



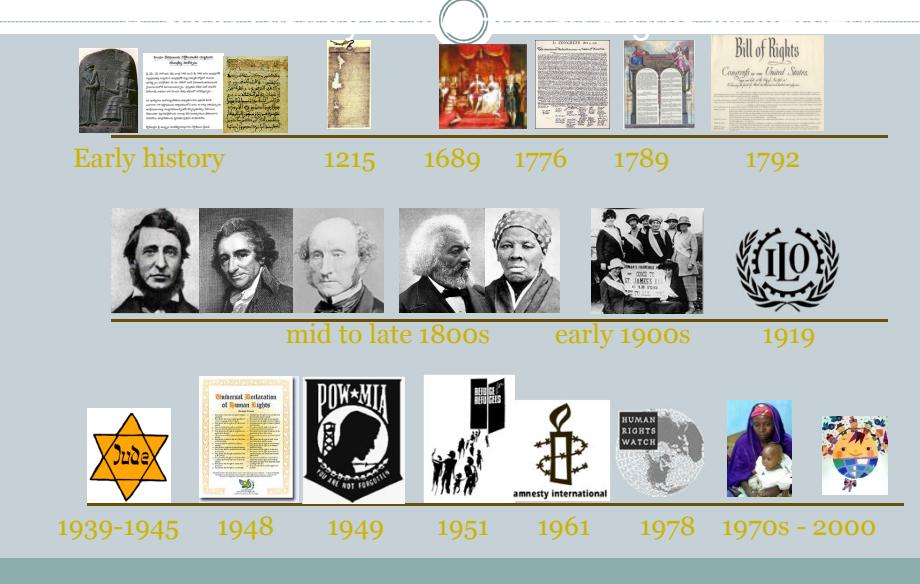
**Institute for
Human Rights and Business**

Shaping Policy • Advancing Practice • Strengthening Accountability

John Morrison, Executive Director

University of Zurich, 22 May 2013

The search for a common set of social values



A horizontal timeline showing various historical documents and figures, with dates indicating their significance in the search for common social values.

- Early history:** Includes the Hammurabi Code (c. 1754 BC) and the Magna Carta (1215).
- 1689:** The English Bill of Rights.
- 1776:** The United States Declaration of Independence.
- 1789:** The French Declaration of the Rights of Man and of the Citizen.
- 1792:** The United States Bill of Rights.
- mid to late 1800s:** Includes portraits of John Brown, Thomas Jefferson, and Frederick Douglass.
- early 1900s:** Includes portraits of Harriet Tubman and Sojourner Truth, and the ILO logo (1919).
- 1939-1945:** Includes the Star of David and the Universal Declaration of Human Rights (1948).
- 1949:** The Geneva Convention (POW-MIA logo).
- 1951:** The Convention Relating to the Status of Refugees.
- 1961:** Amnesty International logo.
- 1978:** Human Rights Watch logo.
- 1970s - 2000:** Includes images of refugees and a woman holding a child.

UN Business and Human Rights Framework: “Protect, Respect, Remedy”



Professor John Ruggie, Special Representative to the United Nations Secretary General, 2005-2011

- The duties of governments to protect all human rights in relation to the activities of others (i.e. businesses);
- The responsibilities of business itself to respect all human rights;
- The need for both governments and businesses to provide adequate remedies for the victims of related abuses of human rights.

Sources www.ihrb.org

- IHRB/GBI (2012): “*State of Play – human rights due diligence in business relationships*”
- European Commission (2013): “*Sector-specific human rights guidance for the ICT, Employment/Recruitment and Oil/Gas sectors*”, developed by IHRB/Shift.
- IHRB (2013): “*Investing the Rights Way: A Guide for Investors on Business and Human Rights*”, with Calvert and ICCR.
- Various IHRB materials in relation to *Myanmar (Burma)*

Four questions for business emerging from UN, OECD, EU, IFC and others

- How much **knowledge** should a company seek to acquire through its due diligence processes?
- When it has this knowledge, how much **mitigation** should a company take to minimize risks and actual or potential negative impacts? How should a company seek to increase its **leverage**?
- How **transparent** should a company be of this knowledge and associated mitigations? What are the most effective methods of **disclosure**?
- What are the most effective **site-level grievance mechanisms**? How can the data about grievances help ensure better “knowing and showing” moving forward?

