arrive for work, after Mr. Cerati yielded to this local custom, villagers insisted on a daily wage rather than a contract. Considering the desolation of the area it was surprising, but explainable by the attitude developed by the villagers after many years of repression: ‘live today, tomorrow you do not know what happens’. Task allocation had therefore been a challenge resulting in a division between the few regulars as skilled workers and the dailies being given simpler tasks like turning the soil.

From the very beginning, with his local agronomist, Mr. Cerati had spent time training on the benefits of natural fertilisers and pesticides and health and safety; demonstrating agricultural techniques like distancing between crops; and demystifying local beliefs like the association of deep red to poison which made the humble radish into an object of bewilderment. But training and supervision had to be ongoing: even after a woman was rushed to hospital because she had drunk some fertiliser, with resulting strong stomach pains, continuous reminders were needed.
Business expansion

In 2010 the military regime fulfilled its stated intention of holding elections and passing the government to civilian rule. In March 2011 the power was formally handed over to a new government, with, however, the military enjoying a constitutional entitlement to 25% of the seats in parliament. Momentum was created by a number of reforms promoted by the newly appointed President Thein Sein, and the country opened up. With the opening, the tourists came. Demand was growing and the time for Fresco to expand had come. Mr. Cerati had been approached by desperate impoverished farmers looking to sell their land. But he was uncertain whether buying more land was the answer to Fresco’s expansion. He had considered bringing labourers in from the Dry Zone in Mandalay Division. Many had done that, offering the labourers basic accommodation in addition to contracts.

Furthermore, a number of factors had changed in the context. High expectations on economic improvement were generated by the peace process. The ASEAN Economic Community free trade area was due to begin in 2015. There was a policy drive from the Minister of Agriculture towards large scale mechanisation and hybrid rice. Climate change was badly affecting water resources, especially at Inle Lake where tourism, fishing and agriculture all drew from the same decreasing source. The urban areas of Yangon and Mandalay were buzzing with activity and prospects for industrial development, although still not sufficient to absorb substantial migration from the rural areas. Other centres had not really expanded. Infrastructure still needed upgrading. Government officials, mostly persisted with paternalistic and hierarchical management and, as before, were unprepared for supporting local farmers. These pangs of a country in transition could easily turn into instability, especially if the fragile peace process did not bear fruits.

In this context, Mr. Cerati’s intention to expand business remained firm, however, he was also conscious of the need to contribute to the stability of the area and local development. Fresco’s objectives for expansion were:

- To increase the supply and variety of Fresco’s produce without compromising on quality
- To maintain Fresco’s reputation as a responsible business
- To consolidate his relationship with the local community
- To add value and strengthen local communities in a way that would promote cohesion and stability

With these goals in mind, Mr. Cerati chose to expand in 2013 through contract work and continue to work with local farmers. With his agronomist he ran demonstration workshops of the expected way of working and quality of product. He offered seeds, training and a guaranteed purchase of the crop two to three times higher than market prices. He is now working with over 30 contractors. Fresco contracts about half of the production potential of each farmer and requests deliveries on a monthly basis. This allows the business to manage risks deriving from relying only on a few producers and gives greater flexibility in managing supply. Farmers can apply the skills and techniques learned to cultivate independently other crops, while having a regular assured income from Fresco. For those vegetables that cannot be grown in Shan State, such as aubergines, he has reached a contractual agreement with an NGO on the outskirts of Yangon which supports vulnerable women.

In doing all this, Mr. Cerati is promoting his business in a way that sustains opportunities for farmers. He is also educating consumers. Labelling is studied to emphasise the importance of locally produced, organic vegetables. He spends his time with customers explaining his philosophy, the value of his business model, and the need to promote Myanmar products. He offers recipes and advice on how to cook the vegetables, and leverages his contacts in the business world to create more market opportunities for farmers.
As a result, demand is increasing, and the beginnings of positive impact are observable. Mr. Cerati’s ties with the local community have strengthened, and more farmers want to work with Fresco. Children are being sent to school, and there is a shift in farmers’ mind-sets, with people beginning to develop plans to improve their future prospects.

Mr. Cerati believes that as farmers improve their prospects, the strength and stability of their communities increase. Improved know-how and skills improves production and mitigates food insecurity. Sustained market access contributes to income generation and regularity. Stability offers an alternative to the uncertainty and unpredictability of the past, encouraging farmers and their communities to mobilise the resources available and strengthen community ties through a shared vision for the future.
Fresco production areas (Taunggyii) and distribution areas (Yangon, Mandalay, Bagan, Inle Lake) – Source: adapted from google maps
Mandalay Technology: Business as a catalyst for change in Myanmar

PEACENEXUS CASE STORY

FRANCESCA CERLETTI

OCTOBER 2014
This case story shows the potential for building innovative business on society’s needs. It highlights the importance of courage and resourcefulness in building an impact business, and it showcases unusual but successful ways for changemakers to engage business and society.

**Introduction**

Despite having the opportunity to stay in the US in 2009 after fellowship-supported study at Michigan State University and work as a consultant at the World Bank in Washington DC, Zaw Naing decided to continue his life in Myanmar. He wanted to be part of the change in the country, not as a politician, but as a business person. Active in the IT sector since 1998, Zaw Naing worked with the US-based geographic information systems (GIS) solutions provider Intergraph corporation, and its southeast Asia affiliate Credent Technology: first as head of the local office, then as owner of the Myanmar franchise. Today he is the Managing Director of Mandalay Technology, a Yangon-based company that provides geographic information systems (GIS) and aerial imagery and related services to government departments, the private sector, NGOs and international organisations.

