

Political Economy of Southeast Asian Borderlands: Migration, Environment, and Developing Country Firms

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ABSTRACT *Borderland zones in Southeast Asia have become sites of increased economic investment for developing country firms, intra-regional and transnational corporations. As a result of deregulation, these investment opportunities have led to the exploitation of natural and human resources in an unsustainable and unjust way. This article argues that the flows of people and natural resources across borders are connected intimately and that this has been facilitated politically by the acceptance of the porosity of territorial boundaries by all governments in the region and the imperative to export environmentally degrading development projects into neighbouring countries where political mobilisation on environmental issues is much less effective. Conveyed through a series of cases studies (on resource extraction, dam and reservoir construction, and working conditions in apparel companies), this article explores how developing country companies comply with the codes of conduct on corporate responsibility on human rights, labour standards and environmental sustainability) within the context of the governance of the global supply chain.*

KEY WORDS: Developing country companies, environmental sustainability, corporate responsibility, migration, labour unions, Global Compact

One of the main features of recent debates on globalisation is the belief that, with nation-states seen as hollowed out and therefore less capable of regulating the behaviour of corporations and the effects of capital mobility, other ways of influencing the activities of international capital would be more effective. The rise of non-governmental organisations (NGOs) in the West concerned with sweatshops, human rights abuses and unsustainable environmental impacts (both in terms of resource extraction and pollution) has prompted a new academic literature on how to hold corporations to account. The research literature has explored some of these areas of concern (Addo, 1999; Hay et al., 2005; Jenkins et al., 2002; Ledgerwood and Broadhurst, 1999; Rees and Wright, 2000; Steiger, 2004). At the same time, links between these areas – environmental degradation, labour standards violations, human rights violations – are often neglected. Companies often focus on areas that bear directly

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as a result of campaigns by environmental NGOs or labour unions). As the case study evidence presented later demonstrates, we will argue that acknowledging the links between these areas provides a more effective basis for developing strategies that address corporate responsibility. In addition, rather than addressing corporate impacts, the literature focuses on business practice, values and bargaining (McIntosh et al., 2004; Paine, 2003; Rosenthal and Buchholz, 1999; Tulder and Zwert, 2006) or on advice for corporate executives to improve their corporate social responsibility (CSR) processes/procedures (Damon, 2004; Leipziger, 2003; Sadler, 2002; Willmott, 2001). More critical interventions highlight the shifts of transnational corporate responsibility to forms of citizenship rather than considering the more complex mixes of corporations and counteracting movements in developing countries (Richter, 2001; Zadek, 2001).

The scope of this article is more specific and highlights the dangers of research considering global processes, the global supply chain and the operation of global networks (both corporate and anti-corporate) as universal and relatively even patterns (most evident in those contributions most in favour of globalisation). It has been accepted widely that such simplifications are unhelpful for understanding the processes at work and this article adds to the discussion of complexity by highlighting the interconnections between the issues identified above. This article, drawing from evidence on recent developments in the borderland zones of mainland Southeast Asia, considers two areas – environmental and labour standards – in some detail in order to highlight the importance of different combinations of corporate activity, different political contexts and different responses from governments, NGOs and localised movements. Sometimes labour advocacy groups achieve a high level of co-ordination and effectiveness by taking advantage of the contractual relations between transnational brand-name corporations and manufacturing subcontractors. In addition, the article highlights positive developments in corporate responsibility and considers the initial impact and limitations of the UN Global Compact. The case studies are not exhaustive, so areas of further research are also indicated.

The research upon which this article draws explores how borderland zones have become sites of increased economic investment for developing country, intra-regional and transnational corporations. The relations between companies in these borderlands are viewed as networks of mutual benefit within global supply chains. As a result of deregulation, investment has led to the exploitation of natural and human resources in an unsustainable and unjust way (i.e. all the environmental “bads” and fewer environmental “goods”).¹ The presence of ample natural resources, cheap labour, tax advantages and economic incentives, the relative weakness of trade unions and insecurity of citizenship status for both refugees and registered migrant labourers, means that the exploitation of resources and the labour force can be achieved by companies with a high level of effectiveness. By analysing the situation on the ground, this article presents evidence of how the flows of people and natural resources across the region's borders are interconnected intimately, something that is often missed, and that this has been facilitated politically. The desire to attract domestic and transnational investment in national development projects means human rights and labour standards violations, as well as environmental degradation, are acceptable (although some governments under pressure from social movements seek to export such processes to neighbouring countries that are less accountable to social

movements). The extent to which developing country companies comply with the codes of conduct in corporate responsibility is a key issue. The UN Global Compact, discussed in detail below, for example, presents opportunities as well as challenges. If the Global Compact is a mechanism that can be used or employed effectively (“a lever that can be pulled”) to make the relevant actors take their obligations seriously then it should be taken advantage of.

The global networking of companies has affected all “stakeholding” or “potential stakeholding constituencies,” shareholders,² suppliers, consumers, the workforce – although the existing transnational institutions through which their interests are given voice have an effect on company decisions, to ensure that some have greater weight than others (that is, shareholders have greater weight than workforces, displaced peoples or the environment). Corporations are not obliged legally to take all constituencies (those interests affected by company decisions) into account. In June 2004, the Organization for Economic Co-operation and Development (OECD) brought together members of unions, NGOs and corporations for a round-table discussion of corporate responsibility focused on Chapter V of the OECD Guidelines for MNCs (multinational corporations). On environmental issues, corporations were taking environmental management systems and auditing tools, as well as performance indicators and environmental reports, seriously but only where their reputations and/or efficiency were at stake. Some corporations were also beginning to use the guidelines to connect environmental protection to social issues, such as human rights and labour standards. Given the complexities of the global supply chain, co-ordination between companies across different sectors of a transnational corporation as well as with small or medium-sized enterprises (SMEs) were seen as difficult. This is especially important because SMEs have local and regional proximity to human rights and labour standards violations as well as environmental problems, aiding problem solving. While the OECD and the World Bank have encouraged legal recognition of stakeholder interests (as in Global Corporate Governance Forum in 1999), perhaps the most significant recent development is the UN Global Compact (2000) which brings together governments, the International Labour Organisation, trade unions, transnational NGOs as civil society organisations, and UN agencies with a human rights mandate. The NGOs including the Coalition for Environmentally Responsible Economies, International Union for the Conservation of Nature, Global Witness, Amnesty International, Oxfam, World Wide Fund for Nature (formerly, the World Wildlife Fund), Clean Clothes Campaign, Transnational Information Exchange, UNITE!, Agence Francais de Developpement, Community Aid Abroad (Australia), USAID, Better Factories (Cambodia) Project, represent a variety of constituencies that have the potential for becoming stakeholders. In addition, there are 697 private corporations and 140 business associations, around one-third of the signatory organisations. The idea for the UN Global Compact (UNGC) was introduced by Kofi Annan at the World Economic Forum in Davos in January 1999 calling for business to be socially responsible and do its part by “demonstrating good global citizenship wherever it operates” (United Nations, 2003). The compact was launched formally in July 2000 at the UN headquarters, originally based on nine principles that came from three categories: general human rights, labour standards and the environment, with an additional 10th principle added in 2004, dealing with political corruption. The UNGC asks private companies to

“embrace, support, and enact within their sphere of influence” these core values (United Nations Global Compact, 2000). The Global Compact’s ten principles are derived from the Universal Declaration of Human Rights, the ILO’s Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the UN Convention on Corruption. While the UNGC should be seen as a statement of principle summing up the aspirations of the global community, it marks an important development in developing a general set of expectations about responsible business practice. In addition, signatories are obliged to respond across all four areas of CSR (human rights, labour, the environment and anti-corruption). Of course, some corporations still oppose corporate responsibility and many signatories of the global compact have weak codes of conduct or ones that are implemented, monitored and enforced inadequately as a distraction from their main activity. Nevertheless, it provides a platform from which to work. Environmental issues always had and will continue to have a social justice dimension. Since environmental impacts are driven by development, issues concerning labour and social welfare cannot be separated easily from damage to ecological systems. First, we will focus on environmental issues and then demonstrate how disposability of the environment is tied closely to disposability of people.

Disposable Environments

Understanding the environmental effects of development in Southeast Asia increasingly demands a transnational approach combined with an awareness of the political mobilisation of diverse sets of affected groups, including peasants, tribal communities (often located across national borders), unions and fishing communities. For example, peasant-based movements have a long history of activism in Thailand and, especially so, since the formal establishment of free speech and free association during the political openings of 1973-76. For the most part, the campaigns were non-violent and drew in the emerging NGO community. In addition, co-activism between farmers and unions dates back to 1974, when 20,000 farmers demonstrated on behalf of textile workers in Bangkok, leading to the formation of the Peasants’ Federation of Thailand which became active on land rights, excessive rents and indebtedness. Alongside industrial expansion, Thai energy demands increased in the 1980s, with successive governments looking to dam construction and hydro-electricity as the main solution. As a result of what has since been described as the “rape of the forests,” alongside the *Kho Cho Ko*³ initiative to relocate poor villages, activist strategy shifted to developing sustained networks that link material grievances from various affected groups. This section of the article explores the political and economic context for these two areas of environmental concern, their transboundary character, and the significance of transnational and developing country corporate activities in the borderlands between Thailand, Laos, Burma and Cambodia.