Corporate responsibility to respect – some questions?

- Scope
- Mitigation
- Integration
- Measuring and monitoring
- Transparency and disclosure
- Adequate and appropriate remedies

(1) Scope

- Which human rights are most material to the business and how does any business move quickly from a theoretical interest in all human rights to a material interest in those most relevant to a specific operation?
- When should the prioritisation of specific rights be required through legislation (such as 'health and safety') or through multi-stakeholder approaches?
- When is scope more determined by high-risk environments specific to particular operations or specific procedural rights relating to particular groups?
- What happens if business risk is not aligned sufficiently with human risk?

(2) Mitigation

- How much should any business do to minimise risks and the potential of negative impacts, when an element of risk will always exist?
- When should businesses sit with their competitors in order to increase leverage, when should this be done with governments and when should civil society and communities be involved?
- A business could spend a good deal of time and energy attempting to increase leverage for diminishing returns.

(3) Integration

- Businesses are required to statements of human rights policy to comply with international norms, but this does not necessarily mean a new policy.
- Also, human rights due diligence requires an assessment of human rights impact but not necessarily a bespoke human rights impact assessment.
- How does a business benchmark its existing approaches to environmental and social impact assessment against human rights? How does a business know when what it already has fit for purpose?
- When does it matter if any particular issue is labelled a 'human rights' issue or not? Does it matter if a business develops an internal language different from its external one?