According to Zaw Naing, change in Myanmar is needed in many areas – moral, social, relational and technical, to name but a few. Economies in transition, such as Myanmar’s, are bound to experience difficulties at first, and though the initial phase may be characterised by a worsening of the situation, this may be necessary before positive development can occur. However, just how bad the initial phase is depends on the attitudes and capacities of people. Zaw Naing’s story illustrates how business people can make a difference in their communities by leveraging the contacts and relationships built over time to create opportunities for dialogue and action.

**First steps: Cyclone Nargis and the reconstruction effort**

Cyclone Nargis was a turning point for many in Myanmar. The cyclone hit the Irrawaddy Delta on 2nd May 2008, killing about 138,000 people and causing estimated damages of over USD 10 billion. Myanmar’s civil society and business community mobilised for the relief effort. It was a spontaneous and unprecedented response, and many of today’s NGOs and other associations in Myanmar originate from that time. One of these is Myanmar Business Executives (MBE), an association of young Myanmar executives who have graduated from MBA courses.

Immediately after the cyclone, Zaw Naing realised that the best way to help the survivors was to support them in rebuilding their lives. With MBE, he organised a micro-credit scheme for the survivors. At that time, micro-credit was not legal in Myanmar: the military regime distrusted NGOs, and prohibited many initiatives, including micro-credit. Though there was an immediate need that had to be addressed, after many years of socialism and military rule, government officials found it difficult to let go of extreme paternalistic attitudes and help people to help themselves. Though pushing for the scheme was risky, over the years Zaw Naing had developed a network of contacts in influential places, and he appealed to some of these contacts who decided turn a blind eye.

Maps and geographic information about the areas hit by Nargis and the level of destruction were in dire need after the cyclone. Before 2008 there were no maps publicly available in the country, as they were discouraged by the regime, who regarded them as military intelligence. Zaw Naing’s business had maps, so he approached the relevant people and asked them to look the other way. A website was then created containing all the maps that could be of use. Though Zaw Naing could have been arrested for this, fortunately good hearts prevailed.

Once the maps were available, people had to learn how to use GIS technology. Zaw Naing therefore started weekend courses for anybody who was interested. The courses focused on disaster risk and
environmental management. The aim was to get people working on the ground immediately. Participants were charged between 60 to 80 US dollars each just to cover basic expenses (as opposed to the USD 5,000 that one had to pay in Thailand). Special cases were also considered and the charge was negotiable depending on needs.

All Mandalay Technology staff were involved in the courses. With the training came the software and electronic maps. In order not to break intellectual property agreements relating to the use of GIS software, demonstration copies were distributed. Furthermore, a data sharing point was created on the internet where participants could upload and share their information. This approach also made business sense: as people became acquainted with Mandalay Technology’s system, they would be more inclined to purchase the full license once they were in a position to pay.

This GIS training initiative has continued over time as a social enterprise. It now focuses on how to prepare the country for disasters, such as by running flood simulations to help plan responses.

Zaw Naing’s involvement in the relief support showed him that even in military regimes, officials are willing to help. He identified three key entry points:

1. **People’s emotions**: Fundamentally, individuals have a good heart to which one can appeal and it is worth trying to involve them.
2. **Cultural frameworks**: In Myanmar culture there is a very strong emphasis on respect and responsibility – towards parents, towards children, towards teachers, and towards students. It is possible to draw on this emphasis to extend responsibility to include the environment and communities in need.
3. **Honesty**: Being very honest about the challenges as well as one’s own intentions creates trust and consequently encourages support.

Drawing on his network to create the space for these initiatives also showed Zaw Naing the value of engaging all interested parties in the resolution of issues, and he has since become an advocate for this multi-stakeholder approach.

**Multi-stakeholder dialogue and the Dawei Special Economic Zone**

Zaw Naing continues to draw on his broad network, bringing people together to foster integrated thinking on some of the pressing issues facing Myanmar today. In one such case, he facilitated a two day multi-stakeholder workshop on the Dawei Special Economic Zone (SEZ). The development of this SEZ started with an agreement between the Myanmar military government and the Thai government in 2008, which planned the industrial development of 204 square kilometres. It would include an electrical grid, oil and gas pipelines, a fertiliser and petrochemical plant, and a steel mill. However, the SEZ came under increasing opposition from advocacy groups over concerns regarding relocation and displacement, loss of livelihoods, pollution, chemical hazards, and health issues affecting some 23,120 people.

Through the workshop, Zaw Naing hoped to bring different stakeholders together to share and discuss their views, as well as explore options for solutions. Each party had at its heart development for the community, and Zaw Naing used this shared interest to approach stakeholders. It became clear that their real issue was how development would happen, and it was decided that a workshop could build some links.