Following the restoration of democracy in 1992 (culminating in the 1997 constitution) in Thailand, environmental movements-allied rural farmers and trade unions and NGOs (including aid agencies and human rights organisations) demonstrated their intention to participate and be represented in the making of public policy. In a series of campaigns, they succeeded in embarrassing successive governments on forest degradation, the effects of dam and reservoir construction

(including the decimation of fishery stocks in some river systems), and highlighted the inadequacy of access to health and educational resources for the rural poor. While not always successful in securing their immediate demands (such as keeping the sluice gates of dams open to enable fish migration for spawning), the high visibility of mass protests, such as those at the Government House in Bangkok, ensured that their interests had to be taken seriously in the future (Baker, 2000; Missingham, 2003). Even the Thai king's support for energy construction projects was insufficient to overcome opposition. The election of the Thai Rak Thai government in 2001, led by Thaksin Shinawatra, illustrated a new willingness of political leaders to address this change. Its quest for electoral support combined a concern to alleviate the hardships of farmers (in areas such as healthcare, education and indebtedness) with a willingness to move the most damaging projects seen as essential for national development into neighbouring countries. Despite the government-led modernisation drive, a measure of the success of environmental and community-based movements can be seen by the Electricity Generating Authority of Thailand (EGAT) accepting that it is no longer politically possible to develop large-scale dam projects inside Thailand. As a result of its energy and resource needs, Thailand has thus become the major exporter of environmental degrading projects in the region. In short, this involves finding ways of addressing the country's energy needs without having to commit to obligations to those affected. This amounts to a politics of environmental irresponsibility.

Thai state organizations, such as the Royal Irrigation Department (RID), Royal Forest Department (RFD) and EGAT, control environmental resources within the country, however, they do not have a strong track record in consulting the communities affected. Policy debate tends to occur within these organisations to varying degrees (with more open dialogue within the RFD and in the discourses on tourism). As a result, state-sponsored projects have generated considerable village resistance, as demonstrated by the problems of RID in constructing the Kaeng Sua Ten (rapids of the dancing tiger) dam on the Yom River and EGAT in the case of the Pak Mun dam in northeastern Thailand. There are two main aspects to environmental effects across the border that have contributed to the displacement of peoples – hydro-electric energy projects and deforestation. Burma, Yunnan province (China) and Laos have agreed to a Memoranda of Understanding committing the signatories to providing power supplies essential for the economic growth of Thailand. Alongside individual projects is an ambitious plan to link the existing power grids to hydro-electric projects in these countries and ultimately create an integrated ASEAN power grid. Laos has signed contracts for 23 dam construction projects on the Mekong river system (Fahn, 2003: 102). These dams are primarily for exporting electricity to Thailand, with the Nam Theung 2 dam coming online in 2008, followed by Xe Kaman 1 and Xe Pian-Xe Namnoy in 2010.⁴

The move to energy production mega-projects results from “state sanctioned electricity monopolies and laws that have made wasteful large-scale power production the norm” (Ryder, 2003: 17).⁵ This not only provides state subsidies for environmentally damaging projects but, in times of drought, can lead to power cuts as well as diverting investment capital from more sustainable, localised alternatives (such as solar power, wind generators and small-scale hydro-electric turbines) that do not depend on long distance transmission networks. Presently,

EGAT is the sole buyer in this uncompetitive market and controls the power transmission network, given the considerable barriers to market entry. In addition, effects of dam projects on the environment and on communities are seen as a political and legal matter (limited to compensation disputes in civil law) rather than integrated into the cost-benefit analysis that underpins project planning and environmental impact assessment.

As with earlier dam projects inside Thailand, the estimates of displaced households often underestimate the likely impacts. For the Pak Mun Dam, the original EGAT estimate was that 262 families would be affected, while the final figure was 1821 families in 31 villages with over 6000 families receiving compensation for the decline in fisheries (Missingham, 2003: 72, 169). Besides the fact that the project produced just 21 MW of power rather than the predicted 136 MW and cost 6.6 billion baht (of which 17% was spent on resettlement and compensation) rather than the original estimate of 3.9 billion baht, it also gave rise to the Mun river activist networks and protests from 1991-97, which played a substantial part in the emergence of a new broader grouping known as the Assembly of the Poor. The activities of this organisation ensured that subsequent Thai governments know that they will pay a high political price for promoting similar projects in the future.

"Dammed" and Displaced

Corporate activity on environmentally-sensitive projects in the region has changed in response to the rise of environmental groups and networks. As dam construction projects have been initiated in neighbouring countries, the role previously played by EGAT and RID in Thailand has been filled by different kinds of private corporations, including transnational corporations, intra-regional companies and developing country firms. Transnational corporate investment in these energy projects dwarfs the national income of countries, such as Laos. The Nam Theun 2 consortium became the Nam Theun Power Company in 2003 which signed an exclusive supply deal with EGAT, and invested \$US1.45 billion in the dam and reservoir project (although some estimates suggest it is closer to \$US2 billion) (IRN, 2007). This project will flood about a quarter of the Nakai-Nam Theun plateau (a biodiversity site with 17 endangered species), although the remaining area of the plateau will be a conservation zone, once the project is operational. The consortium will run the dam for 25 years, after which it and all subsequent revenues will be returned to the ownership of the Lao Government, which currently holds 25% of the equity of the consortium, free of charge (Guttal, 2000). The formation of the state-owned Lao Holding State Enterprise ensures that, alongside the export of 995 MW of competitively-priced energy to EGAT and 75 MW for Laos, the country will still receive \$US80 million a year in taxes, royalty charges and dividends over the duration of the agreement. In effect, the Nam Theun 2 Project is likely to be Laos' largest single source of foreign exchange income and contributor to GDP.

The development of the Nam Theun 2 project provides a useful snapshot of the changing character of corporate activity and highlights the emerging importance of developing country firms. The feasibility study for the dam, funded by the World Bank and the UN Development Program and encouraged by the Australian Government, was conducted by the Snowy Mountains Engineering Corporation in

1989. The resulting consortium (NTEC) was formed by the Australian company Transfield in 1993. When Transfield (10% of NTEC equity) restructured their corporate activities after 2000 and moved into project development and management (based on the active partnership model of investment and consultancy) and sold its construction business, EDF International (30% of NTEC), a subsidiary of *Electricité de France*, took over the lead role in the consortium. Initial investors Merrill Lynch Phatra Securities and Jasmine International also sold their stakes in 2000 to EGCO (partly owned by EGAT) for 1.6 billion baht, following concern over construction delays, the rising costs of the dam and decisions to increase the size of the dam wall to generate additional capacity (in order to offset the costs). Meanwhile, the Bangkok-based construction and infrastructure company, Italian Thai Development, retained its 15% stake as part of its "international works" investment portfolio (Guttal, 2000).

Shortly afterwards, EGCO also bought 50% in Gulf Electric Company of Thailand from Siam City Cement PLC, including a 60% interest in the controversial 734 MW coal-fired project proposed for Bo Nok, Prachuab Khiri Khan province (Greenpeace, 2004; Nareerat, 2000). Consistent with EGCO's planned diversification of energy production from gas to water and coal, it has sought other hydro-electric power (HEP) projects in Laos. However EGCO missed out on the purchase of 60% and 20% shareholdings in the 150 MW Huay Ho dam (operational from 1999 under a 30-year agreement) from the Korean company Daewoo Engineering and Construction and Thailand's Loxley PLC, respectively (Scaife, 2006a: 7). The successful bidder was a transnational utilities corporation based in Belgium, Tractebel (a sole-owned Suez subsidiary) that already owned natural gas-generating plants and, alongside small power plant projects, has a joint venture with PTT PCL for distributing natural gas in Thailand (Scaife, 2006b: 10). The presence of small private power companies such as HPower, and new aggressive market entries such as Tractebel, together with the activities of EGCO, which create limited competition between companies using different energy sources, have also enabled EGAT to secure lower prices from NTEC.

Following the World Commission of Dams' (WCD) recommendation that all project design, and negotiation of outcomes should be subject to participation from relevant stakeholders, Focus on the Global South (Guttal, 2000; Guttal and Shoemaker, 2004) highlighted shortcomings in the 1995-97 consultation processes. The process was constrained by being focused on resettlement options and mitigation measures. In other words, the overall viability of the project and the information presented by officials and representatives were not subject to effective scrutiny; and there was a knowledge gap between local people and foreign experts. This meant that the full implications of the project, many of which are irreversible and cannot be mitigated, were not taken fully into account in the decision-making process. Some NGO participants in the process concluded that they had become part of an insincere public relations exercise to legitimise the World Bank's involvement as guarantor of the project rather than part of a genuine effort to ensure stakeholder consultation (Shoemaker, 1999). WCD recommendations emphasise the existence of a well-developed civil society so that a fair and transparent decision-making process can take place and to ensure that the outcomes are legitimate, positive and lasting. In Laos, the absence of independent local or even national NGOs, independent media or an impartial judiciary alongside violations of human rights, means that the conditions have not always been conducive for such a process to occur.

