



EARTHRIGHTS INTERNATIONAL

# The Human Cost of Energy:

Chevron's Continuing Role in Financing Oppression and Profiting From Human Rights Abuses in Military-Ruled Burma (Myanmar)



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*Cover photo: Refugees fleeing oppression in Burma. © EarthRights International, April 2008.*



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## About EarthRights International

EarthRights International (ERI) is a nongovernmental, nonprofit organization that combines the power of law and the power of people in defense of human rights and the environment, which we define as “earth rights.” We specialize in fact-finding, legal actions against perpetrators of earth rights abuses, training grassroots and community leaders, and advocacy campaigns. Through these strategies, ERI seeks to end earth rights abuses, to provide real solutions for real people, and to promote and protect human rights and the environment in the communities where we work.

## Acknowledgments

EarthRights International would like to thank the generous individual and institutional supporters who make the activities of the Burma Project, including this report, possible, especially the General Service Foundation, the Park Foundation, Courtney’s Foundation, Foundation Open Society Institute, and several supporters who wish to remain anonymous. We would also like to Katie Redford, Rick Herz, Maggie Schuppert, Paul Donowitz, and Anisha Gade, for their assistance in editing and preparing this report; Sean Turnell, Voravit Suwanvanichkij, Adam Richards, and Catherine Lee for their input; as well as ERI’s board members for their support and direction. We could not do our work without the partnership and strategic collaboration of civil society organizations working all over the world, and especially on the Thai-Burma border, for human rights and environmental protection in Burma. Thankfully, there are too many of these dedicated groups and individuals to name here—you know who you are and we are grateful for your ongoing advice, friendship and support.

Most importantly, we would like to acknowledge the people of Burma, whose suffering is chronicled in this report and whose constant resilience in the face of oppression is an inspiration. Many

individuals from the pipeline region of Burma took great risks to offer their testimony and provide interviews, for no reward to themselves other than participating in the truth-telling process. Their names have been kept confidential for their own safety, but we hope that, in time, they will be among those credited with restoring respect for human rights and the environment in Burma.

## Methodology

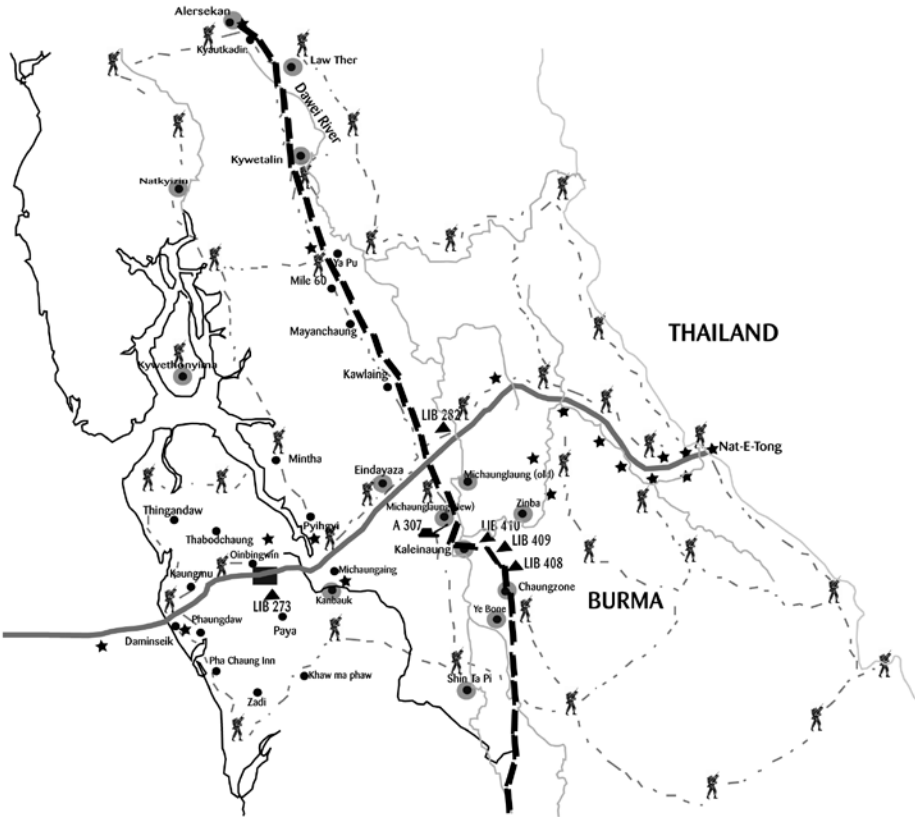
EarthRights International began collecting on-the-ground information about human rights abuses connected to the Yadana gas project in 1994, including witness and victim testimony in Burma and on the Thai-Burma border. This report draws on original field data collected by ERI between 2003-2008 in Burma and along the Thai-Burma border, as well as desk research. ERI interviewed residents and recent refugees from the pipeline region, as well as defected soldiers. This documentation included over 70 formal interviews as well as a number of informal contacts in order to corroborate information. The testimonies represent fourteen villages in the area of the Yadana pipeline, including five of the 25 villages that the Yadana consortium recognizes as “pipeline villages”: Michaunglaung, Zinba, Eindayaza, Kanbaw, and Kaleinaung. ERI’s research indicates that human

rights abuses perpetrated by pipeline security battalions extend beyond the 25 recognized “pipeline villages,” and therefore this report also draws on interviews with residents and recent refugees from nine other nearby villages where human rights abuses are perpetrated by pipeline security battalions: Law Ther, Kawlaing, Mayanchaung, Ya Pu, Ahlersekan, Chaungzone, Shin Ta Pi, Natkyizin, and Kywetalin.

This report also draws on ERI’s fourteen years of experience documenting human rights abuses in the Yadana pipeline region, as published in previous reports *Total Denial* (1996), *Total Denial Continues* (first edition 2000; updated second edition 2003), and *More of the Same (Supplemental Report)* (2001). Finally, the report references documents that became public through the 2004 partial trial of the lawsuit *Doe v. Unocal*, a landmark human rights case in which ERI sued companies in U.S. courts for their complicity in abuses on the Yadana pipeline.



# Map of Pipeline Region



- Village
- Village surveyed by ERI
- ▲ Major military outpost
- ★ Military outpost or camp
- Artillery battalion outpost
- Companies' headquarters
- Road
- Pipeline
- Pipeline security troops patrol route

# INTRODUCTION

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On September 28, 2007, Chevron Corporation unveiled its vast new “Human Energy” advertising campaign, with a spokesperson stating that “‘human energy’ captures our positive spirit in delivering energy to a rapidly changing world.”<sup>1</sup> Two days earlier, in Burma (Myanmar), the military regime’s soldiers began shooting, beating and arresting thousands of Buddhist monks and others who were peacefully protesting in nationwide mass demonstrations against the regime. Chevron, the largest U.S. investor in Burma and the military junta’s direct business partner, remained completely silent for another week, and has still not condemned the violence.

Chevron’s silence was not surprising, given its history in Burma. This report describes Chevron’s complicity in human rights abuses in Burma through its involvement in the Yadana Project, a major natural gas development project. Human rights abuses connected to the Yadana pipeline began around 1991, when the companies that originally developed the project began negotiating contracts.<sup>2</sup> EarthRights International (ERI) began documenting the human

rights conditions in the Yadana pipeline region in 1994 by traveling clandestinely to the region and interviewing hundreds of victims and witnesses of human rights abuses connected to the project. Based on our extensive investigations, ERI published three reports and filed a groundbreaking human rights lawsuit in U.S. courts, all of which catalogued the corporations’ direct complicity in the human exploitation in Burma. In spite of the intense scrutiny generated by evidence in these and other reports and legal actions, seventeen years later the abuses connected to the pipeline project continue.

Residents and refugees from fourteen villages throughout the pipeline region, with whom ERI conducted over 70 formal interviews in the past five years as well as additional corroborative contacts, confirm that, for the people of Burma, “human energy” means human exploitation. Chevron and its consortium partners continue to rely on the Burmese army for pipeline security, and those forces continue to conscript thousands of villagers for forced labor, and to commit torture, rape, murder and other serious abuses in the course of



their operations. Due to its involvement in the Yadana Project, Chevron remains vulnerable to liability in U.S. courts for the abuses committed by these security forces.

Yadana, which means “treasure” in Burmese, is the largest source of income for the Burmese military regime, widely known for its brutal oppression and systematic human rights violations. Run by a consortium including Chevron, Total, and the Thai company PTTEP, the project does little to benefit the Burmese economy; while the oil companies have trumpeted their socio-economic programs in the region, the benefits of these programs accrue only to a small portion of the people affected by the Yadana Project. The programs do not appear to work as intended, and conditions of life in the pipeline region are still so dire that people continue to flee

their homeland for the uncertain safety of the Thai-Burma border.

Chevron’s net income in 2007 was \$18.7 billion,<sup>3</sup> which amounts to more than the GDP of at least 98 countries in the world today,<sup>4</sup> and more than double Burma’s entire GDP in 2006.<sup>5</sup> There is a great deal the company could do to respect, protect, and promote human rights and improve livelihoods in the pipeline area and in Burma generally. This report documents the company’s basic failure to do so, its ongoing complicity in human rights abuses, and its exposure to massive potential legal liabilities. Given this ongoing complicity, this report urgently calls on Chevron to act on its moral and legal obligations to protect human rights rather than profit from human rights abuses, and to improve the livelihoods of the struggling people in its project area.