Leveraging his contacts, Zaw Naing ensured that a variety of interests were represented at the two-day workshop. Through the Tanintharyi Division Chief Minister (the highest administrative official of the region), he ensured that appropriate representatives from the government side attended. In
addition to national and local government officials, there were individuals from Ital-Thai (the then SEZ’s developer), 88 Generation\(^1\), the National League for Democracy, and the Dawei Development Association (DDA) representing local villagers. Zaw Naing designed a process that included presentations from participants outlining interests, expectations from the development, and concerns, followed by plenary discussions. The first day was quite successful, and it appeared that everybody’s perceptions of threat and fear were greatly reduced. However, there was a risk of agitation the following day. Three hundred angry villagers came to the venue to demonstrate. Accustomed to not having a choice in their fate, the villagers mistrusted meetings between the government and the private sector. Having found a voice in very recent times, the villagers were now going to be heard.

Though tensions among participants rose, Zaw Naing did not want the police to intervene, and he persuaded the government officials that it was best to engage with the villagers. He believed that transparency was the best strategy for dealing with the situation, so villagers were invited in join the discussions. After introductions, Zaw Naing invited representatives from the government, the 88 Generation and the DDA to explain the purpose of the workshop in turn. When the DDA representative confirmed what the others had said, the villagers were appeased – they felt they could trust that their interests would be respected.

When reviewing the event with the very concerned Chief Minister, Zaw Naing made a point of emphasising the positive outcomes. Participants did relax at the end of the first day and a dialogue had started. Furthermore, tensions could be addressed through inclusivity, honesty and transparency. What had happened was an example of democracy in action. People can hold different views, there can even be tension, but as long as there is a shared goal to be achieved, it is possible to work together.

The Dawei saga is still ongoing. The Myanmar authorities have not stopped pressing Thailand to continue with the development. While Ital-Thai is not continuing with the project, whoever takes the lead will need to engage with local communities and the stakeholders involved. Zaw Naing’s workshop is a positive experience that they can build on.

Building capacities among business.

Zaw Naing is a passionate advocate for responsible business, and is always on the lookout for opportunities to promote and build capacities for inclusive development. His energy, and that of his fellow MBE association members, has increasingly focussed on institutionalising such drives in a way that makes business sense.

Since 2008, the MBE association has worked to build capacities within the businesses sector and among future leaders. The association does this through training and social development activities, as well as CSR and UN Global Compact Principles advocacy. MBE partners with NGOs to run initiatives in villages catalysing funds and offering project management skills. Where the association has had some form of presence it also delivers training to villagers. When workshops are run, organisers make a point to invite local authorities and community leaders, as well as villagers, to ensure there is inclusivity and transparency on the content of the training. The legacies of the regime are still powerful and strong: suspicion is easy to form, especially concerning themes such as leadership, democracy and human rights – sometimes it has been the first time that villagers were exposed to such concepts.

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\(^1\) The 88 Generation is a group of activists that took part in the 1988 pro-democracy protests against the military regime and is politically active today.
The association, itself a not-for-profit organisation, has recently branched out with a training arm - the Business Training Centre, and a resource centre - the Myanmar Business Resource Centre (both structured as social enterprises). The aim is to create a responsible environment by bringing together two needs. The first is to increase the skills of middle-level managers, by drawing on the lessons from business schools and international best practice. The second is to offer foreign investors consultancy services on starting a business in Myanmar, aid their search for a partner and provide local expertise. Zaw Naing believes that a responsible environment does not only need policies from government, it also needs business to adopt good practices.
The events leading up to March 2011

Myanmar became a British colony as a result of three wars between 1824 and 1885. The British administratively divided the conquered lands into Ministerial Burma and the Frontier Areas. The former more or less covered the main areas inhabited by Burmese including the Delta Mon and Rakine. The latter referred to the lands on the border inhabited mainly by non-Burmese people. Some groups were left to rule their lands (Shan, Karenni Saophas, and Kachin Duwas). The Karenni states were not included in the colony. However, as well as for immigrant Chinese, Indian and Anglo-Burmese minorities, in parliament there were seats for the Karen (but not the Mon which lived in the same area).

These historical juxtapositions and rivalries between groups remained throughout the colonial period and beyond. During the Second World War these were exploited by both the Japanese and the Allies. It could be said that both warring parties exploited sentiments of self-determination and
liberation. First the Japanese mobilised the Burmese against British Rule, and then the Allies drew on ethnic minorities like the Chindits, Karens and Katchins to fight the forces of the Rising Sun.

In the lead up to independence the political discourse was characterised by what assets the new country would have. “Various ethnic groups, including Kachin, Karen, Karenni and Shan organizations, made demands for separation, and, at one stage, it was envisaged that Burma might have a two-stage independence for Ministerial Burma and the Frontier Areas so that a more equitable integration could be prepared. In the event, a general consensus was achieved by Aung San [Aung San Suu Kyi’s father] with Chin, Kachin and Shan leaders at the Panglong conference in February 1947 [...] Against this backdrop, a democratic constitution, influenced by socialist ideals of state, was drawn up. [...] Many human rights and liberal freedoms, including the rights of ethnic minorities, religious-based groups, women and trade unions, were granted. Federal in concept (although not in name), power was to be shared between the former Ministerial Burma and the ethnic nationality states. There would be a bicameral legislature, with both a 250-seat Chamber of Deputies and 125-seat Chamber of Nationalities.”

Unfortunately the project was marked by serious challenges from the start. The dissatisfaction of some minority groups about the concessions made led to the boycott of the Constitutional Assembly elections; General Aung San (a pivotal figure in the new state) was assassinated in 1947; the communists waged armed violence against the government.