As with Pak Mun, the NTEC resettlement and conservation activities suffer from a number of flaws, including inadequate public disclosure of documentation by the consortium, delays in producing implementation plans and failures to establish an effective and transparent monitoring process. The pressures to complete the construction programme have taken priority over dealing with its effects so, while the resettlement was scheduled to be underway from May 2006, the International Rivers Network and Environmental Defense reported in February 2006 that detailed resettlement plans for the Nam Theung plateau and project lands and environmental management monitoring (along with environmental, habitat and wildlife species conservation plans and scientific research on stream morphology, and fisheries) were still unavailable – bearing in mind that detailed plans are a necessary precursor to effective monitoring (Imhof and Lawrence, 2006).

While the Government of Laos has agreed to fulfil social and environmental obligations in order to secure loan disbursements and guarantees provided by the World Bank underpinning the financial security of the project (the first World Bank-approved dam for ten years at \$US1.2 billion), there is little evidence of compliance. In addition, within a poor governance environment, a legal system for ensuring compliance does not exist, pro-poor public expenditure has not been managed effectively and transparently in the past, baseline data were inadequate and the project had already violated World Bank approval criteria – that is, systematic and large-scale logging and involuntary resettlement had already taken place on the plateau prior to World Bank approval.

Despite intensive lobbying by 153 NGOs and environmental groups from 42 countries, as well as considerable disquiet within the World Bank itself, since projects are meant to be orientated towards poverty reduction (Guttal, 2000), the agreement still went ahead in 2005. The remaining financial support is provided by 11 Thai banks. A number of developing country firms have also benefited from these projects, including Thailand's Loxley (a conglomerate established in 1939 for primary goods exports that gradually moved into consumer electronics, water, construction, IT, telecommunications, chemicals, and business services including environmental as well as defence in a joint venture with ADI in Australia), SEATEC, MDX Power, MDX Lao, GMS Power and Promec Energy Company (a Bangkok-based company in renewables, established in 1995 through contracts for Theun Hinboun Power Company and Electricity Du Lao (including Nam Leuk and Nam Ngum HEP projects and electrical installation at Houay Xe)).

In addition, prior to the flooding, Bolisat Pattana Khet Phudoi (BPKP, a Lao timber company owned by the military) logged a million cubic metres or 27% of the official 1997/98 log supply of forests, including hardwoods, in the affected area (Thongleua and Castren, 1999). The original NTEC estimate of displaced people was 4000 but on previous experience, this is likely to be an underestimate. Imhof and Lawrence (2005) suggested that 6200 indigenous people will be displaced, 1500 families engaged in fishing downstream of the dam will lose livelihoods, and 100 000 people living alongside Xe Bang Fai will be affected adversely by the water levels and declines in migrating fish stocks. Making this more complicated, the same authors estimated that most of those impacted were unaware of the environmental changes in store. There is also concern that BPKP's role in resettlement and infrastructure projects will create a context for further exploitation of the habitat

unless the company can diversify its activities further by finding alternative timber sources.

Laos already exports 75% of its electricity to Thailand and anticipates becoming the “battery of Asia” as the regional economy grows. This takes little account of future energy use in Laos – average energy use in Laos is currently 55 KWH compared to 1296 KWH in Thailand. So, while the potential benefits to Laos are stressed in the corporate literature, this ignores income siphoning under an unaccountable government. Shengman Zhang, a World Bank Managing Director, has stated, “We see Nam Theun 2 not as a project per se, but as a vehicle through which to make a considerable progress in the effort of poverty reduction” (cited in Ryder, 2004: 4). He claimed that after the first year of operation, health and education spending in Laos would increase by at least 25%. The World Bank finally agreed to provide financial support and guarantees for the project while the Lao government has committed part of the revenues to so-called social justice projects, administrative reform and environmental mitigation. In addition, for the World Bank, this is a long-term mechanism for ending Official Development Assistance in Laos. In 2005, a state-owned company was established – Lao Holding State Enterprise (LHSE) – to hold the Lao PDR’s shares in NTPC, replacing the role of the state company Electricité du Laos. The finance for the project was secured from external sources including the Asian Development Bank, the European Investment Bank, the Nordic Investment Bank, export credit agencies in Canada, France, Norway and Sweden, French development finance institutions, plus long-term loans for the NTPC by a consortium of nine international banks (ANZ, Bank of Tokyo-Mitsubishi, BNP Paribas, Calyon, Fortis Bank, ING, KBC Bank, Société Generale and Standard Chartered), and seven Thai banks, including Bangkok Bank, Bank of Ayudhya, Kasikornbank, Krung Thai Bank, Thai Military Bank, Siam City Bank, and Siam Commercial Bank (World Bank, 2005).

Between the Water and the Trees

The model for corporate activity evidenced in the Nam Theung dam project is likely to be adopted in other neighbouring countries, such as Burma, with four substantial projects planned on the Salween River system that will have a much greater environmental impact than the Yadana gas pipeline project. The Salween River, the last large river system to be undammed in the region, runs through lands occupied by the Karen, Karenni, Mon and Shan indigenous peoples. In addition to hydro-electric dams and reservoirs providing 1500 MW for EGAT by 2010 at a cost of \$US4-7 billion, these projects will divert water into the Thailand’s Bhumiphol and Sirikit reservoirs. Besides the World Bank considering US\$1 billion of financial guarantees, the Japanese government, which has initiated constructive engagement with Burma, has indicated an interest in the project. Japan’s regional initiatives in Southeast Asia (via the \$US30 billion Miyazawa fund) are dependent on the use of Japanese technology and technical consultancies – the Japanese state-backed Electric Power Development Corporation (EPDC) has already initiated preliminary studies on the Salween River along with Burmese Army and Thai surveyors from companies such as MDX Power (a company already involved in feasibility work for the Kok river with Italian-Thai Development PCL and the Japanese Marubeni Corporation),

while MDX subsidiary GMS (Greater Mekong Subregion Power Co. Ltd.) is engaged in dam construction planning with the Myanmar Economic Corporation (Salween Watch, 2007).

The most promising site near Ta Hsang (Tasang) is close to the Ping and Kok rivers in Thailand. A facilitator for this deal, the Thai company Thai Sawat, has been granted timber and road construction concessions by the Burmese government in the area and now seeks to negotiate a deal for logging the areas to be flooded (Salween Watch, 1999). If the water levels of this project are to be sufficient for effective diversion to Thailand, the dam would have to be very high with a large reservoir (estimated to cover 640 km², but this will depend on whether water transfer is included) which will inevitably have a major impact on agriculture, fisheries and the uncultivated environment besides the construction of waterways and extensive electric power transmission grids. Mediators for MDX, GMS and Southeast Asia Technology PCL have also sought to secure Shan compliance with the survey and feasibility work, although it is suspected that the project will be used to cut off Shan insurgents from access to the border (one of the convenient side-effects of the Yedana gas pipeline for the Mon). The involvement of the Burmese military in these projects gives cause for human rights concerns. Based on evidence of previous human rights abuses against the Shan and other indigenous peoples, these energy and water projects would likely entail forced labour and portering, forced relocations (an estimated 300,000 people have already experienced this) torture, sexual assaults and extra-judicial killings (see Salween Watch, 2007).⁶

Forest and woodlands land use in Thailand is now just 30% (14 million hectares) which is half the level it was in 1960, although official figures may be inaccurate (Fahn (2003) suggested that forest and woodland cover is only 20%). As a result, Thailand is an importer of wood (50 billion baht per annum or \$US1.2 billion). Hence, there is pressure to identify timber resources in neighbouring countries. Fahn (2003) argued that the RFD is torn between two imperatives – commercial exploitation of forests through concessions and, as a result of government-sponsored scholarships, conservation values based on the US model – a for the “greatest good for the greatest number for the longest time” (Pinchot, 1901). The RFD is the guardian of national parks (through nature education and recreation), wildlife sanctuaries (biodiversity conservation and research) and non-hunting zones (allowing for some resource extraction) (see Fahn, 2003: 113). The 1989 logging ban in state forests (following flooding and mud-slide disasters) in the context of reduced timber supplies has resulted in a proliferating illegal logging trade within Thailand, creeping but often unmonitored settlement patterns in forested areas, and both legal and illegal logging in surrounding countries (see Fahn, 2003: 109-41). In order to maintain access to resources already depleted in Thailand, successive governments have secured logging, fishery and gem-mining concessions in neighbouring countries for nationally based companies. It is important to note that with restrictions in place within Thailand, legal logging concessions in Burma were facilitated politically by the Thai government, in particular by army chief General Chavalit Yongchaiyudh, as early as 1988 – with border access to Cambodian timber starting in 1995 when Chavalit became Prime Minister. The relationship between military commanders in the border regions with Burma, Laos and Cambodia and the logging companies has always been an intimate one, with national borders being

open to flows of both natural resources and people, so much so that Chavalit is often referred to as "Mr. Timber" in the Thai press. The impact of illegal logging and sawmills is harder to measure (certainly no customs duties are reported) and complicated by crime and official corruption in Thailand that often links with insurgent groups in neighbouring countries seeking to finance weapons in the borderlands of both Burma and Cambodia (see Pasuk and Sungsidh, 1994 and Pasuk et al., 1998). The Salween logging scandal that erupted in 1997 (after the Asian crisis and the collapse of the Chavalit government) also revealed that Thai timber was being felled illegally, shipped to Burma and then exported back into Thailand stamped as Burmese timber (Fahn, 2003).