# EXECUTIVE SUMMARY AND RECOMMENDATIONS

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This report documents Chevron's ongoing role in financing the military regime in Burma (Myanmar) and profiting from human rights abuses on the Yadana natural gas development project. It is based in part on over 70 formal interviews over the past five years, documenting conditions in the region of Burma affected by the Yadana gas pipeline, and corroborating information from ERI's network of contacts, as well as ERI's prior experience in documenting abuses on the Yadana Project dating back to 1994, and on documents that have become public through the groundbreaking human rights lawsuit *Doe v. Unocal*. ERI has published three previous reports on the Yadana Project, and filed *Doe v. Unocal* in U.S. courts on behalf of victims of the pipeline project who had suffered rape, murder, torture, and pervasive slave labor.

**Part 1** describes the background of the Yadana Project, which involves a pipeline constructed to carry gas from offshore fields, across Burma, and into Thailand. In 2005, Chevron became part of the Yadana Project through its acquisition of Unocal, one of the original developers of the project. The Burmese

military junta, a brutal regime routinely condemned by the United Nations and the world community for its widespread violations of basic human rights, is one of Chevron's partners in the project through its military-run oil company, Myanmar Oil and Gas Enterprise.

**Part 2** explains how the Yadana Project finances oppression. The project is the single largest source of income for the Burmese military; it was instrumental in bailing out the junta when it faced a severe financial crisis in the late 1990s, and it has enabled the regime to dramatically increase its military spending and continue its rule without popular support.

**Part 3** describes how Chevron was fully aware of the human rights abuses associated with the Yadana Project when it acquired Unocal in 2005, but nonetheless chose to stay involved with the project and the Burmese military. The Yadana pipeline is guarded by the Burmese army, and the human rights abuses committed by the army in the course of providing security have been widely reported and documented; victims of the project sued Unocal in U.S. courts in the landmark case *Doe v. Unocal*.



**Part 4** documents the continuing serious human rights abuses by the pipeline security forces, including torture, rape, murder, and forced labor. Seventeen years after abuses connected to the Yadana Project were first documented, and years after they were highlighted in *Doe v. Unocal*, these human rights abuses continue in the pipeline corridor. Residents and refugees fleeing the pipeline region report that they are still forced to work for the pipeline security forces, who continue to commit acts of violence and terrorize the local population. This forced labor occurs thousands of times each year.

**Part 5** debunks the oil companies' claims that life in the pipeline region has improved. While some villages have realized minimal benefits from the companies' socio-economic program, the benefits do not reach the entire population affected by the pipeline security forces. Even for the chosen "pipeline villages" life remains so difficult and dangerous that families continue to flee for the relative safety of the Thai-Burma border.

**Part 6** discusses Chevron's response to the 2007 demonstrations in Burma against the military regime and the regime's crackdown. Despite its threefold status as the largest U.S. investor in Burma, the military's direct business partner, and a partner in the project that constitutes the largest source of income

for the regime, Chevron has failed to take any noticeable steps to condemn the violent repression or to pressure the military to respect human rights.

Finally, **Part 7** describes Chevron's ongoing potential legal liability for its role in the Yadana Project. Although the *Doe v. Unocal* litigation resulted in a settlement in 2005, that settlement only covers the claims of the victims involved in that suit; Chevron remains responsible for compensating the thousands of other residents of the pipeline region who have suffered abuse by pipeline security forces.

Two appendices offer additional detail on oil and gas investment in Burma. **Appendix A** details the Shwe Project, a new gas project which could dwarf Yadana both in revenues for the military and in the abusive impact on the local population. The project is being developed by South Korea's Daewoo International along with other companies from Korea, India and China. **Appendix B** briefly outlines China's growing involvement in Burma, especially in the oil and gas sector.

The Yadana Project remains a serious problem both for the people of Burma and for Chevron itself. In light of this, EarthRights International makes the following recommendations:

### **To the Burmese military regime:**

- » The SPDC should cease human rights abuses against the people of the pipeline region and throughout Burma, including extrajudicial killings, sexual violence, torture, excessive force, arbitrary detentions and imprisonment, forced labor, and forced relocation, and abide by its obligations under international law to respect fundamental human rights and environmental protection.
- » The regime should begin a full transition to a system of government that allows for all of Burma's peoples to fully participate in development decisions and freely determine their own futures.

### **To Chevron Corporation and its partners:**

- » Chevron, Total, PTTEP, and all other oil and gas companies in Burma should suspend ongoing projects, cease development of new projects, and refuse to sell gas that enriches the Burmese regime until the SPDC fully respects internationally-guaranteed human rights and environmental protections and allows for a full transition to a participatory system of government as described above.
- » The Yadana consortium and other companies should terminate any contracts

that require them to provide monetary support to the military regime or that contemplate or require the use of the Burmese military as security forces.

- » The companies should publicly condemn past human rights abuses and use their influence with the SPDC, their business partner, to press for respect for human rights in the future, not only in the pipeline region itself but throughout the country.
- » The companies should immediately stop relying on the Burmese military for any security or other services. If alternate security measures are taken, Chevron and its partners must provide adequate human rights training and supervision in order to ensure respect for fundamental human rights (in accordance with international law and Chevron's stated commitment to respect human rights).
- » The companies should allow independent third-parties with experience documenting human rights abuses in Burma access to the pipeline region, without military supervision, in order to monitor the situation. Such monitoring should include a mechanism to allow local residents to bring complaints to an independent body on a confidential basis.

- » The companies should provide adequate compensation to all individuals and communities harmed by the Yadana Project.
- » The companies should demonstrate a serious commitment to their socio-economic program by expanding it to include all of the villages that have suffered adverse impacts from the Yadana Project, and by inviting groups experienced in documenting conditions in Burma to participate in developing, implementing, and regularly evaluating the effectiveness of, their programs.
- » The companies should support efforts that promote transparency through disclosure of payments to all government and state-owned or state-controlled partners.

### **To Chevron's shareholders:**

- » The shareholders of Chevron should support shareholder resolutions that promote policies and practices designed to improve the promotion and protection of human rights, the environment, rule of law, transparency, and the rights of indigenous peoples and affected communities to informed consent before projects begin and during operation phases.
- » The shareholders of Chevron should communicate their concern over the situation in Burma, the reputational and legal risks it poses to their company, and their wish for Chevron to follow the recommendations outlined above, to Chevron's CEO and Board of Directors.

### **To the Royal Thai government:**

- » Thailand should immediately cease purchasing gas from the SPDC and cease payments for such gas until the Burmese regime respects fundamental human rights and environmental protections and begins a full transition to a participatory system of government as described above. Alternatively, Thailand should place all such payments in escrow for the benefit of the people of Burma under a future government.
- » Thailand should immediately require that its state-owned company PTTEP suspend its ongoing natural gas exploration in the Bay of Bengal until the company conducts environmental and human rights impact assessments, and until appropriate preconditions for responsible investment in Burma are in place, such as a full transition to a participatory system of government as described above.
- » Thailand should allow safe refuge to all Burmese refugees fleeing the abuses there, in accordance with international law.

» Thailand should provide legal mechanisms that allow Thai companies, such as PTTEP, to be held accountable for their responsibility and complicity in human rights abuses in Burma. Civil society organizations and citizens of Thailand should advocate for legislation to create such mechanisms.

### **To the United States and the world community:**

- » The United States and the world community should make immediate efforts to cut the flow of money to the Burmese regime, including stopping the Yadana Project payments and other gas payments through targeted financial sanctions.
- » The United States and the world community should condemn the abuses committed in Burma on projects benefiting multinational corporations, including Chevron, and pressure the companies to end these abuses and adopt the recommendations outlined above.
- » The United States should continue to pressure the Burmese regime to respect human rights and the environment and begin a full transition to a participatory system of government as described above; the world community, especially China, India, Korea, and Thailand, should join in these efforts.

» The United States and other countries should enact and strengthen legal and regulatory mechanisms that promote transparency, normative frameworks and harmonization across systems. The goals of such mechanisms must be to promote stability for corporations operating internationally, allow for corporate liability and accountability for complicity in abuses abroad, and enable access to justice for survivors of abuses abroad. Civil society organizations and citizens of these countries should advocate for legislation to create such mechanisms.

### **To Daewoo and its partners in the Shwe Project, and other gas companies in Burma:**

- » Daewoo International, Korea Gas Company (KOGAS), Gas Authority of India Ltd. (GAIL), ONGC Videsh, PetroChina, and other companies considering developing new gas projects in Burma should immediately cease all work on such projects.
- » These companies should not resume these projects until they have conducted adequate human rights and environmental impact assessments, meeting international standards, and until they have obtained the free, prior, and informed consent of the communities affected by these projects.
- » These companies should refuse to

engage in any gas projects that enrich the SPDC or involve any use of Burmese military forces in any capacity, until the Burmese regime respects human rights and the environment and begins a full transition to a participatory system of government as described above.