Following independence in 1948 the political class struggled to organise the country into a stable state: disputes soon turned violent. In a very short period of time (1948-1949) about 20 minority groups including the Karen and the Mons took up arms, disillusioned by the slow progress made by the elected prime minister U Nu in addressing their demands. The communists rebelled in 1948, and the remnants of the Kuomintang (KMT) troops invaded Shan state in the 1950s. (KMT forces were defeated in 1961 by a joint action of Chinese and Burmese troops). Infighting brought about the near collapse of the state – in 1949 U Nu’s authority extended to only six miles from Rangoon.

In this context, the Burmese military under General Ne Win gradually took front stage as peacemakers and saviours of the union. Appointing themselves as carers of the nation state, in 1962 the military took power and ruled until 2010. General Ne Win who led the coup fostered a governance approach underpinned by paranoia, secrecy and a strong drive toward isolation. He also espoused a socialist economic doctrine – the Burmese Way to Socialism.

Ne Win suddenly resigned in 1988 following the collapse of the economy. His resignation ushered in the renowned student protests of the same year against the military. However, by September these were crushed and the military regime created the State Law and Order Restoration Council (SLORC) to lead the country. The struggle for democracy culminated two years later in elections for a constitutional assembly, which were overwhelmingly won by the NLD.

Caught by the unexpected result, SLORC dismissed the outcome by selecting its own delegates to the National Convention. General Ne Win and his entourage were arrested. The democracy movement was suppressed and in 1992 General Than Shwe became leader of SLORC and remained in power until 2010. The shift in government was also accompanied by a sudden change of economic course through liberalisation and privatisation.

As a response to the violence and repression of the 1988 and 1990s, Western countries first imposed sanctions in 1988 (by the United States) and in 1990 (by the European Union).
In 1997 another reshuffle occurred, the council leading Myanmar/Burma was renamed the State Peace and Development Council (SPDC).

Ten years later Buddhists monks marched in protest against the regime’s obliviousness to the condition of the Myanmar population, but this demonstration was brutally suppressed. This event was later known as the Saffron Revolution, from the colour of the monks’ robes. The Western countries’ response was to intensify sanctions (until 2008-10). Nine months later, in May 2008, Cyclone Nargis devastated the Irrawaddy Delta, south of Yangon.

At the end of 2010, as planned in the military government’s Seven Step Road to Democracy, general elections were held, and the government was passed on to civilians. However, after the 2010 elections, political power has remained under the influence of the military. In addition to the 25% of the seats in parliament granted to the military by the national constitution, most of the representatives elected are from former military background and/or members of the political party associated to the military, the Union Solidarity Development Party (USDP).

Violent conflict along ethnic lines has evolved in parallel with the pro-democracy struggle since the late 40s. During the 1990s a number of ceasefires were negotiated with the majority of the armed groups. Only the one with the Kachin Independence Army (KIA) resulted in an actual agreement. Other groups like the Karen National Union have never stopped. However, the renewed dissatisfaction of some ethnic groups on the post-cease fire stalemates, lack of real political peace dividends, and a number of disputable economic decisions led to violence once again. The conflict with the KIA resumed in 2010.

Reforms

The changes that taken place in Myanmar/Burma since March 2011 have taken most by surprise. Not even the most hopeful would have expected the speed at which reform has been occurring: press restrictions have been lifted, some previously banned websites can now be accessed, a freedom of association law has been passed, cease fires have been agreed, there have been four amnesties (two in 2011 and two in 2012) which included political prisoners, and the Myanmar National Human Rights Commission has been set up and is operational. Myanmar/Burma has floated its currency against the US Dollar (April 2012), the revenues from gas are consolidated in the state’s budget, two major industrial projects, the Myitsone Dam and the Dawaii coal power plant, have been suspended over environmental concerns, the NLD has won all but two of the seats in the April by-election, Aung San Suu Kyi is one of the 43 people who has been elected. As a result of this process Western countries began lifting sanctions in 2012.

Unexpectedly, the military in parliament have not voted en-bloc, but have discerned on the merit of the bills proposed. Civil society has been pushing the boundaries of what it can do focusing on health, education, development, environment and capacity building. Environmental campaigning groups have been jubilant at the news that the industrial projects have been cancelled as a response, they feel, to their concerns.

There has been much talk on the reasons behind the wave of reforms currently undertaken. Some commentators have suggested that Than Shwe has actually realised a fail-safe retirement plan. By devolving power as broadly as possible through the new constitutional institutions and the privatisation process, the rise of a strong man who could then incarcerate him (as he had done with Ne Win), was made unlikely.
The International Crisis Group (ICG) suggests that “domestic considerations are driving these reforms”. These considerations include: the seemingly real retirement of Than Shwe from the daily affairs of the country; an increase in the President’s own confidence in his authority; and a favourable asset of power favouring change (the three key positions of power are held by reformists - the president, the speaker of the lower house and the Chief of the army); “jockeying for position in the post-2015 administration”.

In addition, there is a genuine desire for greater international recognition and legitimacy on behalf of the Myanmar government; for example by taking the ASEAN presidential chair in 2014. Some suggest there is a ‘new’ generation within the military who has acted more as administrators than commanders in the field, and thus has genuine concern on how to improve the running of the country; in an attempt to revamp its image, the USDA presented a number of ‘respectable’ independent candidates at the November 2010 election, who are considering what the country needs. History may have also taught the military a lesson, through the misfortunes of the corrupt KMT which was ousted by Mao. The war in Kachin State has highlighted deficiencies in the army’s own capabilities and a severe need for reform.