Cambodia presents a different picture. The same pressures towards centralisation are present, with *Electricité du Cambodge* (EDC) using arguments for social and environmental justice in order to become the primary provider and distributor of electricity. However, power producers are diverse and local energy companies operate close to the point of use in rural areas and small provincial towns. Moreover, the Electricity Authority of Cambodia (EAC) is independent from the government and the EDC. The EAC is concerned with energy regulation, safety standards, awarding licences and setting tariffs, combined with the authority to set penalties for violations. As a result, opportunities have been established for participatory consultation in a more effective way than elsewhere in Southeast Asia, a development backed by the Asian Development Bank (ADB). Bearing in mind the different institutional structures and consultative processes, the resulting Renewable Electricity Action Plan led to guidelines on power generation modernization, which promote decentralised generation technologies including biomass, micro-hydro projects, solar projects (although these are often sponsored by NGOs and aid agencies), diesel fuel generation and, possibly, in the future, small-scale oil, gas and coal energy production. The existence of at least 600 Rural Electricity Enterprises (REEs) makes energy diversification based on community-scale grid systems more achievable (IIEC, 2007). As a result, while investment from the ADB and Energy Industrial Technology Organisation (of Japan) will be focused on larger projects, on upgrading existing facilities and on developing the power grid (including links to Laos and Vietnam), transnational private bank investment will focus on smaller-scale, private projects. The institutional context of energy generation in Cambodia and its willingness to marshal local energy provision within a consultative framework could provide a model for other Southeast Asian countries.

The Cambodian case is also instructive in developing transnational strategic conservation campaigns, linking whistle-blowing campaigns on illegal logging (such as the secret "million-metre deal" between Cambodia's leaders and eleven Thai logging companies) with campaigns focused on Western aid agencies to make donor aid conditional on environmental performance.⁷ Chavalit denied the accusations from Global Witness that he had facilitated the negotiations for the million-metre deal. The success of the NGO, Global Witness, can be seen in its role as an independent monitor on these issues in Cambodia. Global Witness used its influence with Western aid agencies to secure political leverage and to outmaneuver political threats from Cambodian leaders intent on restraining their activities (Fahn, 2003: 123-5).

In the case of Vietnam, dam construction issues have arisen as a result of the country's rapid industrial development (with projected annual increases in demand

of electricity of 15% at least until 2010) and a planned \$US400 million joint project on the Se San River between the Cambodian government and Electricity of Viet Nam (EVN) (Sesan Protection Network 2005: 2). This new project will compound existing problems, such as erratic water levels and damage to fisheries, already caused for the Ratanakiri and Stung Treng provinces in northeastern Cambodia as a result of the Yali Falls Dam in Vietnam. The flows of natural resources (in particular, water, timber and energy) into Thailand, and the consequences of exporting environmental degradation into neighbouring countries, have another significant effect: the intensification of the transnational flow of displaced, persecuted and impoverished migrants into the emerging special economic zones and workplaces of the Thai economy. While the projects outlined above involve partnerships between specialist developing country firms (in particular hydro- and logging companies) together with governments, transnational corporations and intra-regional conglomerates, the mix of companies taking advantage of cheap migrant labour is the focus of the next section.

Disposable Peoples: Porous Borders and Economic Incentives

Rapid economic development within the borderland zones has also resulted in the intensified exploitation of human resources. There are some two million legal and illegal migrant workers from Burma, Cambodia and Laos, employed in a variety of low-paying occupations throughout Thailand (Amnesty, 2005; Aung, 2008; Awatsaya et al., 2004; Lom, 2008). Burmese migrants make up the vast majority of the migrant workforce in Thailand and have a large presence in the northern border provinces (Arnold and Hewison, 2006). Over the last four decades millions of Burmese men and women have been fleeing into neighbouring countries to escape a repressive political situation and increasingly harsh socio-economic conditions (Awatsaya et al., 2004). Desperate to survive, they often end up in dangerous and physically demanding jobs where they often labour for wages well below the legal minimum. Developing country firms that outsource production are able to exploit these highly vulnerable people intensively, while ignoring both national and international labour and human rights standards. At the same time, migrant workers' status as "immigrant" or "alien" means that they are at great risk of physical abuse and a further undercutting of their labour and human rights. As the region's economic powerhouse, Thailand has thus become a major importer of highly exploitable and expendable foreign workers in the borderlands zones of the Greater Mekong Sub-Region as a result of national and regional economic development initiatives and bilateral trade agreements. The exploitation of human resources must be understood within the broader context of regional economic development between the member countries of the Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS) and from the vantage point of Thailand as the key player in forging cross-border alliances and for promoting trade within the region.⁸

The busiest entry port for Burmese migrants is the border town of Mae Sot in Tak province which lies opposite the town of Myawaddy in Karen State (Arnold and Hewison, 2006). The constant flow of migrants into Thailand's northern border provinces is aided by the relative ease of entry into the country. The fact that one-day

passes can be obtained at official checkpoints emphasises how the exploitation of workers is facilitated by the state. Many migrants use these “passes” as informal work permits into the country. As Dennis Arnold (2004: 3) highlighted, the causes for migration are a combination of factors which, in the case of Burmese migrants, not only involve the need to escape political persecution, displacement and relocation and a dire economic situation but strong pull factors which include easy access into Thailand and Thailand’s economic advantages and more favourable social and political climate. Unskilled daily workers in Burma, for instance, earn about \$US0.48-0.58 per day while workers in Mae Sot can earn between \$US1.50 and \$2.00 per day (Arnold, 2004: 3). These wage differentials can thus be seen as a major economic incentive, not only from the vantage point of firms but from the vantage point of migrant workers in search of higher-paying jobs.

Recognising the advantages of maintaining a vast supply of cheap migrant labour within its borders, the Thai government has shown little intention of granting citizenship status to migrant workers and their families. Their status as “temporary” and “foreign” excludes them from having equal rights under Thai law and this is an attractive aspect for investors. State and business interests have even considered importing migrants from other countries to fill low-end sectors of manufacturing. For example, in 2005, the Federation of Thai Industries urged the Ministry of Labour to consider importing an additional 200,000 immigrant workers from Laos and Cambodia (*MCOT News*, 21 July 2005). Taking the same line as the Thai government, the business lobby argued that Thai textile and garment industries need to remain competitive in the global market and, in order to do so, cheap unskilled foreign labour was a must. The factories that operate in the borderland zones are thereby capitalising on a huge pool of desperate and dispensable workers who have little option but to tolerate high levels of abuse and exploitation. This “marriage of convenience” shows how state and capital can take advantage of both migrant and non-migrant workers – moving Thais into the skilled labour market and importing expendable foreign labour to fill unskilled sectors.

A staunch promoter of export-orientated industrialisation, Thailand has always maintained a business-friendly environment offering many investment privileges to domestic (small-scale subcontract/outsourcing) factories and foreign (intra-regionally based and owned) firms (see Bello et al., 1998; Pasuk and Baker, 1997, 1998, 2000). Thailand’s Board of Investment (BOI, 2008a)

offers two kinds of incentives to promoted projects, regardless of location: Tax-based incentives include exemption or reduction of import duties on machinery and raw materials, and corporate income tax exemptions. Non-tax incentives include permission to bring in foreign workers, own land and take or remit foreign currency abroad.

Additional incentives are given to export-driven projects set up in investment promotion zones or to industries designated as “priority activities” (BOI, 2008a, 2008b). In 1993, three investment promotion zones were created. Tak Province is in the most heavily promoted Zone 3 and, in late 2004, 26 companies (involving 39 activities) were receiving BOI privileges in Tak Province (Arnold and Hewison, 2006: 167). It is no coincidence that national development policy was geared towards taking

full advantage of areas that had a large presence of migrants. In February 2005, the Thai government introduced new legislation aimed at setting up special economic zones (SEZs) throughout the country. Because this legislation would have restricted the mobility of migrant populations while in the host country, it potentially violated articles in the 1997 Constitution that guaranteed basic human rights, including freedom of travel. However, these provisions meant that the Thai government would have had greater control of migrant workers. In Phang Nga province in Thailand's south for instance, a new provincial regulation, issued in June 2007, prohibited even documented workers from communicating with family and friends by phone, even in an emergency, unless permission was obtained from the authorities. It also prohibited migrants from moving from one district to another, from driving a vehicle, from gathering anywhere in public in groups of more than five, from participating in traditional or religious ceremonies unless given permission, and from going outside between 8 p.m. and 6 a.m. Such restrictions make it difficult for migrant workers to organise and especially difficult for undocumented migrants who live on plantations where there is no immediate access into town and also for migrants who work very long hours and have to attend to personal matters (e.g. shopping for food) well after curfew hours (Grassroots HRED, 2007). Other provinces implemented similar arrangements. The desire to attract investment means that human rights and labour standards violations, as well as environmental degradation, are increasingly regarded as acceptable. Migrant workers are seen as an asset in economic development, but also a liability if they are allowed the capacity to organise and, for companies, minimising liability means that labour can be treated as a disposable commodity. In such situations, environmental degradation is seen as a fair price for immediate economic development regardless of the immediate costs for sustainable processes.