# 1 • STEPPING INTO UNOCAL'S SHOES

## *Chevron's partnership with a repressive regime in the Yadana Project*

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### Burma's brutal generals

Burma (Myanmar) has been ruled by dictators since 1962 and by an especially brutal military regime since 1988, when the generals took power amidst a bloody crackdown on nonviolent pro-democracy protestors. The current regime is known as the "State Peace and Development Council" (SPDC).

The Burmese military regime regularly commits a host of egregious violations of universally recognized human rights. The U.S. State Department's latest report on human rights in Burma notes that the junta's human rights record is worsening, and that forced labor is a "widespread and serious problem, particularly targeting members of ethnic minority groups," and that "forced labor by children continued to be a serious problem." The report condemns the violent suppression of pro-democracy protests in September 2007 and the thousands of arrests that followed, as well as "custodial deaths...extrajudicial killings, disappearances, rape, and torture," "attacks on ethnic minority villagers," "forced relocations," and "forced recruitment of child soldiers."<sup>6</sup> The United Nations Human Rights Council

called a special session to condemn the 2007 crackdown, issuing a resolution "[d]eplor[ing]" the "beatings, killings, arbitrary detentions and enforced disappearances" caused by the Burmese military,<sup>7</sup> and its predecessor, the Human Rights Commission, issued a resolution condemning abuses by the regime every year since at least 1992.<sup>8</sup> The General Assembly itself adopted a resolution in 2006 expressing "grave concern" at the military's "ongoing systematic violation of the human rights, including civil, political, economic, social and cultural rights," "extrajudicial killings, rape and other forms of sexual violence persistently carried out by members of the armed forces, continuing use of torture, deaths in custody, political arrests and continuing imprisonment," "forced relocation," and "forced labour, including child labour."<sup>9</sup>



Photo: Stephen Brookes

*Burmese soldiers marching in formation.*<sup>10</sup>







*The Yadana Project's facilities on the Thai-Burma border.*

In short, the SPDC is one of the most brutal regimes on the planet. It has systematically ignored the will of the people of Burma, who in 1990 elected a reformist party, the National League for Democracy (NLD), in elections that the junta has failed to honor. It has arrested the NLD's leader, Nobel Peace Prize winner Aung San Suu Kyi, who has spent over twelve years in detention, where she remains today. The SPDC has committed countless atrocities against democracy activists, ordinary Burmese citizens, and against the ethnic nationalities that comprise about 40% of the population,<sup>11</sup> in long-running campaigns to suppress all forms of dissent and self-determination.

### The Yadana Project

In 1992, the French oil company Total signed the first contract with the Burmese military for the Yadana Project, which would develop offshore natural

gas fields and pipe the gas overland to Thailand.<sup>12</sup> From the beginning, the contract provided that at least 50% of the profit would flow directly to the military regime,<sup>13</sup> through the Myanmar Oil & Gas Enterprise (MOGE), an arm of the military's Ministry of Energy.<sup>14</sup> Yadana was the largest foreign investment project in Burma's history and would become the largest source of hard currency for the junta; the advance preparations for the project had begun by 1991, as the military conducted offensives and forcibly relocated villages to ensure that the anticipated pipeline route was secured.<sup>15</sup>

The American oil company Unocal, which had competed with Total for the original Yadana contract, became a partner in the project shortly thereafter, in early 1993.<sup>16</sup> It was subsequently joined in 1995 by PTT Exploration & Production (PTTEP),<sup>17</sup> a subsidiary of Thailand's state-owned oil and gas company, PTT,<sup>18</sup> and later that year by MOGE itself,<sup>19</sup> participating as a partner in the project as well as the regulator of the consortium. Total and Unocal ended up with the largest shares, at about 31.25% and 28.25% respectively, with PTTEP following at 25.5% and MOGE with 15%.<sup>20</sup>

As the project progressed, the Yadana consortium signed a contract with the buyer of the gas, PTT, to build a pipeline from the offshore field to the Thai bor-

der, including a 60-kilometer (40-mile) section across southern Burma.<sup>21</sup> During this period, reports from refugees and human rights workers in the region indicated that the pipeline area was experiencing a massive increase both in military presence and the human rights abuses that the Burmese military regularly commits. This pipeline security force was routinely conscripting villagers for severe forced labor projects, including building infrastructure for the project and portering heavy loads for military patrols, as well as committing torture, rape, and murder. These abuses were catalogued in EarthRights International's first report on the Yadana Project, *Total Denial*, in 1996.<sup>22</sup> The abuses



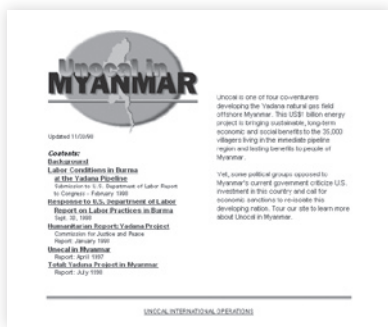
*The Yadana pipeline, buried in forest land in Burma.*

The U.S. oil company Unocal has agreed to compensate Burmese villagers who sued the firm for complicity in forced labor, rape and murder. The abuses were committed in the mid-1990s by soldiers providing security for Unocal's natural gas pipeline in southern Burma.

—EarthRights International press release, April 2, 2005

ChevronTexaco Corporation and Unocal Corporation announced today that ChevronTexaco would acquire Unocal in a stock and cash transaction valued at approximately \$18 billion[.]

—Chevron Corporation press release, April 4, 2005



After acquiring Unocal, Chevron took down Unocal's website on the Yadana Project.

continued as gas began to flow in 1998, and ERI has released several additional reports over the years documenting the harms (including the comprehensive Total Denial Continues, first released in 2000, updated and re-issued in 2003).<sup>23</sup>

## Chevron's partnership with the junta

In 1996 several of the victims of the Yadana Project, represented by Earth-Rights International and a team of lawyers,<sup>24</sup> filed the lawsuit *Doe v. Unocal* in U.S. federal court to challenge Unocal's complicity in their injuries.<sup>25</sup> Nearly nine years later, in March 2005, after

a partial trial, the plaintiffs achieved a major victory when Unocal agreed to settle the case and compensate the plaintiffs.<sup>26</sup> Shortly thereafter, in April 2005, Chevron announced that it was buying Unocal, including Unocal's stake in the Yadana Project.<sup>27</sup> The \$17.8 billion deal was finalized after approval by Unocal's shareholders in August 2005.<sup>28</sup> Chevron, like Unocal before it, became a direct partner with the Burmese military regime.

In part due to the *Doe v. Unocal* litigation, *Unocal* had been repeatedly forced to defend its investment in Burma, issuing reports to shareholders and putting substantial information on its website. Chevron, by contrast, keeps a low profile about its operations in Burma, taking down Unocal's reports from the internet and issuing no statements beyond technical descriptions of its projects.<sup>29</sup> Nonetheless, Chevron has continued Unocal's project virtually unchanged and, while the military's forced labor practices have shifted over the years, the abuses continue. As detailed below, Chevron remains complicit in human rights abuses that persist today.

## 2 • FINANCING OPPRESSION

### *The Yadana Project's continuing contributions to the military regime*

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#### **Bailing out the junta**

In late 1997 and early 1998, the Burmese military regime was in a financial crisis. International efforts to isolate the junta economically were working. One reporter noted that the junta “was short of cash,” and its foreign exchange reserves “shrank to less than the foreign-currency deposits they are supposed to cover.”<sup>30</sup> The government had resorted to basically stealing from private bank accounts.<sup>31</sup> In the summer of 1997 the Burmese *kyat* lost nearly half its value against the dollar in just a few months.<sup>32</sup> By October of that year, foreign exchange reserves fell “to about \$183 million.”<sup>33</sup>

In early 1998, one of the junta’s top generals was quoted as acknowledging that the regime was “weak in foreign exchange savings and reserves.”<sup>34</sup> By March, *The Economist* magazine estimated that the regime’s foreign exchange reserves had fallen below \$100 million.<sup>35</sup> This was a staggering drop from late 1996, when reserves were estimated at \$663 million.<sup>36</sup> While the junta could continue to feed and employ soldiers using the local *kyat*, without hard currency it could not finance imports of fuel, military hardware, or the luxury

goods favored by some of the generals.

Then the Yadana Project came online, and everything changed. Although the initial payments were small because Thailand was not prepared to take the full gas supply, Thailand apparently paid over \$50 million to the Yadana consortium in 1998 and \$260 million in 1999.<sup>37</sup> By 2001, Thailand was importing about 570 million cubic feet of Yadana gas per day,<sup>38</sup> which cost, at reported prices,<sup>39</sup> over \$1.5 million every day, or over \$550 million for the year. With the Burmese regime taking the lion’s share of these receipts, Burma’s foreign currency shortage ended—and, along with it, the best hopes that the junta might be isolated economically.