Challenges have remained however. When elected to parliament, the NLD leader supported the President in pushing forward the reform agenda. However, by mid-2013 the relationship between the government and the opposition was strained over constitutional reform and the so-called “honeymoon period” between President Thein Sein and Aung San Suu Kyi has ended. Demands for changing the country’s constitution have been made from the beginning of parliament, but the focus of the debate was on Section 436 and Section 59(f). The former regulates the number of seats in parliament available for contest and the latter is a provision that prohibits any national with foreign relatives to run for president. In July 2014 the Constitutional Amendment Implementation Committee of Myanmar charged with the review of the 340 clauses has submitted its preliminary report to government.

The reality is that sustainable (and equitable) change will require improvements in the military’s behaviour in relation to abuses as well as progress on conflict issues and minority rights. Change will require real reform across issues including the economy, education, and finance. The State administration needs to be separated from the military. Capacities at all levels will need to be built. The real test will come during implementation of present and future reforms.

The economy

From being one of the richest countries of the region post-WWII, the country was ranked 149 in 2011 and 187 in 2012 on the UNDP's Human Development Indicators. The degradation of prosperity was accelerated by Ne Win’s socialist inspired reforms of the 1960s, and by economic mismanagement by the military thereafter. Erratic policies and misguided economic planning (including in the agricultural sector which featured unproductive large-scale projects regulated by unrealistic targets and quotas) undermined growth in the country.

The 1990s and the first decade of the 21st century saw a sudden turn in economic policy, with the country leaving the Burmese Way to Socialism promoted by Gen Ne Win for a liberalisation and privatisation process. A number of individuals well connected with the military began amassing considerable fortunes through concessions on precious resources like logging and gold mining, privatisations of state industries, and large agricultural initiatives. Those in power benefitted lucratively from their positions and favours from cronies. As accountability was low, abuse was frequent and unscrupulous methods to deal with competition or people out of favour were a matter of fact. At the same time, some returnees and local businessmen started to build their businesses,
mindful not to attract too much attention from the unpredictable regime. More often than not these enterprises were low-key initiatives. However there were exceptions who managed to expand and navigate the system without too much involvement with the regime. City Mart, today one of the largest chains of supermarkets in urban Myanmar, is one of these.

Since the liberal reforms, illicit border economies and illegal logging have grown. “Narcotics and logging [were in the 1990s and early 2000s] only the most controversial shadow economies thriving in modern Burma’s ‘get rich quick’ environment”. Such trade has fed into the conflict system and fuelled disputes, adding a layer of potential losers from stability and change.

The Sanctions

The first sanctions were in 1988 and in 1990 following the repression of the student movement and the nullification of the electoral vote. Sanctions were intensified especially after the Saffron Revolution in 2007.

<table>
<thead>
<tr>
<th>Year</th>
<th>United States of America</th>
<th>European Union</th>
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<tbody>
<tr>
<td>1988</td>
<td>Benefits from the Generalized System of Preferences (GSP) revoked</td>
<td>* Arms embargo</td>
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<tr>
<td>1990</td>
<td>* Foreign Operations Act, prohibiting any new assistance to Myanmar * Prohibition of new investments in Myanmar and barred any modification or expansion of existing trade commitments</td>
<td>* GSP benefits revoked</td>
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<tr>
<td>1991</td>
<td>* Non-renewal of the bilateral textile agreement</td>
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<tr>
<td>1997</td>
<td>* Foreign Operations Act, prohibiting any new assistance to Myanmar * Prohibition of new investments in Myanmar and barred any modification or expansion of existing trade commitments</td>
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<tr>
<td>2000</td>
<td>* The Bureau of Food and Drugs Analysis (BFDA) bans the importation of any goods produced, manufactured, grown or assembled in Myanmar</td>
<td>* Asset freeze for Burmese with governmental functions, and export ban of equipment that might be used for internal repression or terrorism—progressively expanded in time</td>
</tr>
<tr>
<td>2003</td>
<td>* The Bureau of Food and Drugs Analysis (BFDA) bans the importation of any goods produced, manufactured, grown or assembled in Myanmar</td>
<td>* Expansion of asset freeze and visa ban to people linked to the economic or political activities of the SPDC (State Peace and Development Council) * Strengthening of the arms embargo</td>
</tr>
<tr>
<td>2009</td>
<td>* Extension of the BFDA for another 3 years</td>
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<tr>
<td>2007</td>
<td>* Expansion of asset freeze</td>
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<tr>
<td>2008</td>
<td>* JADE (Junta's Anti-Democratic Efforts) Act - mandatory blocking sanctions on certain categories of persons enumerated; prohibition of the importation of jadeite and rubies mined or extracted from Burma (as well as jewellery containing such gems)</td>
<td>* Ban on imports (rubies, timber, timber products, coal, certain metals and precious and semi-precious stones and certain goods) * Restrictions on exports of equipment used in industries targeted by the import ban * Ban on exports of equipment for internal repression * Ban on provision of certain services (including financing and financial assistance related to equipment used in industries targeted by the import ban, with specific list of enterprises) * Freezing of funds and economic resources * Ban on certain investment</td>
</tr>
<tr>
<td>2010</td>
<td>* Ban on imports of certain goods * Embargo on arms and related material * Ban on exports of equipment for internal repression * Restrictions on exports of equipment used in industries targeted by the import ban * Ban on provision of certain services * Freezing of funds and economic resources * Restrictions on admission * Ban on certain investment * Suspension of certain aid and development programmes * Reduction of diplomatic relations</td>
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**Highlights of the sanctions imposed by the US and EU. The UK has imposed additional restrictions. Australia and Canada have also imposed sanctions**.
The US State Department estimate[d] a loss of 60,000 jobs in the textile sector alone. The US State Department reports also suggest[ed] that per capita incomes in Myanmar fell from US$300 to US$225 from 2003 to 2004, a fall largely attributable to the BFDA (Bureau of Food and Drug Analysis). Unofficial estimates of the per capita income in 2005 suggest an even greater fall to US$145 at a realistic exchange rate”. [...] “[T]he EU also revoked Burma’s benefits under the Generalized System of Preferences, affecting US$30 million, or 5 percent, of Burmese exports”7.