Disposable Peoples and the Politics of Social Irresponsibility

By relocating into borderland zones, developing country firms cannot be seen as agents of corporate responsibility precisely because they rely on small-scale subcontract factories that systematically violate labour standards and are located in areas where highly vulnerable populations reside. So even though the outsource manufacturers themselves may have their own codes paralleling those adopted by their multinational clients, the outsourcing companies can and do claim to have no control over labour practices at subcontracting local factories. Meanwhile there is no effort to independently monitor local factories by official authorities and efforts to monitor the factories by the outsource manufacturing companies themselves often depended on whether there was pressure from the multinational clients. Given the strength of consumer pressure groups in raising awareness about work conditions in developing countries, multinational corporations have adopted a vast array of codes of conduct for factories that make their clothes (Jenkins et al., 2002; Richter, 2001; Rodriguez-Garavito, 2005). Even so, we continue to see a blatant disregard for workers' rights at the bottom of the global supply chain. This raises the question, to what extent do developing country companies comply with the codes of conduct in corporate responsibility? Given the complexity of the global supply chain and the different actors involved (transnational, intra-regional, national and local companies), there can be no definitive answer but patterns are being identified.

In addition to the codes established by firms, "monitoring systems have recently arisen to verify compliance with corporate codes of conduct for labour" (Rodriguez-Garavito, 2005: 203). Monitoring organisations are set up by a combination of universities, trade unions, employers and NGOs in Western developed societies and focus on labour standards, independent monitoring, the extent of compliance in a brand's supply chain and efforts at addressing grievances by workers. Robertson and Somchai (2004: 25) pointed out that most campaigners believe that participation by all stakeholders is critical and that mechanisms to receive and act on complaints are mandatory.

It appears that brand-name corporations, such as Tommy Hilfiger, Nike, Gap, H&M, and large retailers, such as Wal-mart, Marks & Spencer and JC Penney, have responded to increasing pressure from student and consumer groups and labour campaigns that have targeted poor labour practices in their supply chains by coming up with a "bewildering array of 'codes of conduct'" intended to compel factories to comply with a set of labour standards when producing their goods (Robertson and Somchai, 2004: 24-5). In reality, however, these brand-name companies use codes of conduct only to project a positive public image in order to pay lip service to fair wages and health and safety. There are, however, lessons to be learned from more successful case studies in accountability politics, such as in Latin America, where the struggles and conflicts associated with the establishment, monitoring and enforcement of codes of conduct in these countries provide workers in comparable situations with a useful model for asserting their own grievances. Workers in Southeast Asia who seek to organize, for instance, can learn from the Latin American experience. Rodriguez-Garavito (2005: 206) argued that, "different types of codes and monitoring have different effects on the enforcement of labor rights." Based on evidence from Guatemala and Mexico, "the most stringent systems have the potential to supplement (not replace) national state labor laws." Rodriguez-Garavito (2005: 206) went on to say that

sustainable improvements in protective rights in global factories crucially depend on the promotion of enabling rights. Given the profound power asymmetries among actors in such global commodity chains as apparel, durable changes in working conditions hinge on the development of institutional mechanisms within monitoring systems that bolster the countervailing power of workers and local labor support organizations ... [and] ... the move toward more effective and empowering monitoring systems requires sustained cross-border political pressure.

Workers in Southeast Asia would no doubt benefit from the emergence of transnational labour regulation in the region. Whenever a company becomes a target of negative publicity and consumer boycotts, it can resort to citing "codes of conduct," making do with the "promise" or "intent" that they are willing to address labour standards. However, effective and established monitoring procedures and the expectation of compliance are necessary too.

At the Bottom of the Global Supply Chain: Mae Sot Case Study

The financial and economic crisis in 1997 prompted many large manufacturers to close down their operations and subcontract production to smaller, non-unionised

factories to lower production costs (Piya, 2007). Many firms relocated to industrial provinces upcountry and to the border provinces in the north. The border town of Mae Sot in Tak province is one such locale where the exploitation of migrants is prevalent. In 2003, there were over 200 medium- and large-scale factories in Mae Sot that employ migrants mainly from Burma. The number of Burmese workers in Mae Sot was estimated to be around 100,000, with a total of around 200,000 in Tak province (Arnold, 2004: 5). Junya and Hveem (2005: 38) reported that many factories in Mae Sot are owned by East Asian-based intra-regional firms, often in joint ventures with Thai companies. This means that managers and supervisors in the knitting and garment factories might come from China or Thailand or from other countries in the region, while administrative and personnel staff are usually Thais.⁹

As defined by the ICFTU (2004: 67), subcontracting production "involves a series of complex international business relationships, referred to as 'supply chains' also known as 'production chains' or 'value chains'." Textile and garment factories in Mae Sot occupy the low end of global supply chains by producing ready-made apparel through outsourcing arrangements. Brand-name companies, such as Tommy Hilfiger and the Gap, have been mentioned in reports from Mae Sot. Migrant workers, however, are often unaware of the popular international labels they produce for but are able to identify the logos (Arnold and Hewison, 2006: 182). Beyond codes of conduct and official monitoring mechanisms, there are two types of economic supply chain networks: producer-driven and buyer-driven. Producer-driven supply chains involve large manufacturers in capital- and technology-intensive sectors, while buyer-driven supply chains involve large retailers and brand manufacturers in low-cost, labour-intensive sectors where production is outsourced (Arnold, 2005). Hveem (2004: 13) discovered that there is "a high degree of secrecy around brand identity in production where only 'trusted' workers are given the job of sewing on the labels" to prevent a company's exposure and liability. Since production in Mae Sot factories does not meet corporate standards of international brands, labelling is sometimes done in authorised factories that own export quotas. Usually located near the Bangkok Central region, these companies comply with some labour standards, which means that the actual labour-intensive aspects of apparel assembly, such as cutting and sewing, are carried out in smaller subcontract factories, such as those in Mae Sot. These firms do not comply with labour standards. At the same time, tight control over shipping and receiving in developing country firms makes it difficult to identify the origin and destination of work orders (Arnold and Hewison, 2006: 182). This allows supply companies and their multinational clients to retain some degree of anonymity, which they use to evade corporate responsibility. Researchers have said that outsourcing factories engage in a form of "hidden sub-contracting" (Hveem, 2004) because conditions in those factories are so poor and would violate any labour code of conduct.

In 2002-03 the Norwegian Church Aid (NCA) and the Burma Labour Solidarity Organisation (BLSO) conducted an investigation that revealed production of Tommy Hilfiger products in a BOI-promoted subcontractor in Mae Sot (New Products Knitwear). However, the Tommy Hilfiger Corporation denied the allegation by claiming that production at the local company was either unauthorised and/or involved imitations (Arnold and Hewison, 2006: 185). Because the NCA managed to commission a TV documentary about the Tommy Hilfiger Corporation

which was aired on national television in Norway, Hilfiger was pressured to respond and promised to look into the situation. The outcome of this was interesting – just after the first documentary was broadcast, Tommy Hilfiger ordered its official subcontracting factory (Sunrise Knitting) located outside Bangkok to break away from its hidden subcontractor (New Products) in Mae Sot (Hveem, 2004: 3). All under-age workers at New Products were dismissed subsequently and all labels and documentation from past orders were destroyed, concealing evidence of other clients. Two sections of the factory were also eliminated, while hundreds of workers were fired and deported to Burma. The factory soon shut down, sacking all of its 800 workers without compensation. However, the workers were rehired by management a few months later when the factory reopened under a different name (SD Fashion). This case illustrates how a multinational corporation is able to distance itself from local firms even within its own supply chain and also highlights the capacity of local firms to suspend production for a few months and then reopen under a new name to conduct business as usual.

According to Hveem (2004: 3), Tommy Hilfiger's codes of conduct should imply responsibility for the entire supply chain but it does not because the corporation reserves the right to cut links to suppliers violating their code. This means that any major corporation can be "let off the hook" easily whenever independent monitoring takes place and gross labour violations are uncovered in factories that may have been producing for them for years. It appears that the structure of the supply chain itself allows the brand-name multinational to disassociate itself from local firms whenever convenient. Hveem indicated that from the vantage point of activist organisations, the termination of sourcing is unacceptable unless the company seriously considers improving work conditions at its supplying factories, meaning that companies need to ensure that their codes of conduct are actually implemented in factories at the end of the supply chain. Hveem (2004: 3-4) stated that the investigation of Tommy Hilfiger was intended to make the corporation "adhere to its own codes of conduct and to reverse the 'cut and run' from its hidden sub-contract factory," and to be responsible for enforcing Thai labour standards of their suppliers for all workers – migrant and non-migrant – so that major brands cannot just pay lip service to corporate codes of conduct. Independent monitoring and investigation of labour violations by NGOs and international organisations may bring pressure to bear on the major corporation. However, companies often respond by arguing that governments are responsible for the exploitation of workers, as in the case of Tommy Hilfiger in Mae Sot.