#### **Creating billionaire generals**

While gas production from the Yadana Project has increased only marginally since 2001, increases in fuel prices in recent years have led to skyrocketing income for the generals. Between 2005 and 2006 alone, Burma’s sales of gas to Thailand doubled in value, from \$1.08 billion to \$2.16 billion,<sup>40</sup> and slightly over half of this income—about \$1.1 billion in 2006—is from Yadana.<sup>41</sup>



## The military's billion-dollar profits

Most estimates of the Burmese military's income from the Yadana Project have been based on partial information and estimates, but with the documents now available, ERI believes that this figure can be calculated with a great deal of accuracy.

According to PTTEP, the Thai company that holds a 25.5% stake in the consortium, Yadana gas production in 2007 was about 758 million cubic feet per day.<sup>42</sup> Some of this gas, about 100-110 million cubic feet per day, goes to domestic Burmese consumption,<sup>43</sup> thus the export volume amounts to approximately 650 million cubic feet per day, with a heating value of about 463 billion BTU per day.<sup>44</sup> The price of gas is determined by the Export Gas Sales Agreement between the Yadana consortium and PTT, the Thai company that buys the gas. This agreement has become public as part of the partial trial in *Doe v. Unocal*, and based on the pricing formula in the agreement, the price around the end of 2007 should have been about \$7.70 per million BTU.<sup>45</sup> This results in a total sales value of over \$3.5 million *per day*. While the price and sales volume change over time, this daily total for the end of 2007 would result in nearly \$1.3 billion in sales over the course of a year.

Previous reports in the media and from various organizations have estimated how much of this sales figure represents income to the Burmese regime itself, but they may have missed a large portion of the junta's take. The sales income breakdown is governed by the Production Sharing Contract (PSC) between the Yadana consortium and the Burmese regime. While the regime's own oil company, MOGE, holds a 15% stake in the Yadana consortium, this represents only a small fraction of the junta's income. The PSC and the related Memorandum of Understanding (MOU) provide a generous percentage of the profits to the military junta before the Yadana consortium divides the remainder. After costs are deducted, the PSC allows the regime take a 10% royalty,<sup>46</sup> and then to take a variable percentage of the remainder depending on the sales price—at this price, about 66%—before any money is taken by the consortium.<sup>47</sup> The regime then participates in the consortium as a 15% partner,<sup>48</sup> and then levies a 30% income tax on the other partners' share.<sup>49</sup> All told, nearly 75% of the total project income goes to the Burmese military. At the current price, this is about \$972 million—almost a billion dollars a year, and more if fuel prices continue their upward trends.



*Pictured Above:*

*The 2007 wedding of the top general's daughter, covered in diamonds, shows the regime's wealth.*

By the end of 2007, the Yadana project was bringing in nearly \$969 million annually to the Burmese military regime.

Current estimates suggest that the income from the Yadana Project has continued to rise. ERI's calculations, based on statements from the companies and documents released in the partial trial of *Doe v. Unocal*, suggests that at the end of 2007 the Yadana Project was taking in over \$3.5 million daily, or nearly \$1.3 billion annually. Nearly 75% of this income goes to the military regime—\$969 million annually, based on fuel prices at the end of 2007, and conceivably much more if these prices continue to rise (see box).

The income from the Yadana Project remains, by far, the largest source of income to the Burmese military regime. The junta was nearly bankrupt when the project came online ten years ago, and now is reaping nearly a billion dollars in profit annually. The income far outstrips the junta's own propaganda regarding the value of the Yadana Project, originally estimated at about \$164 million annually.<sup>50</sup> More than any other single factor, the oil companies involved in the Yadana Project are contributing to the long-term financial viability of the Burmese military regime. Foreign-currency reserves, which were in crisis levels by

1998, were reported at over \$1.2 billion in 2006,<sup>51</sup> and more recently may have risen to as much as \$2 billion.<sup>52</sup>

### Destructive engagement

Chevron argues that “social and economic development are interrelated,” and therefore that “[c]onstructive engagement . . . will ultimately contribute to peace and prosperity for the people of Myanmar.”<sup>53</sup> There is an ongoing debate about whether economic isolation or some form of “constructive” engagement is the best way to bring democracy and respect for human rights to Burma. Nonetheless, it is clear that whatever constructive engagement should look like, the Yadana Project is not it, because the project is not contributing to Burma's economic or political development.

Only a small amount of the gas from the Yadana Project—about 100-110 of the project's nearly 760 million cubic feet per day—goes to domestic consumption in Burma.<sup>54</sup> The vast majority of the gas goes to promote economic development in Thailand, not in Burma. According to the Asian Development Bank's profile on the Yadana Project, its purpose is “to provide Thailand with

The Burmese military's estimated budget could be completely funded by the Yadana Project's current revenues. In 2005, Burma, with a population of about 56 million people, had an estimated 428,000 active troops in its armed forces. Burma's neighbor Thailand, with a population of 63 million, has only about 307,000 active duty troops; the United Kingdom has a population of 60 million and only 196,000 active duty troops.

energy . . . to meet its rapidly growing electricity demand."<sup>55</sup> The only benefits for Burma are "revenues."<sup>56</sup> But these monies do not flow into private industry in Burma; they go directly to the Burmese military regime.

Where specifically does the SPDC's billion-dollar profit from the Yadana Project go? While accurate figures for the regime's spending are hard to come by, there is no question that military spending takes the lion's share of the regime's budget; most sources suggest that the regime spends at least 40% of its budget on the military.<sup>57</sup> In 2006, the SPDC's total budget was estimated at around \$2.3 billion,<sup>58</sup> making the military's share around \$900 million—enough to be completely funded by the Yadana Project's current revenues. Since the Yadana Project began showing profits, from 1999 to 2005, Burma's estimated annual military expenditures

have increased dramatically.<sup>59</sup> The regime maintains military forces disproportionate to its population and strategic dangers. Although it has had no external conflicts since its independence in 1948 and has no external enemies, it maintains the 12th largest active military in the world.<sup>60</sup> In 2005, Burma, with a population of about 56 million people, had an estimated 428,000 active troops in its armed forces.<sup>61</sup> By contrast, Burma's neighbor Thailand, with a population of 63 million, has only about 307,000 active duty troops;<sup>62</sup> the United Kingdom has a population of 60 million and only 196,000 active duty troops.<sup>63</sup> The major purpose of Burma's bloated military is not to combat any external security threat, but to suppress internal opposition and to ensure the regime's stranglehold on power through systematic human rights abuses.

By contrast, the junta's spending on

health and education is at absurdly low levels. According to official figures, the SPDC allocated about 1.2-1.5% of its 2007 budget to the Ministry of Health;<sup>64</sup> this neglect over time has led to an exploding public health crisis.<sup>65</sup> Likewise, in 2007, the junta allocated little more—only about 4-5% of its budget—on public education,<sup>66</sup> with the result that Burma ranks in the bottom 25 countries in the world for student enrollment ratios.<sup>67</sup>

While some argue that contributing to Burma's economic development might help to promote democracy and respect for human rights, the Yadana Project simply does not do so. The billions of dollars flowing to the SPDC have enabled the generals to increase military spending, which is directly antithetical to the interests of the people of Burma. Indeed, this is unsurprising, given the wealth of research addressing the "resource curse" that has demonstrated that reliance by developing countries on oil and gas extraction often negatively affects economic growth, democratization and respect for human rights.<sup>68</sup>





### 3 • WITH EYES WIDE OPEN

## *Chevron's knowledge of the abuses on the Yadana Project*

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In the Doe v. Unocal litigation, Unocal argued that, even if human rights abuses were committed in connection with the Yadana Project, it could not have known that the abuses would occur. The federal judge in the case rejected that position, finding evidence that “before joining the [Yadana] Project, Unocal knew that the military had a record of committing human rights abuses,” and that “Unocal knew or should have known that the military did commit, was committing, and would continue to commit” acts

of forced labor, forced relocation, and violence.<sup>69</sup>

While Unocal's professed ignorance was rejected, Chevron cannot even begin to make such claims. It entered the Yadana Project not only knowing that the pipeline project relied on the brutal Burmese military for security, but knowing that numerous reports had been issued about the abuses on the Yadana pipeline and that the courts had already found evidence of such abuses in the lawsuit against Unocal. Reports on forced labor

Plaintiffs present evidence demonstrating that before joining the [Yadana] Project, Unocal knew that the military had a record of committing human rights abuses; that the Project hired the military to provide security for the Project, a military that forced villagers to work and entire villages to relocate for the benefit of the Project; that the military, while forcing villagers to work and relocate, committed numerous acts of violence; and that Unocal knew or should have known that the military did commit, was committing, and would continue to commit these tortious acts.

– Federal court opinion in Doe v. Unocal



Unocal is a participant in the \$1.2 billion Yadana gas development joint venture with the Burmese government. Burmese human rights victims filed [*Doe v. Unocal*] alleging that the company knew or should have known about the abuses perpetrated by the Burmese military during the construction of the Yadana pipeline. . . . Unocal is the sole U.S. oil company remaining in a joint venture with the Burmese regime-controlled oil company, making the Company an obvious target for human rights organizations and additional lawsuits.