The effect of the sanctions was not as expected. “If Burma were a country where those in charge wanted to engage with the wider world or had much to lose by being isolated, then a policy of sanctions might make sense.”8 Furthermore, with the economic rise of Asian countries, sanctions only temporarily isolated the country economically.

China in the last five to six years has increasingly become a major investor in Myanmar/Burma, and has been followed by Hong Kong, Thailand and South Korea. The last two decades have also witnessed a shift in type of investments to high income (for the state) but less productive industries. Since 1990, foreign investment has increasingly been in the extractive and power industry (99.6% of investment commitments in 2005-2011). This trend has offset the decline in “internationally competitive and mobile sectors such as manufacturing and real estate”9 and that from countries like Japan and Singapore which traditionally invest in a range of different sectors.

The reform drive promoted by President Thein Sein has encouraged western countries to lift the sanctions imposed since the 1990s. The US and the EU have begun lifting trade and economic sanctions in Spring 2012, announcing their permanent end the following year. The exception is the arms embargo and the prohibition to doing business with certain individuals, which are still active. Some investment sanctions have been extended by the US following the violence of 2014.

Social issues

The country’s institutional infrastructure stagnated under the regime. Lacking the ‘know-how’ for running effective organisations and businesses, the military has fostered widespread clientelism, corruption and abuse of the law. In the 2011 Transparency International Corruption Perception Index, Myanmar/Burma is ranked 180 of 183: three years later there has been a slight improvement and the country is ranked 157 of 175. Furthermore, according to the Burma Environment Working Group, even if there are laws and policies in place, the capacity to implement them is lacking.

Plagued by extremely low investment, the education and health systems are poor. In 31 years, the UNDP indicated in 2011, that life expectancy has only grown from 55.1 to 65.2 years of age and that the average years of schooling today is four. Myanmar/Burma is also known as having one of the highest prevalence rates of HIV infection in Asia – estimated to be 0.6% in 200910.

The hold of the military on society was (and in some respects still is) very strong. In addition to the political power balance (and the military machine), they have increasingly taken control of public life both directly and indirectly. An example is the use of the Union Solidarity and Development Association (USDA). The USDA is the largest civil society organisation in the country with 11 million members. It is pro-government and rallied by the military as and when needed. From the USDA the USDP (Union Solidarity and Development Party) was formed, which gained the majority of contestable seats in parliament in 2010.

The readiness with which the State Peace and Development Council (SPDC) used violence, as happened during the Saffron Revolution in 2007, created deeply rooted fears of reprisal. The population has adopted a ‘lie low’ strategy for survival. The younger generations have tended to
avoid politics. Diffidence and lack of trust are pervasive. As a result of the lack of trust, social capital in Burmese society is poor. Relationships are based on hierarchy and age and underpinned by expectations of abuse of position and low levels of fairness.

After cyclone Nargis in 2008\textsuperscript{11}, however, civil society seems to have flourished. A number of local non-government organisations (NGOs) have emerged. Many were working without legal registration and kept a very low profile. During the following years, the space for opportunities and action that complements the government in its economic development efforts has widened, in particular in education, development and health.

Marginalisation of minority groups (ethnic and religious) increased with time due to discriminatory policies: for example education standards are poorer for other ethnicities than for the Burmese majority. In addition, the inconsistent application of these policies has led to inequalities in political status, educational and economic treatment/opportunities as well as relative ‘legal’ protection standards. Even when the regime’s intention was not one of discrimination, the outcome often resulted in it. Minority groups have felt excluded as they have not been involved in decision-making processes on matters that directly impacted them, such as the reallocation of land. Ignorance of procedures, due to lack of institutional transparency, further exacerbated this feeling.

Co-operation across ethnic and religious lines has been difficult. Furthermore, minority groups have looked at nationhood-building programmes and development projects with substantial mistrust, perceiving them as ‘Burmesitisation’ attempts.

The conflict(s)

In very simplistic terms, the conflict in Myanmar/Burma can be summarised as a struggle for the structure and organisation of the state, fought along two main lines: democracy versus autocracy on the one hand; centralism versus autonomy and self-determination on the other. At the forefront of the first is Aung San Suu Kyi and the National League for Democracy (NLD), while the other involves a number of the 135 different ethnic groups present in Myanmar/Burma. They want recognition of their identity and varying degrees of power-sharing. It is thus often easier to talk about the multiple conflicts of Myanmar/Burma. Their key dynamics evolved around the fragmentation of the groups involved, the divided position of the international community, the emasculation of civil society, skewed economic management, and the ever increasing illicit economy and drug trade. Disastrous policies implemented by consecutive military governments, as well as socio-cultural norms and perceptions, have further entrenched positions.