The investigation also revealed that New Products was a joint venture between Thai and Hong Kong investors and had changed its name to New Products Knitwear Co. Ltd, following the 1997 crisis. The founders, major shareholders and management of the other company (Sunrise Knitting) on the other hand were all Thais. These two subcontracting companies are subsidiaries of a larger intra-regional firm based in Hong Kong, belonging to a major Hong Kong textile conglomerate – Novel – one of the world's largest garment producers (Arnold and Hewison, 2006: 183). Two of Novel's top managers had been Tommy Hilfiger managers or directors and, in 1989, an affiliate of Novel Enterprises had acquired majority ownership of Tommy Hilfiger Corp. Inc., which means that the Tommy Hilfiger Corp. is actually owned by an intra-regional Hong Kong firm. Gap is another major Novel customer

and, in 2003, Tommy Hilfiger, Gap and Mi-Temps accounted for more than a quarter of Novel's sales. Researchers must take care to monitor US-based brand-name companies that champion corporate responsibility and fair treatment of workers in order to assess whether they are effectively living up to their commitments and what structural limits exist that affect corporate responsibility.

Global supply chains for large retailers of consumer goods are buyer-driven rather than production-driven; nevertheless, the low cost of labour is certainly a key determining factor. Investigation of Taiwanese and Thai-owned factories in Mae Sot reveals that all the factories were paying wages below the legal minimum in 2003 and 2004, subjected workers to arbitrary and illegal deductions for accommodation, work permits, meals and other unknown "fees," violated rates on overtime pay, had excessive working hours, poor working conditions and, in some cases, used verbal abuse and intimidation, and dismissed insubordinate workers instantly (Amnesty, 2005; Asian Human Rights Commission, 2004; Awatsaya et al., 2004; Hveem, 2004; Macan-Markar, 2003).¹⁰ While evidence in some Taiwanese and Thai-owned factories shows violations of labour standards as common practice, anecdotal evidence of more serious human rights violations seem to be levied at Thai-owned factories, including accusations of murder and hostage taking (*Irrawaddy*, 2 December 2005; Paung, 2005; Subhatra, 2005). Companies in deregulated borderland zones have opportunities to operate outside national Thai labour law, especially in regards to wages, work and living conditions. Workers mobilising against the extent of exploitation are dismissed and replaced easily. More significantly, their labour practices are not reported to the supplying agents (transnational brand companies) at the higher end of the chain, which is why codes of conduct remain irrelevant even when the companies in the SEZs are brought to court. Thai workers in textile and garment factories in other parts of Thailand are more able to improve or participate in efforts to improve their work conditions than migrant workers. This makes migrants even more appealing to manufacturers as they strive to secure the most advantageous conditions for accumulating their capital (Arnold, 2006: 63). Recent research, however, has demonstrated that workers in Mae Sot have had some capacity to change their conditions, especially when supported by local and international organisations. The landmark case of the Nut Knitting is one example of this and labour organisations working in Mae Sot have also educated large numbers of migrants on their rights and this has led to some improvements for workers in some factories (see Arnold and Hewison, 2006: 171-86).

The Gina Case: Thailand

The story of the Gina Form Bra (GFB) workers is an excellent case of a successful struggle waged by workers at a local factory against their employers made possible with the support of international organisations, consumer and student campaigns, labour advocates and human rights groups. GFB is owned by an intra-regional firm based in Hong Kong (Clover Garment). The Gina workers' struggle, which took more than two and a half years, is a wonderful example of how a local labour movement can use creative tactics to build international alliances with transnational activist networks, union organisations, consumer groups and NGO campaigners. The Gina struggle was also the first labour case to be taken up by Thailand's

National Human Rights Commission. Their successful campaign led to the signing of a comprehensive collective bargaining agreement with the GFB management, the withdrawal of all court cases filed against the Gina Workers Union and its members, and the reinstatement of 37 leading rank and file members with back pay in a settlement that totalled over four million baht (Robertson and Somchai, 2004: 1). What the Gina workers were able to achieve carries lessons for what might also be achieved by migrant workers. The president of the Thai Labour Solidarity Committee argues that Thai and migrant workers must be given equal protection under Thai labour law (*Thahn Nien News*, 23 July 2005). Since having equal protection under the law is also effective where disputes arise, Thai labour leaders feel that an independent arbitration body with the legal power to enforce compliance would be a positive step on labour standards.

What led to Gina's victory? Roberston and Somchai (2004, 4-6) identified several main conditions that must be present for any successful labour struggle:

1. co-ordinated actions in four arenas: factory-level, national, international and Western consumer nation level;
2. a strong and cohesive union with effective communication between the union leaders and workers in all stages of production;
3. speed of communication so that information can be passed down to rank and file immediately when trying to face employer intimidation;
4. the union and its supporters must be prepared to use legal and political defences against the employer;
5. information on the ground must be authoritative, clear and well-documented;
6. presence of a bilingual and knowledgeable "mid-fielder" who plays a key linking role with constant contact with the union to ensure that local union views are placed at the centre of international strategy discussions; and
7. extending activities to new "constituencies" and making sure that pressure is continuous and building so that the employer sees no way out.

The Gina case also showed that one effective strategy was for campaigners to target brands that placed the heaviest volume of orders at the factory (Table 1).

Gap became the first target of campaigners – in part, because it has its own independent monitoring agents in Thailand – but did little to address the problems that arose at Gina (Robertson and Somchai, 2004: 26). Only under such pressure by campaigners did Gap ensure compliance and acted on demands in favour of the Gina workers, playing an important role in demanding and securing the reinstatement of a GFB union leader. This suggests that the lessons of the Gina case may not be applied so easily to cases where cheap, unskilled and expendable labour is involved. Such workers, by virtue of being disposable, would be in a weaker position and unlikely to exert this kind of leverage. The Gina workers had a unique bargaining position, indeed, a strategic advantage, both as highly skilled employees making high-end lingerie (skills that usually took a year to master).

In October 2006, the company shut down its operations in Thailand and transferred its production to its factories in Cambodia and China. So, in the end, the Gina workers won the battle but lost the war and, although this was devastating for the workers (who staged a protest outside the US embassy to demand their severance

Table 1. Brands and the Global Compact

Brand	The Global Compact
Gap	Outsourced its lingerie to Gina. The company features an entire section on its website (http://gapinc.com) devoted to "social responsibility," which includes documents on its codes of conduct. Gap joined the UNGC in 2003 after the initial Gina workers' struggle.
Triumph	A UNGC participant since 2001, was pressured to pull out of Burma after being targeted for insisting to stay with a joint-venture company tied to the military, which not only violated labour standards but human rights principles of the UNGC.
Nike	Has been repeatedly targeted by international campaigners for their failure in ensuring the factories they contract with meet basic standards. It joined the UNGC in 2000 and, like Gap, Nike takes social responsibility seriously in its code of conduct, monitoring and assessment, providing a list of the names and locations of all its contract factories around the world.
H&M	Having joined the UNGC in 2001, intervened in a labour dispute in support of workers at a factory it outsourced to in Thailand but was unsuccessful because the company placed only a small number of orders (Robertson and Somchai, 2004: 7).
Tommy Hilfiger	Faced the same pressure for sourcing products from factories that used illegal migrant labour.
The Limited	Gina's largest customer and has codes of conduct that parallel Gap's but, as the Gina case demonstrated, the company failed to live up to its codes.
The Wet Seal	Joined the UNGC in 2004, and is owned by the Montreal-based La Senza Corp. A major Gina client. It did not have codes of conduct when the Gina dispute began but established its first ever vendor code immediately after facing an onslaught of negative publicity and consumer pressure for their decision to "cut and run" (Robertson and Somchai, 2004: 25-7).

pay), their struggle provides an exemplar on how to organize effectively. Rather than view this as a pyrrhic victory and as an illustration that nothing can ever be done, their struggle provides a template for active unionism that applies just as well in Cambodia and China, as well as other factory settings in Thailand. Nevertheless as Thai citizens, the Gina workers were able to exercise their rights under the law and garner the support of local and transnational organizations and the same can apply in other contexts across Asia. Moreover at the local level, co-ordination with the Center for Labour Information Services and Training gave workers the financial support they needed to continue their strike and led to the set up of the workers' own union office in 1999 (five years after organising a union and ten years after violations began). Unfortunately, it is questionable whether workers employed in hidden subcontract factories can draw on the entitlements of citizenship to achieve similar results. Although increasing efforts by local and international organisations do act as a voice for migrant rights (such as initiatives taken by Thailand's Human Rights Commission), companies are able to take what they need when they need it and do so in spite of the social and human costs involved, since labour standards in Mae Sot

are just as flexible as borders are porous. Thailand is not the only country in Southeast Asia engaged in outsourced garment manufacturing. As labour has become more scarce in Thailand, some outsourcing has moved to neighbouring countries, where wages are cheaper even with ILO monitoring and intervention in place, as in the case of Cambodia.

Factories for Better or for Worse?