—AFL-CIO letter to Chevron regarding its plans to acquire Unocal,

July 22, 2005

and other abuses have been issued not only by ERI<sup>70</sup> but also by several other human rights organizations, including the Karen Human Rights Group,<sup>71</sup> Human Rights Watch,<sup>72</sup> and Amnesty International.<sup>73</sup> A 1998 report of the U.S. Department of Labor found “credible” evidence of forced labor on the Yadana Project, and that for many years the Yadana consortium used “manual laborers recruited by the army,” noting that, even after the completion of the pipeline, reports continue to “suggest that forced labor is used to build support facilities integral to the operation of the pipeline” and “to support operations of the military.”<sup>74</sup>

These abuses, the reports document-

ing them, and the lawsuit challenging them were also widely covered by the press, including the oil industry press. In just the two years prior to the *Unocal* settlement, at least nine articles appeared in the oil industry press alone discussing the litigation and the allegations of forced labor on the Yadana Project.<sup>75</sup> Chevron, in its consideration of buying Unocal, certainly would have known about the abuses and the lawsuit; as one of the world’s largest oil companies, it would have been aware of these media reports, and the timing of its decision to purchase of Unocal in 2005—announced just two weeks after the *Doe v. Unocal* settlement—strongly suggests that Chevron was waiting for

the lawsuit to conclude before making its acquisition.

Finally, during the four-month period after Chevron announced its intent to acquire Unocal but before that acquisition was consummated, human rights advocates brought the situation in Burma and the Yadana Project directly to Chevron's attention. At Chevron's annual general meeting on April 27, 2005, activists highlighted the abuses on the Yadana Project among their concerns.<sup>76</sup>

ERI itself called Chevron's attention to the abuses associated with the Yadana Project,<sup>77</sup> and the AFL-CIO labor federation sent two letters to Chevron in July and August 2005 expressing its concern about the issue.<sup>78</sup> Chevron chose to acquire Unocal, and to continue its involvement in the Yadana Project, knowing full well that it was profiting from human rights abuses.



## 4 • THE PERSISTENCE OF ABUSE

### *Continuation of forced labor and other abuses in recent years*

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As noted above, ERI and other organizations have repeatedly reported on the human rights abuses committed by the Yadana Project security forces. While Chevron has failed even to mention these allegations, its business partner, Total, has made an attempt to address them. While falling far short of true responsibility, Total at least admits that the Burmese army has “used forced labor extensively,” and acknowledges that Total has “lobbied the army . . . to attempt to prevent the use of forced labor in the pipeline region,” and has provided compensation when “cases of forced labor came to light.”<sup>79</sup> Total states that, while a few “incidents [of forced labor] may have escaped Total’s attention in the very early stages of the project,” since 1994 the companies have “always moni-

tored the Army’s actions very closely to prevent forced labor.”<sup>80</sup> Interviews with local residents and refugees who have fled the pipeline region reveal that forced labor and other serious abuses by pipeline security forces—including rape and murder—have continued long after 1994, and continue today.

#### **Pipeline battalions: hiring human rights abusers**

The oil companies have never fully acknowledged, and in some cases have denied, that the Burmese military provides security for the Yadana Project. But evidence that surfaced in *Doe v. Unocal* leaves little room for doubt that Burmese army battalions are assigned the task of pipeline security. In an early project memo, a Unocal Vice-President described discussions with Total about “the option of having the [Burmese] Military provide protection for the pipeline construction and operation.”<sup>81</sup> A 1996 memo from a Total executive to Unocal acknowledged the “forced labour used by the troops assigned to provide security on our pipeline project.”<sup>82</sup>

ERI has documented at least fourteen different infantry battalions that have



photo: Free Burma Rangers

*Porters for the Burmese army*

regularly performed pipeline security duties: battalion nos. 25, 104, 273, 282, 401, 402, 403, 404, 405, 406, 407, 408, 409, and 410.<sup>83</sup> Battalions 273 and 282 in particular have been widely known as “Total battalions.”<sup>84</sup> Several other battalions have also operated in the pipeline region, although whether they perform pipeline security functions has not been established.

Today, the connection between the Burmese military and the Yadana Project remains as strong as ever. Interviews from 2003-2008 have confirmed that these military battalions still operate in the pipeline region and that the army is still providing pipeline security.<sup>85</sup> A defected soldier from pipeline security battalion 273, interviewed by ERI in 2008, describes his mandate as follows:

When I first arrived to the camp the commander told us that we are here to protect the foreigners who are working on this project. [We were told] it was a 30 years long project and the country got half and foreigner got

half amount of the benefit. And after 30 years the foreigner will leave and we will have all these supplies and we will continue to have all of this. So it was important for us that we are working for our country by taking security for these foreigners who work on this project.<sup>86</sup>

This soldier’s experience also provides an example of how the Burmese military perpetuates its abusive behaviors. As has been recently documented in separate reports by Human Rights Watch (HRW)<sup>87</sup> and the Human Rights Education Institute of Burma (HREIB),<sup>88</sup> the military often takes recruits at a young age; this defector volunteered at age 13. He then went through a systematically brutalizing training process:

During our stay there they are also treating us very badly, like for food they would give us morning glory that grew behind the toilet and they would feed it to us. They also badly hit and punished those who tried to escape from the camp. During my time there

When I first arrived to the camp the commander told us that we are here to protect the foreigners who are working on this project.

—Defected Burmese soldier from pipeline security battalion 273,  
interviewed by ERI in 2008

I also learnt that some people joined by their will and some were forced to join.<sup>89</sup>

This is consistent with the training practices that ERI has previously documented, including severe beatings and other torture that often results in the death of new recruits.<sup>90</sup> One recruit described how recruits who tried to escape were tied to flagpoles, and “then every soldier has to beat them twice,” and “some people die from that.”<sup>91</sup>

This process is designed to produce hardened soldiers capable of extreme brutality—exactly the kind of troops assigned to provide security on the Yadana Project.

## Benefiting from violence

The security forces assigned to the Yadana Project exhibit all of the typical brutality of the Burmese military. Despite the fact that the pipeline region has been subjected to a massive security presence for over ten years, the military providing security for the pipeline continues to commit serious human rights abuses, including killings and rapes.

Several villagers from the village of Law Ther in the pipeline region recently told ERI that battalion 273, one of the dedicated pipeline security battalions, had killed at least one villager in 2005. The man’s widow described what happened:

My husband was arrested on Monday, August 15, 2005, at noon. LIB 273 ordered him to come . . . .After he arrived at the car road, the soldier tied him and they took him to [another villager’s] house. On Tuesday they took him to [a factory] and the soldiers tied him and beat him and questioned him there. I went to visit him on Tuesday and I saw that they had tied his legs and feet and were using a log to torture him. I asked him, “What did they do to you?” But he did not tell me; I think he was worried that I would be afraid. But I could see his knees and legs were covered in injuries. When I asked him “Why did they arrest you?” he was about to answer but the soldier came back and ordered me to leave.

On Wednesday they took him to Ya Pu village. Then on Thursday they took him to Kanbawk village. On Friday they took him back to Ya Pu and they killed him.

Two soldiers from LIB 273 came to my house and they said they need to search my house. . . . They were looking for something in the house, and they looked everywhere, but they could not find anything. After an hour of searching they left without finding anything. I learned that they suspect-



ed my husband of having connections with an opposition group because the Burmese soldiers heard it from some other villager. So they came to our house and looked for something but than they could not find anything to support that.<sup>92</sup>

The pipeline security soldiers who captured this man took him increasingly close to pipeline itself—from Law Ther, about 20 miles from the pipeline, to Ya Pu, about 12 miles from the pipeline, to Kanbauk, where the companies' pipeline headquarters are located<sup>93</sup>—before killing him. At least one other villager was also captured by the soldiers at the same time, but managed to escape and now fears for his life if he returns to his village.<sup>94</sup> He told the widow that he would have been killed, too, if he had not managed to escape.<sup>95</sup>

More recently, in 2007, a boy from Shin Ta Pi village was killed by soldiers

from battalion 408, another pipeline security battalion. Apparently the soldiers had clashed with elements of an armed opposition group, and found the boy on his farm as they searched for the rebels. They captured and killed him.<sup>96</sup> These soldiers apparently have not been prosecuted or punished in any way; this is not surprising, as impunity for murder of civilians by soldiers is common in Burma.<sup>97</sup>

As ERI has documented in the past, rape and other forms of sexual violence are rampant among the Burmese military.<sup>98</sup> At least one rape by pipeline security forces has been reported in the past few years, confirmed by two residents of Zinba village, one of the pipeline villages. In the summer of 2005, soldiers from pipeline battalion 409 came across a young girl and her older sister bathing in a stream. They captured the girl as her sister ran away to find help; the girl, only six or seven years old, was raped

[Pipeline security battalion] 273 arrested seven villagers—four from Ya Pu and three from Law Ther village—and suspected them as members of resistance groups . . . . Four escaped on the way and three were taken to the military camp and questioned. They killed one of them.

—villager from Law Ther village, interviewed in 2007

The officer . . . turned to me and he slapped my face twice, then he punched my stomach and when I tried to cover it he kicked my groin. I fell on the ground.

