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### The Yadana syndrome? Big oil and principles of corporate engagement in myanmar

Ian Holliday <sup>a</sup>

<sup>a</sup> Professor of Policy Studies and Dean of the Faculty of Humanities and Social Sciences, City University of Hong Kong,

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# The Yadana Syndrome? Big Oil and Principles of Corporate Engagement in Myanmar

IAN HOLLIDAY\*

In debates about economic globalisation, the case for leading corporations to engage with some of the world's most desperate development challenges is increasingly heard. However, it remains an open question whether investment should take place in extreme contexts. On the one hand, foreign capitalist involvement in extractive industries has long been seen as highly exploitative. Should such activity now be encouraged? On the other, all forms of corporate engagement with regimes that commit gross human rights violations are widely viewed as thoroughly unprincipled. Should this activity now be endorsed? The article tackles these issues by examining the controversial involvement of Western oil companies in Myanmar's Yadana gas project. It addresses two main questions. First, is that involvement itself to be welcomed? Second, from this experience, can wider lessons about global corporate citizenship be drawn? The argument is that it is not possible to reach an overall evaluation of the Yadana project. However, principles of responsible cross-border corporate engagement can be derived from it.<sup>1</sup>

## Introduction

In debates about economic globalisation, the case for leading corporations to engage with some of the world's most desperate development challenges is increasingly heard. In just the last few years, the World Bank and Mandle have shown that economic globalisation can operate to the benefit of the poor, Bhagwati and Wolf have issued powerful defences of globalisation, and Friedman has urged individuals, corporations and governments to seize the opportunities present in the increasingly "flat" world in which we live.<sup>2</sup> From the peak of the international political system, UN Secretary-General Kofi Annan has endorsed all these arguments by holding that it is "the absence of broad-based business activity, not its presence, that condemns much of humanity to suffering."<sup>3</sup> To stimulate action, he sponsored the UN Global Compact, dedicated to promoting responsible corporate citizenship throughout the world, and appointed its principal author, Kennedy School Professor John Ruggie, to

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\* Ian Holliday, PhD, is Professor of Policy Studies and Dean of the Faculty of Humanities and Social Sciences, City University of Hong Kong.

the position of Special Representative on the issue of human rights and transnational corporations and other business enterprises.

However, despite all the mood music lauding the contribution business can make to development, it remains an open question whether corporate engagement, and in particular inward investment, should take place in extreme contexts. On the one hand, foreign capitalist involvement in some industries, notably resource extraction, has long been seen as highly exploitative. For decades, neo-Marxist critiques of capitalist underdevelopment held sway, stressing the extent of local state dependence on foreign capitalist interests, and the catastrophic impact of corporate engagement on local economic, social and political evolution.<sup>4</sup> Notions of captured, rentier states mired in corruption and committed to systematic exploitation of Third World populations were commonly encountered. Few other than baleful local effects, generated by unprincipled involvement on the part of foreign corporations, were recorded. Today, criticism of this kind continues to be heard in, for example, responses to the World Bank's *Extractive Industries Review*, released in December 2003, which itself reached rather equivocal conclusions.<sup>5</sup> Under the influence of more recent analyses of economic globalisation and its effects, should such activity now be encouraged? As economies are opened to the forces of global capitalism, is resource extraction to be placed alongside other corporate activity as positive and constructive in its contribution to pro-poor policies?

On the other hand, all forms of corporate engagement with regimes that commit gross human rights violations are widely viewed as thoroughly unprincipled. For many years now, the sanctions lobby has trained a moral spotlight on inward investment in countries dominated by violator regimes. While the condemnation, and the resultant corporate pullouts, have always been highly selective, picking up on, say, Myanmar in the Asian context but making little comment on China, they have been no less powerful for that. Indeed, informal sanctions, targeting brands and corporations with a great deal to lose from negative publicity, have often been much more potent than formal government sanctions applied by the US and some of its allies.<sup>6</sup> Again, under the influence of the latest writings on economic globalisation, should this activity also now be endorsed? Even in the most unpromising domains, can profits and principles be secured in tandem?<sup>7</sup>

This article tackles these issues by focusing on one very specific development context: Myanmar, or the country formerly known as Burma. By almost any definition, this is a difficult environment for poverty reduction.<sup>8</sup> It is also one of the most unpromising settings for business activity, ranking last out of the 127 countries included in the Fraser Institute's Economic Freedom of the World Index for 2003.<sup>9</sup> Furthermore, the kinds of extreme circumstance that generate the greatest development challenges are readily found here. Global corporations are engaged in extractive activities that provoke fierce critiques. Reports published over many years by Amnesty International, EarthRights International, Human Rights Watch

and other organisations document gross human rights abuse by government-backed forces in virtually all parts of a country of more than 50 million people.<sup>10</sup>

Within this context, the article examines one particularly controversial extractive enterprise: the Yadana gas project, in which Western oil companies have long been prime movers. The debate that encircles this project is of course not unique. It is nestled in a broader discourse about corporate engagement with rights violating regimes all over the world, and reflected in specific ethical controversies that have flared up in recent years.<sup>11</sup> When companies such as Carlsberg, Heineken, Levi Strauss and Reebok pulled out of Myanmar in the early and mid-1990s, they made public the moral concerns that prompted their decisions.<sup>12</sup> Equally, some corporations targeted by campaigners have issued ethical justifications for ongoing engagement.<sup>13</sup> Similar divisions are visible in other spheres. While the Global Fund made a high-profile withdrawal from Myanmar in August 2005, citing intolerable official interference in its work to combat AIDS, tuberculosis, and malaria, key internal groups such as the National League for Democracy and the Student Generations Since 1988 now call for humanitarian intervention; and international agencies such as Save the Children USA continue to operate inside the country.<sup>14</sup> The Yadana project is special because this single case encapsulates Western corporate involvement in resource extraction in a highly repressive context. It also has the virtue of being very well documented.