The Cambodian garment and textile industry has experienced tremendous growth over the past 12 years since companies first started setting up garment factories in 1994 (ILO, 2005). The garment industry now accounts for over 80% of Cambodia's export earnings and employs around 300,000 workers (ILO, 2005). By 2007, there were around 270 garment factories in Cambodia, the vast majority of which are owned by intra-regional firms in East Asia, mainly Taiwan and Hong Kong (Macan-Markar, 2007). What is unique about Cambodia is the involvement of the ILO in the monitoring of workplace conditions at textile factories. Established in 2001, Better Factories Cambodia (BFC) is an ILO programme of unannounced factory visits aimed at improving the working conditions in the apparel industry by combining independent monitoring, which consists of a monitor's checklist of over 500 items, with co-ordination of management, stakeholders, international buyers and international and domestic labour organisations (ILO, 2005). One key feature of BFC is the information management system (IMS) that enables the project to generate reports automatically for individual factories that show their current compliance, document progress over time and make recommendations for improvement. This means that information about factory practices are made transparent to the multinational corporations that make outsourcing decisions. Companies that subscribe to the IMS in Cambodia include Gap, H&M and Nike.

This project has been effective because, in order to obtain licence to export, all export factories within Cambodia are required to participate in the programme. Although the ILO cannot guarantee full compliance with labour standards, it does believe there is the potential for "continuous improvement" (ILO Better Factories Cambodia, 2008a). The main issues in the Cambodian garment industry include improving workplace relations, quality and productivity and enhancing a sustainable business environment that respects and supports Cambodian labour law and the standards of the ILO. Based on three or four consecutive visits to 26 factories, ILO monitoring found no forced labour, discrimination or child labour, but reported problems pertaining to wages, overtime work, freedom of association, lawful strike actions, and occupational health and safety (ILO, 2005.). One problem, however, is that since the BFC monitors only those factories that hold an export licence, monitoring excludes smaller unregistered factories that take on subcontract production in Cambodia. BFC is not an enforcement agency but international buyers concerned about work conditions often use the ILO reports to help them monitor compliance with labour standards in their supply chains (ILO, 2005). Cambodia shows a combination of multinationals and developing country firms playing different roles in outsourcing production yet progressing towards compliance with labour standards. So, in the case of Cambodia, there is evidence of more participation and effective monitoring on behalf of companies and the state. According to a World Bank survey

of buyers, there is a clear perception that labour standards are better in Cambodia in the context of corporations recognising their liability to high profile activist campaigns (Better Factories Cambodia, 2008b). This was a top priority in their decision to source from that country. This raises the question, why would the same brand-name companies also outsource to factories in countries where these standards do not apply? More research is therefore needed to explore labour, environmental and human rights standards in other developing countries.

Assessing the Global Compact: Moving from Constituencies to Stakeholders

Building on our earlier arguments, in terms of environmental issues, the UN Global Compact is viewed as the entry point for private corporations to incorporate environmental responsibility within their internal procedures (water and energy efficiency, recycling and waste reduction) and manufacturing processes (such as life-cycle management and the use of environmental performance indicators). In addition, it creates opportunities for corporations to adopt a precautionary approach towards environmental impacts and to solidify this through contractual relations with other companies engaged in joint ventures and outsourced contracting, to ensure compliance with fair trade standards and sustainability objectives. More specifically, regional co-ordination in river basins drawing upon the views of relevant stakeholders has been seen as important to identify trade-offs between affected groups rather than establishing principles that should not be violated. More promising are attempts by governments and aid donor agencies to link projects to systematic research on localised and indigenous environmental knowledge. However, as documented by the environmental examples above, the official mechanisms developed on dam construction, forest clearance and water management have failed to develop stakeholder consultations adequately. Nevertheless, more appropriate mechanisms for acquiring local knowledge have emerged through activist networks such as "Tai baan" or "Chao Baan" research projects designed to be flexible, unstructured, open-ended and cumulative. Local communities provide authentic and well-documented information on actual impacts and established sustainable agricultural and fisheries practices that have posed none or few environmental difficulties in the past, at least when compared to the major impacts of development projects in the last ten years. The evidence produced from this kind of participatory research is comprehensive and detailed and acts as a qualitative input that fleshes out the quantitative measures that feature in current environmental mitigation assessments and audits (Lang, 2003). Nevertheless, despite the availability of this evidence, the government went ahead on the terms favoured by EGAT, indicating the strong desire of some in government to send the message that protests threaten energy development and imperil long-term national interests as part of the modernisation process.

In terms of labour standards, the UNGC is viewed as a voluntary initiative that calls upon companies to be socially responsible by committing to four principles in conducting business: freedom of association and the recognition of workers' rights to collective bargaining, the elimination of all forms of forced and compulsory labour, the abolition of child labour and the elimination of discrimination (see UN Global Compact Office, 2008). Many brand-name multinational corporations became

UNGC participants and this acted as an official initiative for businesses to reinforce their stated commitment to labour standards. All participants and stakeholders are required to publish annual corporate reports documenting the ways in which they are supporting the Compact principles. Of the 121 participating companies and SMEs listed under the Textile, Apparel & Luxury Goods sector of the Global Compact (including year of participation), four companies are based in Thailand – Apparel Avenue Co. Ltd (2002), Ban Phum Thai Co. Ltd (2002) (SME), Crystalline Co. Ltd (2002) and Pranda Jewelry Public Co. Ltd (2002), three companies are based in the USA – Gap Inc., Nike Inc. (2000), The Wet Seal Inc. (2004), and two are based in Europe – Sweden's H&M (2001) and Switzerland's Triumph International (2001). Of the four Thai participating companies, three (with the exception of Pranda) have failed to develop their reports on progress and of the non-Thai companies, two – The Wet Seal and Triumph International – have failed to do so. This means that only Gap and Nike are active participants. As documented by investigation of Mae Sot companies and from the Gina case (Table 1), there are companies that do not uphold their codes (the difference being that in the Gina case, union organization, for a while, at least managed to secure a greater sense of corporate responsibility). The extent to which developing country firms are forced to comply with codes seems to be contingent upon the contractual conditions effected by the brand-name or stakeholding company that would be held accountable for any labour violation in contract factories within their supply chain. However, a great deal can be achieved by factory workers engaging in activism themselves, especially when they have allies in the NGO community. Another problem lies at the state level since corporations and international organizations, such as the ILO, explicitly assert that the enforcement of labour standards is the responsibility of government and that all contractors must comply with local labour laws and regulations. But more often than not it is NGOs, labour advocates, consumer groups, trade unions and transnational activist networks that effectively monitor the activities of corporate labour practices and hold them accountable for violations. It appears that corporations taking independent monitoring and self-regulation into their own hands would find it difficult to violate their own codes thus forcing them to ensure compliance at contract factories that make their products. In other words, self-regulation and monitoring of outsourcing companies would be more effective and beneficial for workers since the brand companies themselves are held accountable.

In many cases pertaining to both environmental sustainability and labour standards (as well as human rights) non-violation, the codes of socially responsible conduct initiated by self-regulating private corporations are more extensive, go deeper and involve explicit attempts to construct more effective monitoring and compliance than the vague and ambiguous commitments of the UNGC, which focuses on partnerships between transnational corporations and other actors. Yet, as the evidence above demonstrates, there is no requirement for these partnerships to be equal, so relative power, the financial strength and the strategic position of the actors, including labour unions (as demonstrated by the Gina case), matter just as much. As a result, the effects of the emerging corporate culture of social responsibility are varied according to the issues and resource flows involved, the political context and the precise combination of actors. Democratisation and the resulting change in governance structures usually contribute to a better context for

human rights but this does not always mean that responsibilities for implementing labour standards and environmental sustainability will follow as well. As evidence on labour and environmental standards in Cambodia demonstrates, social and environmental responsibility can be fostered in unlikely political conditions.

One of the current difficulties faced by constituencies – such as workforces (some organised in trade unions), local communities and environmental movements – in delivering their objectives is that commitments to corporate social responsibility and, indeed, corporate citizenship are voluntary. While the signatories to the UNGC will increase, there are no general mechanisms in place for monitoring and ensuring that the obligations to which corporations acquiesce (or even ones that they spontaneously and enthusiastically endorse in their own codes of responsible conduct) are actually implemented. In this context, trade unions and environmental movements have been investigators, researchers and whistle-blowers. However, for all constituencies, being recognised as a legitimate stakeholder in an ongoing dialogue concerned with achieving objectives, would mean a qualitative shift in the process of incorporating ethical awareness into corporate decision making.