(4) Measuring and Monitoring

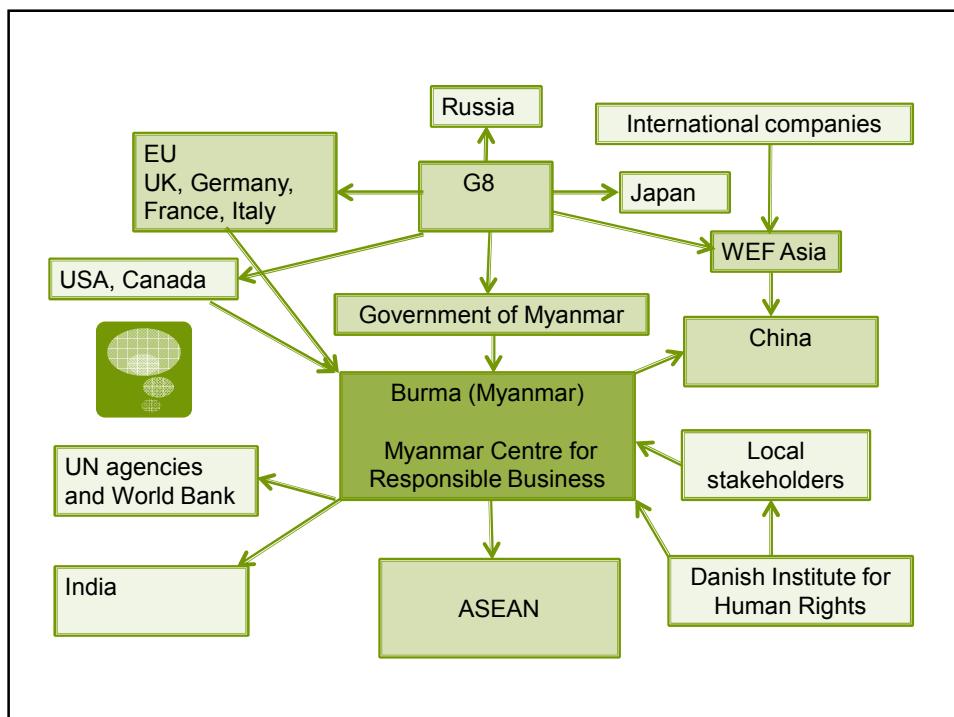
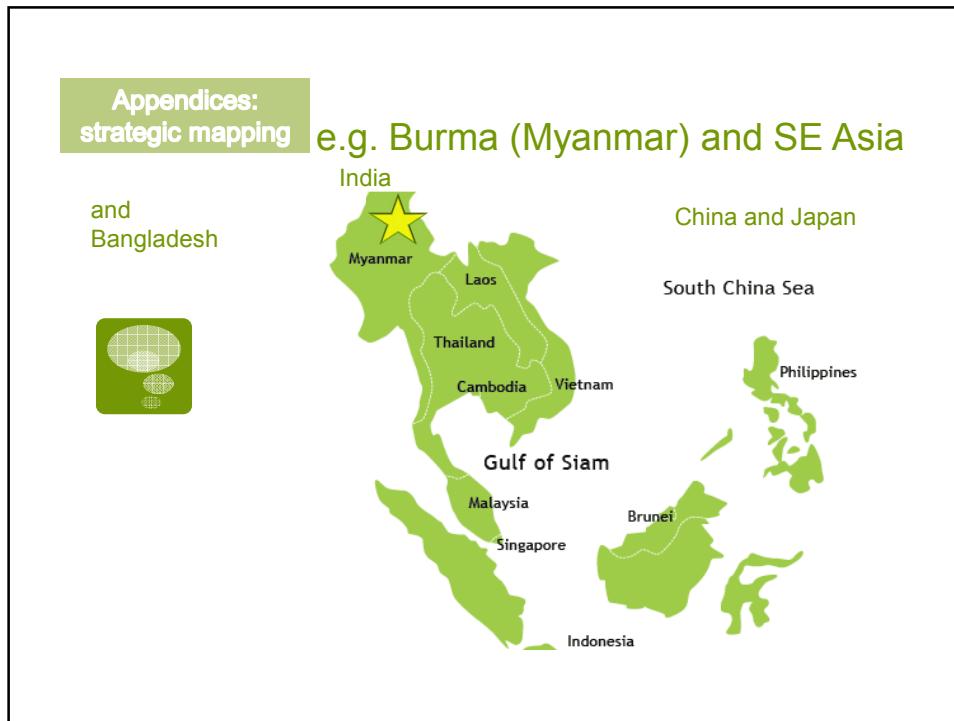
- Impacts on human rights are hard to measure, even more so if your focus is prevention: "it hard to measure the absence of a human rights abuse". Recording and setting targets of minimizing injuries or fatalities in the workplace is one example, monitoring diversity to help fight discrimination is another, but agreeing objective criteria relating to impacts on local communities can be harder.
- Output indicators are harder but need to be included. Process-related indicators are often easier and map well onto due diligence processes, but it is certainly a mix of both that is required.

(5) Transparency and Disclosure

- There are moves across the extractive and other sectors to much greater transparency, whether this relates to revenue payments, taxation, publishing contracts and tenders, or mandatory human rights reporting
- The question for specific business operations is how much disclosure is desirable in human rights terms? Annual sustainability reports by the company play a role but are unlikely to meet the expectations of local communities. Some operations operate “near real-time” disclosure of risks and incidents to both local and international stakeholders.

(6) Adequate and appropriate remedies

- A number of companies have piloted UN effectiveness criteria in different parts of the world, some observations are
 - (i) an effective mechanism can build trust and help maintain a social licence to operate,
 - (ii) mechanisms can achieve effective results for individuals and communities,
 - (iii) grievances do provide valuable data about the company’s impacts (a low number of complaints is not necessarily a positive performance indicator),
 - (iv) a operational grievance-mechanism can stop many issues escalating, but such mechanisms as not appropriate for major violations of human rights and should never replace national or international legal or non-legal mechanisms.



Burma/Myanmar



Opportunities include:

- Agriculture
- Tourism
- ICT/Telecoms
- Textiles and garments
- Oil and gas; mining

For each sector:

- What are the implications for:

PILLAR ONE: The Host and the Home States

PILLAR TWO: The corporate responsibility to respect: (i) Knowledge, (ii) Mitigation, (iii) Transparency and disclosure, (iv) Grievance-mechanisms.

PILLAR THREE: Effective Remedies: (i) Local, National, International; (i) Legal, (ii) Non-legal.

- Is it right to invest or not, if so how?