The article addresses two main questions. First, is the involvement of foreign-owned corporations in Myanmar's Yadana project to be welcomed? Second, with the experience gained from this involvement, can wider lessons about global corporate citizenship be drawn? To generate answers, the first section of the article provides some brief background material on the Yadana project. The second section then examines the cases made by its backers and critics, and evaluates the project from the perspective of its impact on the people of Myanmar. The third section focuses on wider lessons for corporate engagement that flow from the project, and in particular, the conditions in which inward investment in repressive settings is likely to be most constructive and positive in its effects. Applying these conditions to Myanmar, the fourth section considers ways forward for corporate involvement with the country. The article closes with a brief conclusion. The argument is that it is not possible to reach an overall evaluation of the Yadana project. However, some principles of responsible cross-border corporate engagement can be derived from it.

## The Yadana Project

On July 9, 1992, Myanmar Oil and Gas Enterprise (MOGE), a company owned wholly by the Myanmar state, and Total, a global corporation headquartered in France, signed a memorandum of understanding regarding exploitation of the Yadana offshore natural gas field.<sup>15</sup> Some six months later, at the start of 1993, a

subsidiary of US corporation Unocal joined the project, and in 1994 and early 1995 undertook technical surveys together with Total. When the surveys revealed that the Yadana field contained more than 150 billion cubic meters of natural gas and had an expected life span of 30 years, the Petroleum Authority of Thailand (PTT) contracted to purchase at least 80 per cent of annual output. Petroleum Authority of Thailand Exploration & Production (PTT-EP) joined the project as a major stakeholder in February 1995. Finally, in November 1997, MOGE exercised an option to acquire an investment stake, giving the project four partners. Total, the major operator, had 31.2375 per cent, Unocal, through its subsidiary, had 28.2625 per cent, PTT-EP had 25.5 per cent, and MOGE had 15 per cent.<sup>16</sup>

These percentages were replicated in control of the Moattama Gas Transportation Company (MGTC), created in late 1994 by Total and Unocal and subsequently brought under the control of all four partners. MGTC was established for the express purpose of building a pipeline to carry gas from the Yadana field in the Andaman Sea to the Thai-Myanmar border, so that onward transmission to the major consumption market in Thailand could take place. The main construction phase lasted from October 1996 to May 1997. Follow-up work undertaken between October 1997 and May 1998 made the pipeline fully operational.<sup>17</sup> The Yadana pipeline has a diameter of 90 centimeters and a length of 409 kilometers. It runs for 346 kilometers under the sea, and for 63 kilometers through a trench cut across the Tenasserim division in the south of Myanmar. The onshore pipeline corridor that is at the heart of debates about Yadana measures 63 kilometers in length and some 10–15 kilometers in width. It contains 23 villages and roughly 40,000 people. No fences or physical boundaries demarcate this strip of land. It is simply the zone identified as bearing the greatest impact of the onshore pipeline.

For Total and Unocal, lead partners in the joint venture with a combined 59.5 per cent stake, events alleged to have taken place inside the pipeline corridor quickly provoked substantial legal, political and moral challenges. In the mid-1990s, judicial processes launched in both Europe and North America cited extensive human rights abuse. Ultimately, in December 2004, one set of lawsuits filed in California against Unocal was settled out of court.<sup>18</sup> Another set brought in France against Total continues to be heard. Wider political and ethical critiques were also mounted and remain vibrant to this day. In February 2005, for instance, the Burma Campaign UK released a 44-page document, *Totalitarian Oil – Total Oil: Fuelling the Oppression in Burma*, which extended criticisms made notably by EarthRights International in *Total Denial*, from 1996, and in *Total Denial Continues*, from 2000.<sup>19</sup> Moreover, the Yadana project colours much that both corporations do. When, in April 2005, ChevronTexaco announced an intention to acquire Unocal, one issue that immediately surfaced was the status of its Yadana stake.<sup>20</sup> In an earlier incarnation, Texaco had in September 1997 pulled out of the Yetagun gas project, which uses the same pipeline corridor as Yadana to transmit gas.

For detractors, the involvement of leading global corporations in the Yadana project has caused a series of injustices to be visited on the residents of a quiet rural area in the south of Myanmar, and has provided high-profile external support for one of the world's most repressive regimes. Critics are particularly concerned about grave human rights abuse extending as far as extrajudicial killing, and distortion of political processes both inside and outside the country. For them, there is a complex of symptoms indicating the existence of an undesirable condition, a veritable Yadana syndrome. For the corporations, by contrast, the picture looks very different, with a small number of regrettable incidents largely beyond their control in no sense undermining economic development both close to and at some distance from the project, and with national politics being largely unaffected by their engagement. Total and Unocal particularly emphasise infrastructure improvements, social service provision and income-generating opportunities created for individuals living in the pipeline corridor.