While in other parts of the world, closed borders may inhibit responsibility for cross-border effects, the identified problems of social and environmental injustice here follow from the existence of extremely porous borders, making the practical identification of stakeholders very difficult. Other flows across the Thai–Burmese border that remain beyond the scope of this article include drugs, aid, technical support and training for Burmese officials (on agriculture, education, health and trade). In fact, one of the justifications that the Thai government gives for maintaining close diplomatic ties with the Burmese military government is the need for closer co-operation over narcotics in the context of the suppression of the drugs trade within Thailand. Indeed, one of the concerns about the forced relocation of indigenous peoples from northern Burma, is that drug production has now moved closer to markets in Thailand. While the second Chuan Leekpai Democrat Party-led government (1997–2001) maintained a frosty diplomatic relationship with Burma, the autonomy of the border regions ensured that legal and illegal cross-border flows continued in much the same way (in the borderlands, it was business as usual). The election of Thaksin Shinawatra's Thai Rak Thai party in 2001 and its second landslide election victory in 2005 led to a more conciliatory and co-operative relationship with Burma, under the renewed influence of "Mr. Timber," whose New Aspiration Party merged with Thai Rak Thai resulting in Chavalit's appointment as deputy prime minister and defence minister (Fahn, 2003). While political parties have risen and fallen in Thailand, with regard to environmental issues at least, political figures have remained largely the same and the interests of local, national, intra-regional and transnational corporations have prevailed, except when corruption scandals have been exposed. Transnational corporations and intra-regional developing country firms, often in partnership, have been involved mostly in major construction projects, drawing in consultancy companies from Bangkok for local knowledge and networking. Local and national developing country firms have focused on the spin-offs of the major construction projects and the localised concessions for marine, mineral and logging resource extraction in the borderlands and in neighbouring countries, as resources within Thailand have become increasingly depleted.

Rethinking Migration, Labour and the Environment

Research and inter-governmental initiatives have focused largely on human rights violations as the main motivating factor for the movement of migrants, maintaining a distinction between refugees seeking political asylum and migration for economic reasons. The Global Commission for International Migration (2005: 58) report highlights a shift in thinking: "migration has become a survival strategy, employed by people who are seeking to escape armed conflict, human rights violations, authoritarian and corrupt governments, as well as unemployment and poverty." Amnesty International (2007) has also indicated that migration resulting from economic and social injustice or environmental degradation is often misleadingly presented as distinct from that resulting from human rights violations – that it is problematic in practical terms to sustain the distinction. For example, conflict zones often result in the destruction of markets, habitats, seizure of land and other forms of property, the forced relocations of minority populations (ethnic cleansing) and genocide. In relation to Burma, there is widespread international recognition of human rights violations, with a particular concern for the situation of indigenous peoples such as the Shan or the Karen.

The emergence of the concept of "survival migration" (as a movement out of necessity rather than choice) provides an opportunity to rethink the connections between the factors involved in the movement of people. The key question is how to define "necessity." Acknowledging exclusion from or lack of access to security and development and the experiences of discrimination and impoverishment as necessary reasons, while defining it more narrowly could be seen as a justification for restricting movements. While we can attempt to distinguish between "involuntary" (including the effects of environmental degradation as well as human rights and labour standards violations) and "voluntary" migration, it is often the case that while migrants seek a better life beyond their country of origin, the decision to migrate can at the same time (and is often) a result of environmental, social and political injustices existing side by side (as in Burma).

In the context of human, energy and resource flows across borders, there are three main reasons why labour, human rights and environmental issues are seen as interconnected in mainland Southeast Asia. First, in the networks of the global supply chain, capital investment decisions and outsource contracts are influenced by the availability of cheap labour and ample natural resources, combined with the compliance of the local political system (compliance that can lead to corruption and human rights violations). "Just-in-time" regional factories often have a detrimental effect on local ecosystems through resource extraction, (unregulated) pollution impacts, disruption of local employment markets serving more sustainable forms of production. In Burma, opposition to these processes has resulted in political and military persecution, adding another push factor for survival migration while at the same time making available a substantial low wage work force on the Thai–Burmese border.

Secondly, within the culture of corporate responsibility, codes of conduct are focused most often on labour standards and environmental sustainability (while human rights are often more important in conflict zones). Living up to the codes of conduct makes corporations more responsive to the pressures of campaigns by Western NGOs on labour and environmental issues. At the World Economic Forum

in Davos in 2004, only one CEO was willing to question openly whether companies were obliged towards social and environmental responsibilities – Peter Brabeck-Letmathe of Nestle – indicating that corporate decision making is susceptible to pressure and argument (Salls, 2004).

Thirdly, resistance networks are emerging that link unions to environmental movements, sometimes as part of broader platforms for social and political change, such as the Assembly of the Poor in Thailand. Moreover, localised and regional campaigns are developing strategies in co-ordination with transnational NGOs to initiate consumer boycotts and raise awareness of how corporations are neglecting their responsibilities. For example, challenging the information provided for transnational brand-based corporations by subcontract companies would create more pressure for compliance with the codes of conduct.

Since global networks of corporations operate to produce social and environmental injustice, then critical responses to corporate decision making would be more effective by developing counter-acting networks that benefit from “movement fusion: the coming together of two movements in a way that expands the base of support for both” (Cole and Foster, 2001: 164). The most likely context for achieving fusion and fostering global networks for promoting social and environmental justice is the emerging discourse of corporate responsibility and citizenship – that is through self-regulation rather than through the state. This is especially relevant in Southeast Asia since developing countries in the region operate in a global economy while not experiencing the same history of national regulation of capital, labour and the environment characteristic of Western societies in the twentieth century.

The results of this study may seem counter-intuitive at first sight (activists tend to see outsourcing as the major problem). In some ways, this is informed by an ethnocentric response, that representatives of workforces, social justice movements and environmental campaigners are fixated on the relocation of labour from North America and Europe to cheaper markets overseas (commonly described as the “race to the bottom”). Interestingly, this has created significant opportunities for change, in that the separation of ownership between transnational brand name corporations and outsourced manufacturing companies (some of which are local while others are nationally or regionally based) creates mechanisms for intervention by trade unions, environmental movements, human rights organisations and other NGOs. When considering the effects of the Nam Theun 2 and the Huey Ho dam projects in Laos, a nation characterised by poor governance structures, the controlling role of transnational corporations (as integral to development consortiums) tends to present obstacles to achieving real change or even adequate compensation for affected groups (the relevant constituencies).

In terms of sweatshop factories on the Thai border, the transnational corporations are genuinely vulnerable to pressure from linked local and transnational campaigns (as in the example of the Gina Bra workers), with the proviso that workers occupy a strategically advantageous position in the global supply chain and develop “quick response co-ordination” with relevant NGOs. Ironically, the labourers in the border regions receive higher wages and the potential for legal and political recognition in Thailand than they would within their countries of origin. So, given this evidence, “the environment” in Southeast Asia and its guardians look likely to remain a non-stakeholding constituency (at least outside Thailand) for the foreseeable future,

while the prospects for labour unions are improving as migrant workers begin to organise collectively, or at least secure the support of NGOs in initiating defensive legal cases in the medium term in some sectors (subject to capital flight and a new race to the bottom in different terrains of the global labour market). Future research thus needs to consider the relevance of political context and the existence of avenues for engagement and dialogue, opportunities for civic engagement and the potential for translating constituencies into stakeholders.

Notes

- ¹ By “unsustainability,” we mean environmental deterioration that will inhibit opportunities for future generations to live a comparable life without infringing the entitlements and obligations of future generations.
- ² Stakeholders are constituencies affected by the decision of a company but can exercise some leverage within the company, through deliberative engagement, i.e. stakeholders, as opposed to the wide range of the constituencies affected by the decisions of the company, are regarded as having legitimacy in corporate decision making (see Thompson, 2004).
- ³ The Thai abbreviation stands for “Project to Resettle Poor Villages in Degraded Forests.” Launched by the Thai government (Forest Department) and Army in 1991, this resettlement programme was aimed at reforesting degraded and encroached reserve forest land. According to Missingham (2003: 34), the programme, if implemented fully, would have affected 5.8 million villagers nation-wide. It ignited “rural mobilization and protest, especially among villagers and NGO activists in the Northeast” which was the first target area of the programme.
- ⁴ Exports to Vietnam are also planned, scheduled for 2012.
- ⁵ There are a significant number of small-scale projects to generate power involving private Thai companies engaged in surveying, design and construction but the scale of these projects is such that they are unlikely to deliver the energy needs of Thailand’s modernization programme.
- ⁶ While Thai companies may negotiate with local tribal leaders, for the most part, this is informal and additional to their arrangements with the Burmese military. Some of the surveying work has been disrupted but it remains unclear exactly which groups are involved. The Thai companies involved have stressed that their activities are in accordance with agreements of all parties involved. We chose the word “compliance” carefully; compliance may not mean consent in all cases.
- ⁷ The million metre deal refers to a logging concession which would give a million square metres of timber to 20 Thai companies. The Cambodian government was sanctioned by the IMF for failure to disclose the sale leading then IMF Director Michel Camdessus to cut off \$20 million in budgetary assistance that it planned to disburse in June 1996 (see Cousens et al., 2000: 106).
- ⁸ Trade among the five member countries of ACMECS – Thailand, Burma, Cambodia, Laos and Vietnam – is currently valued at \$US2.5 billion (Bt102 billion) per year and is expected to increase (*The Nation* [Bangkok], 13 October 2005).
- ⁹ Many observers suggest the need for a more comprehensive analysis of ownership and management in Mae Sot factories.
- ¹⁰ In summer 2007, all FTI companies were claiming to now pay the minimum wage (135 baht), but this is yet to be established, even if they are there is still the problem of illegal deductions (communication from Kevin Hewison).

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