By far the biggest loser from the years of conflict has been the civilian population. Numbers are disputed, but there are estimates of 500,000 or more Internally Displaced People (IDPs)\textsuperscript{12} and over 415,000 refugees\textsuperscript{13}. Human Rights Watch claims that 75,000 Kachin have fled their homes since June 2011\textsuperscript{14}. The fighting has been vicious: human rights abuses are attributed to all warring parties, though particularly to the military forces. Villages are militarised and the local populations are subject to exploitation as the army is expected to be self-sufficient. “Forced labour continue[d] to affect the lives of hundreds of people in ethnic areas working in ‘model’ or relocation villages and on small scale government-run infrastructure projects, despite Burma being a signatory to International Labour Organisation (ILO) Convention 29 concerning Forced or Compulsory Labour (1930), and repeated condemnation from the ILO”\textsuperscript{15}

Fragmentation of the opposition in particular and of civil society in general, has been one of the key dynamics of the conflict. Due to the very nature of the aims of those involved - democracy versus self-determination - historically there has never been a united opposition. “Politically, the ethnic
minorities are divided over goals, strategy, and other issues, and have been unable to form any truly effective nationwide or even broadly inclusive front.”

The generals have further deepened fragmentation through a divide-and-rule approach, premised on a policy of small concessions to different groups and negotiating separate ceasefire agreements. Benefits from the 1990s ceasefires have been dubious for the population. Ceasefires have been viewed by the minority groups as a breather from protracted war, and the situation improved only slightly. There was a decrease in the level of direct violence, but real economic development has not followed.

The pro-democracy opposition groups aligned according to whether to work with the military government, and, if so, on what terms, or reject any cooperation until demands were met. Until recently this was broadly reflected by an apparent divide between those who were based outside the country and those working from inside, and the fact that the pro-democracy opposition split among those who boycotted the elections (the NLD, National League for Democracy) and those who decided to engage in the process, such as the National Democratic Force.

Collaboration between minorities and the democracy movement has been tenuous and left to individuals as the main position of the democracy movement was to postpone discussion of the issues until after the achievement of democracy.

The military’s view has been shaped by a strong sense of duty towards the nation, and the armed forces themselves. It is also the product of a patriarchal and hierarchical society where respect for elders is paramount. Opposition is therefore seen as unruly and disrespectful. Such perspective has nurtured a self-constructed view of reality in which the military considered themselves as the ‘saviours’ of the nation. They even deny their role in the downturn of the economy. Although in private some differing views can be heard, the military has presented a relatively unified public front. Having said this, loyalty to the leadership has also been reinforced by authoritarian approaches that discourage autonomous thinking and initiative, as well as purges. Furthermore, with over 40 years of rule, the generals accumulated conspicuous wealth and maintained vested interests in defending the status quo and the privileges gained by them and their extended families.

With the reform process, the new government has made overtures to the armed groups and 2012 saw a number of ceasefire agreements being signed. In negotiations, the government and the armed groups are discussing a nationwide ceasefire and peace agreement. The nationwide negotiations however are slow for several reasons. Tensions emerge from the question of whether the political (and economic) aspects of the relationships between the Union’s government and ethnic groups should be discussed before or after the peace agreement; from differences in size of population, geographical area of the different armed factions, which hinder the achievement of consensus among the ceasefire groups on ideas discussed; and the behaviours of key parts of the military, who maintain an attitude that is perceived as arrogant, patronising and inflexible.

Sectarian violence
Sectarian violence between Muslim and Buddhists has flared up in Myanmar once again; initially in Rakhine Sate (2012) and later in central Myanmar, Mandalay Division (2013 and 2014). Though the roots of this conflict go back to colonial times, today’s manifestations can be differentiated a little.

In March 2013, the sectarian violence that broke out in Meiktila (with an estimated 30% Muslims), a town southeast of Mandalay in Mandalay Division, was considered initially to be a follow-up to the violence that had erupted against Muslim-Rohingya in Rakhine Sate the year before. Soon however, it was clear that while conflict in Rakhine State had socio-political origins, the one in Mandalay had
stark religious elements. While in Rakhine State issues are connected to whether the Muslim population should be granted Myanmar citizenship and resource sharing; the violence in other parts is linked to the citizenship question, but has mainly been ratcheted up by extremist Buddhists monks, fearful of Muslim encroachment. Similar observations have been made to the violence that exploded in Mandalay in July 2014.

The local communities have allegedly been surprised at the outbreak of violence and many reports and analysts pointed to the possible role that extremist Buddhists monks may have played in provoking the violence. The presence in Mandalay of religious leaders who have been working on interreligious harmony has helped to contain the spread of violence. Whatever the reason for the violence, the government stepped in both in Meiktila and Mandalay to curb unrest.

Muslims are not the only community involved in social unrest in Myanmar. The Chinese community has increasingly been put under pressure. Anti-Chinese sentiments, also with long roots in history, have been aggravated by the perception that Chinese companies are exploiting Myanmar’s resources. Since the late 2000s there have been many protests and allegations made against such companies in Rakhine State, Kachin State and elsewhere in the country. As a result of this antipathy, ill-will has spread to the Myanmar-Chinese community, which is made up of many second and third generation Chinese migrants, despite the community being integrated in the country (they speak Burmese and are Buddhists; some of them have even lost knowledge of the Chinese language). People within the Myanmar-Chinese community claim that it is not in the interest of the government to allow such tension escalate to conflict.