## Evaluating Yadana

A large-scale inward investment project like Yadana can be assessed at many levels. In neo-Marxist critiques, the most significant impacts of externally-controlled extractive industries are found at the level of the state, which becomes captured, predatory and dependent, and throughout the wider society over which it presides, which becomes utterly corrupt. However, looking in detail at actual impacts in countries that have long featured at the heart of such analyses, major systemic impacts are often hard to find. In Nigeria, long seen as a classic case, there are certainly structural problems in both the state and society. Yet, as Omeje shows, the state has not been totally captured by Western oil interests and cannot be said to be wholly dependent on them.<sup>21</sup> Today, the involvement of companies like Agip, Chevron, Elf, Mobil and Shell in the Niger Delta remains highly controversial, and is vigorously contested through websites and more conventional media.<sup>22</sup> Nevertheless, while Western oil corporations have had national impacts, the local impacts have been in many respects more important.

Much the same can be said about the involvement of Total and Unocal in the Yadana gas field. In an economy as destitute as that of Myanmar, Yadana ranks as a major investment project, and the national dimension certainly cannot be ignored. However, there is no substantiated claim in any critique that Myanmar's military junta has been captured by Western oil interests. Indeed, even a cursory analysis of the balance of external influences on the regime would find that it is much more extensively under the sway of Chinese forces, both economic and political, than of any Western agent.<sup>23</sup> In this instance too, then, impacts need to be sought locally at least as much as nationally. Here, the case against is presented first, as it is critics of the Yadana project who have made most of the running. The case for follows. An evaluation is given at the end of the section.

## *The Case Against*

The core of the case against is the charge that human rights abuse has been prevalent in the pipeline corridor because of militarisation undertaken to secure it for foreign oil companies. *Totalitarian Oil* claims that, in all, “at least 16 battalions have either been stationed in the area or patrolled the pipeline corridor at one time or another since 1991.” For local villagers, light infantry battalions 273 and 282 are the “Total battalions”. Moreover, in opposition to explicit denials from Total, the Burma Campaign UK insists that the Yadana consortium “made requests and payment for security services to partner MOGE, who then deployed the Burmese Army.”<sup>24</sup> The twin contention is that militarisation has long been a corrosive fact of life in the pipeline region, and that all of the contracting parties in the consortium, including Total and Unocal, are complicit in it.

Elaborating on the first point, *Totalitarian Oil* holds that militarisation has resulted in “countless human rights violations.” “First-hand testimony from victims, witnesses and Army defectors from the area testify to a litany of abuses including forced labour, forced relocation, torture and rape carried out by pipeline security troops.”<sup>25</sup> It goes on to provide several pages of sometimes graphic description of the brutal treatment meted out to villagers by the Myanmar Army. This testimony is echoed in accounts of how the army operates in other parts of the country published by Amnesty International, Human Rights Watch and the International Labour Organisation. There is therefore little reason to dispute the contention advanced by *Totalitarian Oil* that Myanmar’s military forces are “renowned for their extreme brutality,” and scant reason to assume that they have been any less brutal in the pipeline corridor than elsewhere in the country.<sup>26</sup>

The more important and controversial claim is that Total and Unocal were complicit in militarisation and, by extension, in grave human rights abuse. To substantiate it, *Totalitarian Oil* presents a clause from the production sharing contract signed by Total and MOGE in July 1992, which states that MOGE will “assist and expedite execution of the Work Programme by providing at cost ... security protection and rights of way and easements as may be requested.”<sup>27</sup> It argues that Total “had to have known that the security protection it requested ... would come in the form of the Burmese Army.” For this reason, Total’s repeated denial of direct or indirect links with the military is “meaningless.”<sup>28</sup> It further holds that by July 1992, when the production sharing contract was signed, Myanmar’s armed forces had a well-documented history of abusive behaviour detailed in, for instance, an August 1991 Amnesty International report.

When litigation against Total’s partner, Unocal, made its way through the US courts, a central part of this allegation was upheld. Ruling that forced labour is a modern form of slavery, US judges brought it among the transnational crimes that generate responsibilities under international law. They then found that Unocal gave

“knowing practical assistance or encouragement” to the use of forced labour in the pipeline corridor.<sup>29</sup> They reached the conclusion that Unocal had aided and abetted forced labour practices in southern Myanmar. However, before a final verdict could be reached, the corporation concluded a multimillion dollar out-of-court settlement with the plaintiffs.