—villager from Law Ther who objected to pipeline security soldiers stealing logs intended for a local school

so violently that she required medical attention for a torn vagina.<sup>99</sup> ERI has not confirmed whether the rapists were punished. In another case, a soldier from pipeline security battalion 282 attempted to rape a 25-year-old woman in her bed in Law Ther village itself; the woman beat the soldier off with a flashlight.<sup>100</sup>

Other forms of violence, such as beatings, are even more common. One villager from Law Ther recently told ERI about his experience collecting logs for pipeline security battalions. When the soldiers arrived to take the logs, they also moved to take logs intended for a local school. The villager's attempts to prevent the soldiers from taking the school's logs were met with violence: "They did not listen to me but instead the officer . . . turned to me and he slapped my face twice, then he punched my stomach and when I tried to cover it he kicked my groin. I fell on the ground . . . I had to wait for a while to be able to walk."<sup>101</sup> Not only is this an egregious physical abuse, but the theft of supplies

for a school undermines education in the pipeline region, in sharp contrast to the oil companies' stated goal of providing "schooling in good material conditions for all children."<sup>102</sup>

In addition to beating residents who get in their way, pipeline security forces also perpetrate violence publicly to intimidate residents. At a village meeting in Law Ther called by pipeline security battalions 403 and 408, four villagers were beaten in front of the entire village to set an example after the Captain from battalion 403 said he suspected the village of feeding troops from an armed resistance group. When the display of



*A Burmese army camp along the Yadana pipeline route.*

power was deemed complete, villagers were then selected and forced to porter for the pipeline security soldiers. “No one wanted to go but people cannot do anything because they were captured and forced to go.”<sup>103</sup> Other incidents of beatings and torture, sometimes as public displays, have also been reported in recent years.<sup>104</sup>

### Forced security

While Chevron touts its “Human Energy” campaign, the form of “human energy” most prevalent in the pipeline region is the forced labor of ordinary villagers in providing security on the Yadana Project. In recent years, ERI has documented how the manner in which the Burmese military forces villagers to perform pipeline security work themselves. This has taken three forms: building security facilities such as sentry huts, abusive training programs, and actual sentry duty. These activities are concentrated in the villages closest to the pipeline route, including Kanbauk, Zinba, and Kaleinaung, but also affect more remote villages such as Law Ther.

As one villager from Zinba related, the first step in the pipeline-security forced labor program was forcing the villagers to build “sentry posts” in order to help guard the pipeline:

In the beginning of June 2003, the soldiers ordered our village to build

a sentry post for them. Many villages have to do it in their own area. Our village had to build two sentry posts. One person from each household has to go for it. I myself had to go several times. What we had to do was clean the area, build the huts, build the fence and dig the ground for a communication line. We had to build near the roadside; each one is built on both sides of the entrance to the village. Because we went in a big group to build the sentry post, we finished in about two days. We did not get payment. We cannot refuse to do it.<sup>105</sup>

Another villager from the Kanbauk similarly described being forced to build “huts along the pipeline” for sentry work.<sup>106</sup>

The villagers have also been subjected to abusive security training sessions by the pipeline security forces. In the village of Law Ther, for example, a village headman described being beaten by a soldier from the pipeline security battalion 409 after he was late in arriving for the training. He and another villager were beaten in front of the other forced participants in the training: “Because we had to travel so far, we were late by about less than an hour, and he was angry at me and he beat me several times. He also beat my villager who was there for the training too.”<sup>107</sup> Some training programs have been

intensive, imposing further burdens on the population. In 2005, the chief from pipeline security battalion 282, one of the “Total battalions,” visited Kanbauk, where the Yadana consortium’s pipeline center is located,<sup>108</sup> and spoke about security, after which the village head was ordered to enlist one member from each household in a security training. One villager who ekes out a living logging with a manual saw, told ERI about the economic and mental stress that came along with this, recalling the difficult decision to send his 19-year-old son to the training. “I could not attend this training by myself,” he says, “due to my responsibility toward my family.”<sup>109</sup> He and his wife had to prepare enough food and water in advance for his son to take to the month long training. “We had to bring everything from our house because they had no food to feed us [villagers] in the training. That was a big problem for us because we live hand-to-mouth at a subsistence level in the village.”<sup>110</sup> Sending his son to the month-long training meant he had to hire someone in his son’s place at 2000 kyat per day. The training caused him severe anxiety:

When my son was in the soldier training, I could not sleep well at nighttime because of fear and anxiety. It distressed my state of mind very much. . . . I did not want anyone from my family to attend this training, but

after giving our name to the village head, we had to attend. We could not leave. If we did, this battalion would punish the relatives of our family.<sup>111</sup>

The trainings have become so notorious that some residents, upon hearing that “villagers from our village will have to be forced to attend soldier trainings like other villages,” have opted to flee to the Thai border instead.<sup>112</sup>

Finally, the villagers are regularly forced to perform security tasks such as sentry duty on the pipeline. A refugee from Kanbauk described being forced by the army to take up sentry duty along the pipeline route:

We also had to work on the Yadana pipeline. . . . We were forced to stay at the sentry hut and keep watching any suspicious things and actions. We had to work on this kind of forced labor by rotation and one person from a household had to go for it. Usually, there were three persons that had to take responsibility at one sentry hut . . . . We had to prepare every thing for possible use in this sentry hut. We all have to bring tools and food from our house. I usually brought candles, fire, and food with me to have in the sentry hut. We had to take responsibility about 24 hours in this sentry hut and always had to be alert and keep watching the surroundings all

We the villagers have to do forced labor for the pipeline very often. We have to take sentry duty on the pipeline. We first had to make huts along the pipeline, and there are about ten huts that are the responsibility of our village. We have to work sentry duty by rotation, one person from a household. . . . There are three people in one hut and we had to stay at there about one day and night, 24 hours. . . . We could not refuse to work for them.

—villager from Kaleinaung

the time. . . .

If we were caught sleeping by the patrol soldier, we would surely be beaten or scolded. If we would like to sleep, one or two person has to keep watching . . . . We could not refuse going for this. If we are not free in the time of our duty, we have to find a replacement by hiring someone. There are many elders around 60 years old and children under 18 years old being forced to work this kind of forced labor. As for me, I had to work for this kind of forced labor many times.<sup>113</sup>

A villager from Zinba recounted:

Following the completion of building the sentry post, every day the villagers have to provide security guards. Each time five villagers have to go as

a group and fulfill their duty. The orders come from the soldiers through the village headman. He calls a village meeting and tells us about it. We have to stay at the sentry post day and night . . . . Each time it takes two days and two nights. It is arranged in a rotation and I myself have been there two to three times already. It takes only about two weeks between rotations or to get back to my turn.<sup>114</sup>

Other villagers similarly confirmed that they “have to take sentry duty on the pipeline”<sup>115</sup> and that this occurs “very often,” “many times.”<sup>116</sup> The oil companies estimate that there are about 50,000 residents of the pipeline region;<sup>117</sup> even if only adult males were subject to forced labor—which has not been the case historically—this is about

16,000 individuals.<sup>118</sup> Even if not every village is subjected to this form of forced labor, it is still likely that the military performs thousands of conscriptions annually for pipeline security work—a vast amount of “human energy.”

## The Zinba road: Taking credit for slave labor

One of the achievements touted by the oil companies is the Zinba road. Chevron claims credit for “[i]mprovements to local roads,”<sup>119</sup> and according to Total, one of these is the road to Zinba village, in close proximity to the pipeline route.<sup>120</sup> This road is featured prominently in photographs on Total’s website.

But testimony from residents of Zinba village suggest that, while the oil companies initially built the road, the burden of maintenance falls on the villagers:

In our village, we have one road that links to Kaleinaung village, which is about a mile and a half away. Foreigners constructed it a few years ago and the road is level with pieces of rock. Now we have to maintain the condition of the road. Two of my friends and I are in charge of looking after the road. The village head told us to do this. We do not get any payment; we have to do it free, but by doing this we don’t have to go for other forced labor work.<sup>121</sup>

Far from being ignorant of this forced



*“Before” and “after” pictures of the Zinba road from Total’s website.*

labor, the companies appear to be abetting it directly:

[The forced maintenance] started this year because the foreigners complained that they saw cow dung on the road and they want us to look after some small damage on the road. We have to check the road condition once a week and if there is small damage, we try to fix it and fill the holes in the road. We get pieces of rock along the road provided by the company.<sup>122</sup>

Another villager confirmed that the foreigners were well aware of their forced labor on the road and other facilities, explaining that while working he “saw the foreigners drive through in their truck, but they did not ask us a question or talk to us.”<sup>123</sup> Adding insult to injury, the villagers who are forced to maintain the road are not fully allowed to use it:

The last time that we had to go repair the road was [last October or November]. We had to repair the holes in the road. The road was used by villagers

and the company as well. However, usually we were told not to ride on bullock carts so much since the road can easily be destroyed by bullock carts. So often people do not use the bullock cart to travel on the road. We often need to go to Kaleinaung to buy things. So we usually take motor bike taxis and if I do not have money then I usually walk.