Since the repression of the 2007 Saffron Revolution, Cyclone Nargis and the relocation of the capital to Nay Pyi Taw, Yangon is fairly sheltered from violent conflict, although religious divisions are beginning to affect how people behave. Members of other minorities have commented about concerns of being associated with Muslims.

**War in Kachin State**

The first cease fire of the 1990s was the one with the Kachin Independent Army in 1994. With the ceasefires the language also changed: from insurgents the armed groups were referred to by the Myanmar government as ceasefire groups. In 2008, the military government proposed that the ceasefire groups would formally join a newly constituted Border Guard Force, which would be operative, under military command, at the border areas of the country. The BGF proposal was unacceptable for the armed group as it meant being under government control, even if the was to encompass other ceasefire groups.

Mistrust over the government’s motives behind the ceasefire contributed to an increase in activism among the Kachin on strengthening the ethnic group’s identity. The use of Jingpho, the language of the Kachin, the performance of rituals, and maintenance of social practices were at the centre of this process. Government actions during the ceasefire period did nothing to dispel the mistrust of the ethnic population. Confiscated lands were not returned as expected, agricultural policies promoted large monocrop cultivation (which contributed to further land grabbing). Marked preference was given to non-Kachin businessmen: in particular businessmen with good governmental contacts were granted concessions for logging, jade, and other activities connected to the precious resources found in Kachin State. An agreement between the Myanmar and Chinese governments paved the way to a large hydroelectric power project: the building of the Myistone Dam. The project raised substantial concerns among Kachin over environmental issues, displacement and loss of potential revenue. Furthermore, Bamar migration to the northern state, encouraged by the ceasefire, aggravated perceptions of ‘colonisation’ among the ethnic people.
The dam catalysed action against government initiatives. Protests about the dam became very vocal in 2010 and the project was suspended by President Thein Sein in 2011. By the time the suspension of the project was declared, war between the Kachin Independence Army and the Myanmar government had already begun. The war in Kachin State had an unforeseen impact for non-Kachin business people, in particular those who were operating in the border areas with China, as these ended up being fighting grounds. Business activities had to halt, with the resulting effect that southbound freight substantially decreased.

In 2010, the KIA began voluntary recruitment; the government once again referred to the KIA as ‘insurgents’ as opposed to a ‘ceasefire group’; public protests against the construction of the Myitsone Dam increased; the military government barred Kachin political parties from registering for the upcoming elections which would have set the basis of a new civilian government. Then in a matter of 48 hours, between the 8th and 9th June 2011, war broke out again. The 17 year-old ceasefire between the Myanmar army and the KIA, the longest in Myanmar, had ended.

Following pressure from civil society and other stakeholders, the opposing military forces have been in negotiation in 2013 and 2014.

Definitions

Upper Burma – The term ‘Upper Burma’ usually refers to the Mandalay, Sagaing, and Magway Divisions, Kachin and Shan States.

Myanmar or Burma – The name of the country is still today a delicate issue. The website ‘Network Myanmar’ states: “(i)n the Burmese language, 'Myana' has long been the more formal name of the country. It is the name used in the Burmese-language version of the 1947 Constitution enacted in the last year of British rule. It has existed side by side for centuries with the more colloquial 'Bama'. However, a leading nationalist association in the 1930s called Do Bama Asia Yon ('We Burmese Association'), of which [General] Aung San was a founder member, chose the name 'Bama' on the grounds that 'Myana' only represented the traditional territory of the Burman Kings and did not include the non-Burman peoples”\(^\text{17}\). The dual co-existence of the name is also confirmed by the anthropologist Gustaf Houtman, who has been cited on the BBC’s website: “[t]here's a formal term which is Myanmar and the informal, everyday term which is Burma” (BBC 2007). Burma is the anglicised version of Bama/Bumah. In 1989 the then government changed the English version of the country’s name from Burma to Myanmar. The UN has used this term since then. Pro-democracy activists and those with strong anti-military regime feelings tend to use the word Burma, protesting that the change to Myanmar/Burma was a typical example of authoritarian decision-making by the Generals and that is was done to whitewash the grievances of the past. During my encounters in these circles I have heard agreement for the term 'Union of the People of Myanmar'.
Notes

1 http://www.dpsmap.com/gis/
2 Smith 2002:7
3 ICG 2011:15
4 ICG 2011:14
5 Smith 2006:21
7 Ewing-Chow 2007:158-159
8 Ewing-Chow 2007:346
9 Bissinger 2011:7
10 UNAIDS 2010
11 Cyclone Nargis hit Myanmar/Burma on 2nd May 2008. 84,500 people were killed and 53,800 went
   missing. (www.ifrc.org)
12 IDMC, Internal Displacement Monitoring Centre 2011, UNHCR 2011
13 UNHCR 2011
14 HRW 2012
15 Ekeh and Smith 2007:2
16 ICG 2003:ii
17 http://www.networkmyanmar.org/index.php/political-myths
References


IDMC, Internal Displacement Monitoring Centre (2011) Myanmar Numbers of IDPs. IDMC.