Wider charges focus on foreign engagement with and support for one of the world’s worst rights violating regimes. Partly there is grave concern about the revenue stream that started to flow to the government in 2005, when its investment loans were finally paid off. In addition, there are allegations that the political process is being distorted not only nationally, but also internationally. In September 2005, for instance, a 70-page report commissioned by Václav Havel and Desmond Tutu was released under the title *Threat to the Peace*.<sup>30</sup> When its call for UN Security Council action to promote national reconciliation and oversee a transition to democracy fell largely on deaf ears, fingers were pointed not only at China for its ongoing protection of Myanmar’s military junta, but also at France for its unwillingness to endanger Total’s investment stake in the country.<sup>31</sup>

### *The Case For*

The major corporate rebuttal of charges against the Yadana project appeared in 2003 as *Total in Myanmar: A Sustained Commitment*. Focusing mainly on local impacts, this document acknowledges that problems were encountered in the construction phase of the onshore gas pipeline, notably when a March 1995 ambush, allegedly undertaken by a group of Kayin guerillas, killed five individuals and injured 11. It also accepts that from late 1995 the Myanmar Army responded to the ambush by increasing its strength in the region and requesting improved communication links with the contractors. However, Total denies both that its own security personnel were armed as a result of the March 1995 ambush, and that it entered into any formal relationship with the military: “Contrary to certain allegations, Total has never had a contractual relationship with the Myanmar Army. The Group has never paid the Army, supplied it with arms, provided it with logistical support, transported troops or provided vehicles for this purpose, or given it instructions.”<sup>32</sup>

At the same time, Total is at great pains to stress the many benefits that have been generated by its onshore pipeline project. In the construction phase, jobs were created for local people. In a total labour force of 2,500, 2,200 were adult Myanmar nationals employed on a voluntary, contract basis and drawn chiefly from local villages. The contractors also provided necessary training and wages at around twice the average daily rate found in Yangon. In 1995, a socioeconomic programme was launched to focus on four key areas: health, education, economic development and infrastructure. Directed initially at 13 villages closest to the pipeline, with a total population in 1996 of 18,400, the programme was extended to a further 10



villages in 2001, raising the population coverage to 30,900. Furthermore, some initiatives, notably in healthcare and education, are now made available to the full corridor population of around 40,000 villagers. Between 1995 and 2003, Total maintains, \$10 million was spent on socioeconomic initiatives. The 2003 budget was \$1.2 million.

Furthermore, to implement this programme, Total and its contractors created village liaison teams staffed wholly by Myanmar nationals. In 2003, the teams comprised 12 physicians, four veterinarians, three communication officers and two agriculturalists. To extend benefits beyond the pipeline corridor, the programme also embraced a series of national projects, including 10 orphanages, primarily in the Yangon region, for more than 1,000 children, and the blindness prevention work of US foundation Helen Keller International. Finally, Total and its contractors profess profound commitments to human rights. Total's code of conduct is underpinned by the principles contained in the Universal Declaration of Human Rights and the Charter of the International Labour Organization, and is appended to subcontractor agreements, becoming legally binding on them.

The reality of these many benefits is confirmed by agents appointed by Total to conduct independent evaluations of the pipeline's local impact. The Collaborative for Development Action (CDA), a US-based independent economic and consulting agency, notes that while forced labour remains prevalent in Myanmar, it is not used on the Yadana project. "Total is very vigilant on this issue, and has developed an effective procedure for putting pressure on the authorities. There is no forced labour in the pipeline corridor, and the villagers recognise this, saying: 'Total has allowed us to sleep soundly.'" It commends Total's socioeconomic programme, proposes that it be extended, and points to possible future initiatives. Similarly, Dr. Bernard Kouchner, founder of Médecins Sans Frontières and latterly a senior public servant in both France and the UN, provides constructive criticism for a form of corporate engagement that he broadly endorses. Noting that Total's engagement with a dictatorship "underlies all criticism of the Group," he nevertheless holds that many specific allegations are refuted by onsite investigation, and goes on to detail the "real success" of the socioeconomic programme.<sup>33</sup>

Broader charges about funding a dictatorship and distorting political processes inside and outside Myanmar are addressed only tangentially in Total's document. In his section, Kouchner recommends that the corporation "take a stand" for democracy and for the release of opposition leader Aung San Suu Kyi.<sup>34</sup> To date, Total appears to have made no more than token attempts to act on this.

### *Evaluation*

The narratives constructed on the two sides of the Yadana gas pipeline controversy are diametrically opposed. Critics point to high-profile support for a repressive

dictatorship and extensive human rights violations in the pipeline corridor. The corporations emphasise strenuous attempts not only to limit local abuse and disruption, but also to promote a wealth of beneficial spin-offs. In these circumstances, reaching a single, overarching evaluation is impossible. It is not simply that the negatives and positives are of very different kinds — extra-judicial killing versus socioeconomic gain — but also that the two cases reflect distinctive moral positions that, ultimately, cannot be reconciled. An assessor who encounters the Yadana project from a position of Kantian deontological liberalism is likely to be most impressed by grave human rights violations, and to condemn it on those grounds. By contrast, an evaluator who starts from a more teleological position, such as one of the many forms of utilitarianism, will be prepared to place the entire experience in the balance, and may then reach more supportive conclusions. As with many other ethical issues in business, an individual's stand on the Yadana controversy depends on his or her underlying moral commitments.<sup>35</sup>

There is, then, no possibility of decisively resolving the Yadana controversy one way or the other, or of bringing the already lengthy analysis of rights and wrongs to a final conclusion. This is simply a debate that will run and run. There are additional ways in which the project can be examined, however, and further uses to which this experience can be put. In particular, among those who adopt a more teleological standpoint and are prepared to accept that some good may have come out of it, the Yadana project can be mined for lessons about corporate engagement in repressive settings with a view to determining what might count as principled activity.<sup>36</sup>