I haven't seen the company repairing the road after they built it. The village head advised us not to travel with bullock carts as the road can be easily destroyed. We had to collect stones from the nearby roadside and sometimes we had to go to the Zinba stream to collect the stones.<sup>124</sup>

### Modern-day slavery

According a report of the International Labour Organization issued in March 2008, "Forced labour in Myanmar continues to be a serious problem."<sup>125</sup> One form of forced labor—forced security work and sentry duty—has been described above. The most common forms of pipeline-related forced labor documented in earlier years were work building infrastructure such as roads, barracks for pipeline security forces, and helipads for company helicopters, and forced portering, in which villagers are conscripted to carry heavy loads for patrolling military

units, often in dangerous and abusive conditions.<sup>126</sup> Although these forms of forced labor may be reduced in frequency from prior years, due partly to the end of the construction phase of the Yadana Project and partly to the overall changes in the Burmese military's approach to forced labor,<sup>127</sup> recent interviews confirm that security forces in the service of the Yadana Project continue to exact a heavy forced labor burden from the local population.

A resident of the village of Mi-chaunglaung described how his village, in close proximity to the Yadana pipeline, continued to be subjected to forced labor:

Our village is one of the . . . villages under the Total Company's development zone, but we still have to work on forced labor. The foreigners saw what we have to do but they do not say anything to us. They pass by in their truck while we are building sentry posts and cleaning bushes along the road. But they do not stop to ask us anything. A few times I heard foreigners come to the village and ask whether or not we have to do forced labor. But no one dares say anything about it when they ask because people are afraid of the consequences.<sup>128</sup>

Accounts differ as to whether this form of forced labor has decreased in

recent years (while, at the same time, the forced security duty described above has undoubtedly increased). One villager from Michaunglaung interviewed in 2007 stated that he typically “had to work for the military camp at least four times per month [since 1999] and I had to build the roof of the barrack, build bunkers, and trenches,” but that “forced labor was less in 2004-2006.”<sup>129</sup> He attributed this decrease to movement of the army battalions, and stated that he still had to “provide bamboo and leaves for the military camps.”<sup>130</sup> But a villager from Kaleinaung, located only a short distance away from Michaunglaung,<sup>131</sup> told ERI in 2008 that the situation has not improved:

Even though I see the company come, I still do not see our village situation getting much better since we cannot freely move around. We still have to work on forced labor and porter when the soldiers come and ask for it.<sup>132</sup>

Forced portering, a signature abuse of the Burmese military in which civilians are ordered to carry heavy loads of arms, ammunition and supplies for soldiers during security operations, has continued in recent years. Villagers are most often conscripted in a semi-regular process, in which the battalions order the village headman to provide them with a specified number of porters. This

procedure causes substantial hardship to the villagers:

We have to go porter for them whenever they arrive in the village. We do not have many villagers in the village, so we have to go with them very often. We have no time to work on our job. We have to go with them by rotation and the village head arranges it.<sup>133</sup>

In some cases, however, villagers who are working in their fields and farms may be seized as porters by any military units they encounter, as one man related:

When we were working in our garden or plantation, and rice farms, we have to be careful of the Burmese soldiers. The best way is to hide ourselves so that we do not have to answer their questions and risk being arrested [for portering].<sup>134</sup>

Portering trips often take several days or even much longer, in which the porters must often travel over difficult terrain with their heavy loads. Villagers in Michaunglaung were regularly conscripted for two-day portering trips with pipeline security battalions:

We had to do portering for the LIB 409, LIB 407 to the areas. . . where the military is based. Villagers had to go by rotation and had to carry food and ammunition for them. The distance



Our village is one of the . . . villages under the Total Company's development zone, but we still have to work on forced labor. The foreigners saw what we have to do but they do not say anything to us. They pass by in their truck while we are building sentry posts and cleaning bushes along the road. But they do not stop to ask us anything.

—villager from Michaunglaung

was two days and one night. The load was [approximately 40] pounds.<sup>135</sup>

Portering is not optional, and Burmese soldiers mistreat the porters. According to one villager from the pipeline village of Kaleinaung, "We cannot refuse to go with them."<sup>136</sup> A defector from the Burmese army recently described his role:

We ask these people to carry shell ammunition, food and supplies . . . . During the portering the soldiers treat porters not so good. I do not want to mention about these bad things so much since I myself I have done it to these people as well at that time.<sup>137</sup>

Another related type of forced labor involves local people escorting pipeline security battalions in their movements from village to village or through the jungle. According to a villager in the pipeline village of Michaunglaung: "In

2006, I had to escort LIB 408, 409, 410 and 282 several times and the soldiers always got food from the villagers. The villagers also have to provide bamboo, leaves, and clear the camp at the order of the battalions."<sup>138</sup> These escorts were required to help the soldiers in communicating with villages, and in procuring food from the villages when the soldiers require it;<sup>139</sup> another villager recalled being required to help the soldiers look for someone who had become lost in the jungle.<sup>140</sup> A villager in the pipeline village of Zinba reporting being required to "guide" soldiers around the jungle, on trips that might take up to three days.<sup>141</sup>

Although perhaps less physically demanding than portering, there is no question that this practice, like all forms of forced labor perpetrated by the Burmese military, is a clear violation of fundamental human rights.

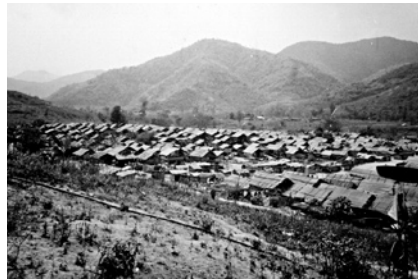
## 5 • NO SMILING FACES

### *Conditions of life in the region*

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Chevron, like Unocal before it, trumpets the benefits to the local people allegedly brought by the Yadana pipeline project. Chevron touts its support for “critical health, economic development, and education programs that make substantive and positive improvements to the lives of 50,000 people in the Yadana project communities,” and promotes its “model socio-economic program that positively improves people’s lives in Myanmar.”<sup>142</sup>

A comprehensive review of the socio-economic program is beyond the scope of this report; nonetheless, it is clear that conditions of life in the pipeline region remain unbearable. Despite the claimed improvements in health and education, villagers from the pipeline region are still subject to military oppression, forced labor, and violence, as well as coercive government programs—none of which support a positive environment for socio-economic development. And perhaps most tellingly, villagers continue to flee these conditions, leaving their traditional homes for the uncertainty and insecurity of life as a refugee along the Thai-Burma border.



*A sprawling refugee camp in the Thai-Burma border region.*

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### Winners and losers

The Yadana consortium originally identified thirteen “pipeline villages” that would receive aid from their socio-economic program, and then expanded to 23 villages in 2001 and 25 in 2005.<sup>143</sup> Nonetheless, their self-described “pipe corridor” extends only a few kilometers from the pipeline route itself, and does not begin to cover the area affected by the pipeline project and its security forces.

For example, the villages of Ya Pu and Law Ther, whose residents face conscripted labor and violence from the pipeline security battalions, are not included among the “pipeline villages” designated by the oil companies<sup>144</sup> and



*The abandoned pig farm in Michaunglaung. The sign on the building displays the Yadana Project logo.*

see none of the touted benefits of the Yadana consortium's socio-economic program. Neither falls within the companies' "pipe corridor," but both are located near the main highway and thus are easy prey for pipeline security units.<sup>145</sup>

The Yadana consortium has failed to recognize that the Yadana Project was the driving force behind militarization of an entire region. As the U.S. De-

partment of Labor noted, "the chosen pipeline route required the [SPDC] to assert effective military control over the region before construction across the inhospitable terrain could begin."<sup>146</sup>

This has resulted in "a significant increase in the number of Burmese army battalions stationed in the pipeline area since 1993."<sup>147</sup> As noted above, at least fourteen army battalions have been providing services to the pipeline, and these battalions have ranged far across the landscape. The socio-economic program may have provided minimal benefits to the designated "pipeline villages," but outside these chosen communities the people have gained nothing while suffering the effects of living with the Burmese military. And, as discussed below, even in the "pipeline villages," any benefits gained from the companies' programs do not seem to outweigh the substantial burdens imposed by the presence of the pipeline security forces.

"[T]he chosen pipeline route required the [SPDC] to assert effective military control over the region before construction across the inhospitable terrain could begin," resulting in "a significant increase in the number of Burmese army battalions stationed in the pipeline area since 1993."

—U.S. Department of Labor report on forced labor in Burma

## Is the socio-economic program working?

Initiated in 1995, the Yadana consortium touts its socio-economic program, citing the number of malaria or tuberculosis cases treated, or the number of children in school.<sup>148</sup> Certainly, in the thirteen years since the socio-economic program began, some people in the chosen “pipeline villages” have enjoyed some benefits from some of the programs. But most of the statistics cited by the companies are soft estimates void of concrete measured outcomes that are normally expected by public health and development professionals. Verifying these claims is difficult, because the Yadana Project area remains completely isolated from the outside world and closed to scrutiny from independent monitors. Nonetheless, anecdotal evidence indicates that, rather than working to improve the livelihoods of local people, the companies have misled the international community about the effectiveness of their socio-economic program.

A vivid example of the failures of this program is the pig-breeding farm. Total boasts of creating “two model pig breeding farms, one in Kanbauk and one in Migyaunglaung [Michaunglaung].”<sup>149</sup> But recent photos from Michaunglaung show the pig farm abandoned and empty.