## Principles of Corporate Engagement in Repressive Settings

At the outset, it must be acknowledged that this exercise will provoke no interest among corporations that systematically refuse to have dealings with rights violating regimes. For those with spotlessly clean hands, there is no reason even to consider getting dirty. However, looking only at Asia, it is evident that a great many companies are prepared to soil their hands at least in some measure. The obvious case, already mentioned in passing, is China. While the Chinese government may not be repressive in the same way or even to the same extent as Myanmar's military junta, it is on much the same page. When all is said and done, the differences are overwhelmingly of degree, not kind. Given that so many global companies currently invest in China, there is little justification for being wholly dismissive of corporate engagement with other repressive governments. In his report for Total, Kouchner pointed out that "While the Myanmar regime deserves the criticism it has received, its opponents are much more indulgent with regard to human rights violations in other countries that they feel should not be criticized at this time."<sup>37</sup> This double standard needs to be exposed so that principled forms of corporate involvement with repressive states might be thought through.

Equally, while the many corporations that have gone into China in recent years undercut grandstanding arguments against engagement with other repressive regimes, this issue also has a strong practical dimension. Indeed, it is eminently clear that global corporations frequently decline to invest in countries like Myanmar not on grounds of principle, but on grounds of image and reputation. In an analysis of “the great non-debate over international sweatshops,” Maitland made a parallel point. Top companies with leading brands and high visibility in Western consumer markets simply sidestep the sweatshop controversy for fear of damaging their image.<sup>38</sup> There is a similar non-debate, not great but still significant, over corporate engagement with rights violating regimes. This non-debate is particularly striking in national contexts characterised by consumer markets of considerably less than one billion people.<sup>39</sup>

Turning to the task of learning from the Yadana project, three major elements appear to offer broad pointers for corporate engagement. Each has three subsidiary aspects. First, there is the nature of the corporation. Where does it come from? Which sector is it engaged in? What sort of profile does it have? Second, there is the nature of the project. What is the extent of government involvement? What sorts of employment opportunities can be expected to flow from it? What will be the terms and conditions offered to workers? Third, there is the nature of knock-on impacts. What is the forecast impact on local economic development? What is the expected impact on local social and environmental development? What might be the degree of national political engagement? The reasons for focusing on these dimensions are given in the sections that follow.

### *Corporation*

The Yadana project brought together corporations from the US, France, Thailand and Myanmar. Among the three external players, two have been pursued through the media and the courts in high-profile cases, while the third has not. This immediately suggests that country of origin is an important aspect of corporate engagement in repressive contexts. Additionally, sector is relevant, as can be seen from long-standing debates about the impact of extractive industries on development. Finally, a corporation’s self-image and self-articulated commitments also come into play.

*Country of origin* is obviously important in the negative sense that through formal or informal sanctions it can act as a veto on corporate engagement with some countries. However, it is positive dimensions that are of more interest here. In this regard, country of origin can play a significant role, for the kinds of informal pressure that may prevent a corporation from entering a country can also affect the mode of engagement of companies that do go in. In this regard, Myanmar’s extractive industries are instructive, for they provide highly divergent examples of

corporate conduct. At one end of the spectrum lie companies like Total and Unocal, which face intense public scrutiny and largely for that reason have become at least conversant with ethical issues and concerned to show the world that they operate to defensible moral standards. At the other end lie companies with little or no public profile that take scant interest in ethical matters. In many cases, the exploitation of workers or the environment that results is extensive and shocking.<sup>40</sup> In this context, testimony collected from a Shan miner in 2004 by EarthRights International is telling: "People from China came and built a new factory at [xxx] mine but they were only concerned with the factory operations and did not care about workers' health or the environment. Even when workers and people became very sick from the poisonous smoke, the Chinese businessmen and the Burmese government did not say anything. When people began to die because of the black smoke, they did not say or do anything. They do not care about us."<sup>41</sup> If investment is to flow into repressive settings, it would seem preferable that it come from countries where businesses are forced by pressure from public and nongovernmental actors to take moral standards seriously, and where such issues thereby have some purchase. Far from ethical corporations deciding as a matter of principle to steer clear, they should consider whether they could make a greater contribution and set new industry standards by going in.<sup>42</sup>

*Sector* plays an important role because distinct industrial and commercial enterprises differ in the degree of benefit they generate for a repressive authoritarian regime on the one hand, and for the people it rules on the other. One issue is the extent to which a given sector is labour-intensive, for in a developing country context well-regulated employment is one of the major contributions made by inward investment. This has been one of the key gains registered by the Yadana project. A second issue is the impact of a given sector on local and natural resources, which clearly should not be in any sense devastating. A third issue is the usefulness for local people of production or output from the sector. Resource extraction probably falls somewhere in the middle of an industrial spectrum that stretches from military and defence at one end to consumer products at the other.

*Corporate profile* enters the picture because companies with high visibility, like Total and Unocal, find that they have to be more strongly committed to socially responsible investment than those with virtually no visibility, like the Chinese investor in Shan state. Partly such commitments represent corporate responses to external context, which means that the patterned national factors identified above become relevant. However, even within national contexts there is considerable variation in corporate profiles. The chances of inward investment having a beneficial impact on the local population clearly increase with the degree of commitment to global corporate social responsibility made by a business, as revealed by track record, corporate strategy and company statements.

## *Project*

The Yadana project is controversial not only because of the presence in it of two major Western oil companies, but also because of some of its key internal features. For critics, the degree and nature of government involvement have been central problems. For the corporations, employment opportunities plus worker terms and conditions have been key benefits.

*Government involvement* can take many forms, ranging from quite arms-length regulation and taxation to hands-on modes of control. In a repressive context, controversy is especially great when state officials use inward investment to bolster their positions through extensions of oppressive practices, including physical abuse and forced labour, and corruption that enables them to line their pockets. The Yadana project has been plagued by these sorts of problem.<sup>43</sup> Given this, it is important for inward investors to find ways of shielding their enterprises as much as possible from the repression and corruption that characterise the wider society with which they are engaged. Indeed, unless this ring-fencing exercise is undertaken, business will act not as a catalyst for change, but as a reinforcement of the existing political order.

*Employment opportunities* are almost certain to be boosted by inward investment. They form a core part of the case for the Yadana project advanced by Total and Unocal, which made a point of drawing as much as possible on local workers. Furthermore, in the most successful development cases of recent years, external capital has often been critical in stimulating growth and employment.<sup>44</sup> At the level of individual initiatives, forecast employment opportunities thus become highly relevant, in terms both of the quantity and the quality of the positions opened up. Reaching back to the prior point about government involvement, it is of course important that any jobs created by inward investors do not fall under the control of regime officials.

*Worker terms and conditions* are similarly important, and are again stressed by the corporations involved in the Yadana project. Most fundamental is the core compensation package, in terms of take-home pay, plus basic working conditions. Clearly these should not fall to sweatshop levels, though there are strong arguments for holding that even mass production factory units are able to make a positive contribution to local welfare.<sup>45</sup> Beyond pay and conditions, there are also possible add-on benefits such as training and education opportunities and healthcare facilities. As is increasingly being recognised, global corporations can make a critical contribution to advancing the cause of labour rights within development contexts by pushing compliance above local standards.<sup>46</sup>

## *Knock-on Impacts*

The knock-on impacts of the Yadana project comprise not only local economic development, but also local social and environmental development, plus national

political engagement. The nature of corporate engagement needs to be assessed in each of these domains.

*Local economic development* can be substantially affected by inward investment on the part of a major global corporation. On the positive side, proactive steps may be taken by the investor to stimulate local economic activity. Even without that, however, a triggering effect may operate by enticing other companies in a similar line of business to move to the area, or by stimulating the emergence of a local supply chain. On the negative side, possible adverse impacts through, for instance, elimination of local forms of enterprise, are also possible. Either way, developmental effects from the attraction of one major player to a local economy can be substantial, and form an important part of any cost-benefit analysis. In the Yadana case, one of the most important initiatives has been the establishment of a micro-credit facility under the corporations' socioeconomic programme, with disbursements determined by banking committees elected by villagers. This has stimulated the emergence of a small middle-class, and has also enabled attention to be trained on the poor.<sup>47</sup>

*Local social and environmental development* can also be decisively shaped by the arrival of a major corporation. Again, there are negatives and positives, with potential destruction of traditional cultures and modes of life coming up against opportunities to boost the material welfare of local people. Evaluation of any inward investment project should also extend beyond core economic matters to encompass the social and environmental impacts that a corporation is likely to have, including its own commitments in this domain. On the human welfare scorecard, issues such as nutrition and health, housing, education and wealth distribution loom large and need to count as core elements of corporate citizenship. Environmental scorecards must also be drawn up. Ironically, given the centrality of human rights violations to debate, CDA reports that the most important knock-on impact of the Yadana project is enhanced personal security in the pipeline corridor: "Villagers say the single most important side effect of Total's Socio-Econ Program is the degree of safety and security it provides to villagers."<sup>48</sup> Broad social and economic development has also been registered: "The Socio-Economic Program is visibly and measurably increasing quality of life for the inhabitants of the pipeline area."<sup>49</sup> Free medical care and educational support have been especially welcomed. In addition, the emergence of a nascent civil society has been witnessed, notably through the banking committees mentioned above and village communication committees, elected by villagers to liaise with the corporations. CDA notes that "Positive experiences with "civil society" mechanisms ... may enable Total to demonstrate to the Government that [they] can exist without being a political threat."<sup>50</sup>

*National political engagement* is, finally, a contentious and difficult but also critical matter for inward investment in authoritarian and repressive states. It is not feasible to expect corporations to alter their fundamental character from economic

to political entities. Many years ago, Friedman famously asserted that “there is one and only one social responsibility of business — to use its resources and engage in activities designed to increase its profits.” However, even he added a qualifier: “so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud.”<sup>51</sup> From the kinds of liberal premises adopted by Friedman, Bowie subsequently argued that, at a minimum, global corporations must act in accordance with “the morality of the marketplace,” to ensure that contracts are not undermined and that no freeloading on the rules of the market takes place. On this basis, he concluded that “businesses have obligations to pull out of oppressive countries if there is little hope of reform.”<sup>52</sup> However, an alternative approach is conceivable, in which corporations acknowledge a neo-Rawlsian duty of assistance.<sup>53</sup> They can deliver on it by investing in oppressive countries and taking as guidance a set of ethical and political standards with which they feel comfortable, to which they are committed, and on which they are prepared to take a stand in the public arena.<sup>54</sup> In the Yadana case, observers from inside the country have urged external corporations to engage more fully with the military junta. CDA, which itself makes this point, reports that “Contrary to the calls from stakeholders outside Myanmar/Burma who loathe any corporate-government engagement, insiders advocate that the company should use its position and contacts to engage more, and at multiple levels, with the Government.”<sup>55</sup>

## Corporate Engagement with Myanmar

Drawing on these broad lessons from the Yadana project, how might corporate engagement with Myanmar take place in the future so as to secure maximum benefit for local people? Ideally, an answer to this question should be taken from citizens of the country themselves. However, a defining feature of repressive regimes is the restrictions they place on civic engagement so as to smother the articulation of collective political positions. In these circumstances, the pointers to responsible corporate engagement that emerge from Yadana cannot be put to any kind of national referendum or test. However, corporations can feed them into dialogue channels with individuals and communities directly affected by inward investment, so that they can be validated at the local level. This is increasingly happening in the Yadana pipeline corridor.

### *Corporation*

Corporations with investments in Myanmar are drawn from all over the world, come from a variety of sectors, and have a wide range of corporate profiles. Among this diversity of inward investors, some are far more likely than others to generate positive cost-benefit outcomes for local people.

*Country of origin* immediately prevents US-based corporations from making new investments in Myanmar, and it comes close to ruling out corporations in other countries, such as the UK, which informally advise corporations not to invest. At the same time, contexts of civic activism and shareholder expectations currently make it very difficult for all major corporations based in North America and Western Europe to have any significant dealings with the country.<sup>56</sup> In other parts of the world, by contrast, the situation is different. In Asia, for instance, there are few constraints on investment in Myanmar. The Japanese government makes a point of briefing interested corporations on the situation inside the country, but it does not advise them against going in. Other Asian governments make no attempt to restrict investment flows. Furthermore, in civil societies across Asia there are no more than token attempts to name and shame corporations that engage with Myanmar.<sup>57</sup> Even under the present military regime, it is therefore possible for Asian corporations to invest in the country. As of now, preferable sources of investment are countries such as Japan with strong and still growing notions of corporate responsibility.<sup>58</sup> In the longer term, it would be highly desirable for companies from countries with a tradition of vibrant consumer activism to invest in Myanmar. In 2002, CDA noted that critics of the corporations involved in the Yadana project have played a “valuable role” in stimulating the companies to develop a significant and creative socioeconomic programme.<sup>59</sup> This insight points the way to constructive forms of corporate and non-corporate engagement with the country.

*Sector* generates a preference for labour-intensive operations, such as the garment trade that has in recent years been one of the staples of Myanmar’s still limited industrialisation drive, plus the kinds of manufacturing operations found across booming parts of East Asia, notably China’s Pearl River Delta. Since 2003, when the US introduced blanket sanctions on trade with Myanmar, tens of thousands of jobs are said to have been lost in the country’s garment industry. An alternative approach, seeking change through engagement, would try to reverse these job losses through trade and investment, in order to enhance the corporate contribution to development in Myanmar. At the same time, it would outlaw many extractive industries, particularly logging, which is having disastrous environmental consequences in much of the country.<sup>60</sup> It would take a skeptical look at proposals to develop sensitive industries in the defence and related spheres.

*Corporate profile* points to companies that take matters of citizenship and responsibility seriously. In fact, several such companies, notably from Japan, already have a token presence in Myanmar.<sup>61</sup> Ideally, an initiative led by a corporate association with a social responsibility mandate would focus on the Myanmar problem and help build a coalition for change inside the country.<sup>62</sup> With its notably strong presence in Asia, where there are no sanctions on inward investment, the Caux Round Table is well placed to take the lead.



## *Project*

Within these general parameters of corporate involvement, additional project considerations must be addressed in the search for positive cost-benefit outcomes.

*Government involvement* is a highly contentious matter in the Myanmar case. To begin with, it is difficult, if not impossible, for inward investors to sidestep the requirement to conclude some sort of agreement, typically a joint venture, with a military-backed company. Furthermore, general taxation is used disproportionately to fund military expenditures, rather than social programmes. These problems are real, and wishful thinking will not make them disappear.<sup>63</sup> One response would be to say that they are simply a fact of life under the military junta, and that if corporations are to contribute to development this is a price that has to be paid. A better approach would be for corporate investment in Myanmar to take place on a group basis that would have some chance of exercising leverage over the regime, and of reducing the degree of direct benefit it might draw from a proposed project. Such an approach would require mediation either through an association like the Caux Round Table, already mentioned, or through a well-placed government. Best placed of all is the Japanese government, which could conceivably both rally Japanese corporations, and broker a deal concerning the terms of inward investment with Myanmar's military junta.<sup>64</sup>

*Employment opportunities* need to be maximised in order to spread the benefits of inward investment as widely as possible. On the quantity side, this requirement points to the kind of low technology enterprise that is in any case most likely to invest in the country. In the Pearl River Delta, substantial employment has been generated in the toy and garment industries, consumer electronics, home appliances and watches, sea and air cargo, and trading and logistics services.<sup>65</sup> Inward investment projects in precisely these industries could transform Myanmar, just as they have transformed southern China. On the quality side, it points to enterprises that are likely to boost transfer of both technology and managerial skills, and thereby upgrade local human capital. Transfers of this kind have been notably important features of Chinese economic development.<sup>66</sup>

*Worker terms and conditions* are a domain in which global corporations could make significant contributions to Myanmar. By offering a decent wage by local standards, safe working conditions and training opportunities, corporations can substantially change the lives of those they employ. Beyond that, social welfare is almost wholly lacking in many parts of Myanmar, and spending on matters such as healthcare and education is swamped by the military budget, generating abysmal indicators in, for instance, health status.<sup>67</sup> The kinds of programme introduced by the corporations engaged in the Yadana project represent real contributions to social development, and offer a lifeline of hope to individuals and families who have few other means of improving their condition.

## *Knock-on Impacts*

Knock-on impacts are the most difficult to capture, especially when matters like national political development are brought within the analytical frame. Nevertheless, it is important to make the effort because it is often in wider domains that critics of corporate engagement find the most harm.

*Local economic development* is generated by the multiplier effects witnessed in many development contexts as a result of significant inward investment. At the same time, adverse effects may also be registered, and care has to be taken to minimise them. In Myanmar, the abject conditions found in most parts of the country suggest that positive impacts are likely to outweigh negative ones by several orders of magnitude. There is a desperate need for investment in local economies.

*Local social and environmental development* of the kind associated with the Yadana project is highly desirable. Total is justifiably proud of its contribution to social change both in the pipeline corridor and in more distant parts of Myanmar. If guided by an ethically-aware corporation, social impacts can make major contributions to local circumstances. Possibilities in this domain form one of the major arguments for principled corporate engagement with rights violating regimes.

*National political engagement* is particularly contentious in the Myanmar context. It is precisely the validation and legitimacy handed to the military regime, plus the funds poured into its deep pockets, that concern many critics of corporate engagement. These are major problems, and in any analysis they must be acknowledged. However, one difficulty is that the alternative approach represented by sanctions will not work in the Myanmar case.<sup>68</sup> Inward investment has never stopped taking place, and it is not likely to be curtailed in any conceivable future for the country. Always there will be interest, notably from other parts of Asia. In these circumstances, there is a strong argument for holding that it would be helpful if at least some inward investors could be ethically aware and politically engaged. Merely by setting an example of good employment practices, they could start to change the culture of the country. By moving beyond that to make either indirect or direct political statements, they could have an even greater impact. Of course, none of this is likely to be easy. It is instructive that, despite urgings from its most sympathetic critics, Total has yet to take significant action in this larger domain. Still more instructive, and reprehensible, would be a proven link between inward investment and constraints on constructive political intervention. If ever French government policy were motivated solely by a desire to protect Total, it would merit condemnation. Again, most progress will be made if a consortium of corporations can be persuaded to invest in Myanmar and promote coordinated political initiatives both inside and outside the country.

## Conclusion

Has the involvement of Total and Unocal in resource extraction in Myanmar created a Yadana syndrome? Maybe it has. However, the argument advanced here is that it is impossible to say for sure one way or the other. Clearly, the Yadana project has not been wholly positive in its impacts on the southern part of the country where the controversial pipeline is located. Equally, it has not been wholly negative either. How any one individual weighs the positives and negatives depends on the fundamental moral principles to which he or she subscribes.

Can the Yadana project provide useful lessons for corporate engagement? This question can be given a more straightforward answer. First, it is clear that inward investment even in an extractive industry and a repressive political context can generate real benefits for, and considerable support from, local citizens. This is what CDA found: “those people with whom [we] spoke in Myanmar/Burma do not want Western companies to leave the country. Instead they argue that [they] should become more actively engaged in affecting people’s quality of lives positively.”<sup>69</sup> Standing behind these sentiments is the practical realisation that it is hard to think of any other means by which the benefits that inward-investing corporations bring could be secured. Beyond these broad lessons, the Yadana project helps to identify key principles of corporate engagement for companies that are not totally averse to operating in a repressive political setting. As has been said, the Chinese experience indicates that there are many global corporations in this category. Fundamentally, the Yadana project shows that ethical corporations have a great deal to contribute in repressive political contexts. They can set standards that are above those known locally. They can boost social development and environmental awareness. They may even be able to voice progressive political opinions. Once these contributions are acknowledged, the central task becomes working out how to deliver them.

In a country like Myanmar, the only feasible approach is collective. Individual corporations that choose to invest in the country can have significant local impacts, but they can never be expected to have much national leverage over the regime. As this is an important part of the equation, the best way forward would be to build a coalition of companies that might stand a chance of negotiating terms of engagement with the military junta. If that could be done, the task of outsiders, in nongovernmental organisations for instance, would be to provide constructive criticism designed to hold the investing businesses to their commitments, while at the same time acknowledging that corporate responsibility can be exercised through engagement as well as through disengagement.

Currently, Myanmar gets the worst of both worlds. By and large, principled corporations, operating under the sway of informal or formal sanctions, stay well clear. However, this puts only limited economic pressure on the regime, because unprincipled companies are quite willing to take their places. Now that debate on

Myanmar has reached a phase in which the necessity for some form of engagement with the military junta is broadly acknowledged, the potential contribution of ethical global businesses should be reconsidered.<sup>70</sup> It would be better to harness corporate social responsibility for political change in Myanmar than to shame principled companies into giving the country a wide berth.

## NOTES

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