The companies’ program has also supposedly provided schools, free education to children in the pipeline villages, and financial support to teachers. But villagers from Michaunglaung describe how each household needs to provide rice and 300 kyat—less than \$1, but a substantial amount in a country where most people earn less than \$1 per day<sup>150</sup>—to support the local teacher.<sup>151</sup> Similarly, in Eindayaza, villagers report that there is not enough support for their teacher, and some students who could not afford to pay the teacher “dare not come to school.”<sup>152</sup> In Zinba village, the residents also pay to supplement the teachers’ salaries from the government, and there is no support from the oil companies: “The company only built the school for us; they support nothing else.”<sup>153</sup>

Chevron claims “50,000 residents along the Yadana pipeline now have free and improved health care,” and that there are ten doctors where there were previously none.<sup>154</sup> But ERI’s research indicates that, in at least some areas, health care is neither free nor adequate. One woman stated that that the hospital charged so much money that the best way to secure health care was to leave and seek treatment in refugee camps on the border: “We do not have enough money to go to the hospital so we decided to come to the border.”<sup>155</sup> Others state that the hospital does not have

sufficient medicine for the patients,<sup>156</sup> or that they are required to purchase medicine outside the hospital if they need it.<sup>157</sup>

Chevron also claims that they have trained 33 health care workers, and they cite this as a measure of commitment and responsibility.<sup>158</sup> By comparison, health workers along the Thai-Burma border established the Back Pack Health Worker Team (BPHWT) in 1998 in order to provide primary health care to internally displaced persons in ethnic armed conflict areas and rural areas in Burma. The BPHWT started with 32 backpack teams and 120 health work-

ers, and as of 2005 it had increased to over 70 teams with 257 health workers, delivering a range of health care programs to over 140,000 people who have been displaced by the military's brutal attacks on ethnic villages (including in areas not far from the Yadana pipeline).<sup>159</sup> Thus, while a small humanitarian organization, whose annual budget is less than \$1 million,<sup>160</sup> has managed to add over a hundred health workers in seven years, Chevron, with net profits of \$18.7 billion in 2007,<sup>161</sup> and its partners have only managed to add 33 health workers since 1995. The companies have failed to devote the



*For many villagers, medical care in refugee camps is preferable to the care available in the pipeline region.*

My feeling was that, if we look at the pipeline, there was no benefit for our village. Before [the pipeline] we were living peacefully but after the pipeline came in around 1993-1994 many soldiers came into our village. They destroyed our village . . . we had to move our village and have to work for the soldiers all the time.

—villager from Ya Pu

“human energy” or financial resources necessary to actually improve the public health in the area in a way that would be respected by objective third party public health professionals.

The companies claim to have mechanisms to receive feedback from local residents, but even if the companies were genuinely interested in learning about the inadequacies of their socio-economic program, these mechanisms would be useless. The companies claim that their “Village Communication Committees” have “helped create a trust-based, sustainable relationship,”<sup>162</sup> allow the companies to “establish an effective dialogue with the villagers”<sup>163</sup> and to monitor the situation and “intercede in cases of abuse.”<sup>164</sup> But there are no truly open exchanges in military-ruled Burma. One resident described the lack of communication: “The foreigners would come and ask questions but the village head himself could not



*Sadly, families fleeing the oppression of the Burmese military have become commonplace in Burma, including in the pipeline region.*

talk to the foreigners directly. We do not know what the translator said, either. We dared not talk about what is really happening in the village.”<sup>165</sup>

## Happy people don't flee

Perhaps the most dramatic indicator of the harshness of life in the pipeline region is the fact that people are still fleeing, at considerable risk to themselves and their families, to refugee camps along the Thai-Burma border. Even in the identified “pipeline villages,” conditions of life continue to force individuals and families to relocate to the border.

The village of Kaleinaung, for example, has been designated a “pipeline village” by the consortium from the beginning. ERI interviewed one man in 2005 who had just arrived on the border from Kaleinaung with his wife and two of his four children. He described not wanting to leave his home, but being forced to by the circumstances:

I would like to stay in my village more than anywhere else, but I do not want to stay in the village anymore due to the current situation. We have been forced to do many things for the Burmese soldiers in the village and on the Ye-Tavoy road, and we also have to take watch for the Yadana pipeline. As poor villagers, we had no time to work on our affairs and other jobs. So, I made a decision to come here.<sup>166</sup>

ERI interviewed residents of another “pipeline village,” Eindayaza, in 2007 after they also fled to the border. None saw any development improvements

in Eindayaza as a result of the Yadana Project. One noted, “I have not seen development in the village since [the Yadana Project] came in. Only some of the villagers’ living standards have improved, but from their own struggling on betel nut and cashew nut plantations and in small business shops.”<sup>167</sup> Another stated simply, “In the village, there is no development.”<sup>168</sup>

Thus, even residents of the villages that have supposedly benefited the most from the Yadana Project cannot continue to survive there. If the “pipeline villages” were truly an oasis of safety and progress, refugees would be streaming back in, not clamoring to get out.

And, of course, the villages outside the companies’ development zone are worse off still. One of the hardest hit is Ya Pu, about 12 miles north of the pipeline. Residents of Ya Pu are frequently conscripted for forced labor by pipeline battalions 273 and 282, among others.<sup>169</sup> A recent refugee explained his decision to leave the village:

My feeling was that, if we look at the pipeline, there was no benefit for our village. Before [the pipeline] we were living peacefully but after the pipeline came in around 1993-1994 many soldiers came into our village. They destroyed our village . . . we had to move our village and have to work for the soldiers all the time. If we look at

now the land that LIB 282 is living on now, it also belonged to our village and if the soldiers were not there we could survive on this land without any problems.<sup>170</sup>

Two residents recently confirmed that, as people continue to flee, the size of the village has dropped nearly by half in recent years, from about 80 household to no more than 40-50.<sup>171</sup>

### Losing land and freedom

In addition to the human rights abuses described above that are directly linked to Yadana Project security forces, villagers in the pipeline region face a number of other burdens from the presence of the Burmese military and the totalitarian SPDC regime. The military has brought land confiscations, forced plantation programs, and confiscation of goods or outright theft by the soldiers.

A common concern of residents of the pipeline region is the confiscation of land by military forces, often for agriculture or barracks. Residents of three villages described how soldiers confiscated one man's rice paddy to grow their own rice,<sup>172</sup> took others' lands for palm oil plantations,<sup>173</sup> and took 40-50 acres of land to build a military camp.<sup>174</sup> The same pattern occurred in other villages in the pipeline region.<sup>175</sup> This has deprived residents of their own farming and grazing lands. A resident of



*A farmer forced by the junta to plant jatropha surveys his failed plantation.*

Eindayaza, in close proximity to the Yadana pipeline, described how the village could no longer raise cattle, “because the military took many of the villagers’ lands. If your cow or buffalo gets into the military’s palm oil plantation, they kill it.”<sup>176</sup> Others noted that they were even forced by the military to work on the soldiers’ plantation, performing labor for three days without pay and under supervision of one of the army’s “pipeline battalions.”<sup>177</sup> In Zinba village, residents’ lands were confiscated by the military, and then the villagers were forced by the soldiers to plant rice on the land that had formerly been theirs.<sup>178</sup>

A particularly bizarre new form of oppression is the military junta’s recent fixation with jatropha or castor oil<sup>179</sup> as a rural biofuel. In 2006, the SPDC announced a massive national program to produce castor oil.<sup>180</sup> More recently, the regime announced that each of Burma’s 14 states and divisions was “expected to plant 500,000 acres” with jatropha.<sup>181</sup> This has translated to a forced-



I never dared to ask for money. They have the guns.

—villager from Ya Pu

planting program in the pipeline region, in which villagers are not only required to buy the seeds for the plants from the local authorities, but also to use their time and land to cultivate the crop.<sup>182</sup> One woman from the “pipeline village” of Eindayaza recently explained that the villagers “have to buy the seeds and plant this for the SPDC. The SPDC does not pay any wages. We had to plant it last year and this year. My husband had to clear the plantation place so we could plant it. One time it took two weeks to finish planting.”<sup>183</sup>

Soldiers in the pipeline region also confiscate residents’ goods and extort money from them. Although most of the residents are poor, with few belongings, villagers with means of private transportation are forced to transport soldiers or their cargo. A villager with a boat was forced to ferry soldiers across the river: “I never dared to ask for money. They have the guns.”<sup>184</sup> Villagers with bullock carts are forced to transport logs from the forest to the military camp; the journey takes nearly a full day and the soldiers require two trips per week, again without payment.<sup>185</sup> Soldiers simi-

larly requisition goods and food from the villagers; several villagers confirmed that soldiers simply “take whatever they want from the village shops,”<sup>186</sup> and then tell the shop owners to seek reimbursement from the village head—who in turn taxes the whole village to cover the expenses.<sup>187</sup> Sometimes the military comes up with schemes to cheat the villagers out of money; they ask for donations to a “mother and children’s fund,” or the “military fund,” or sometimes even sell tickets to an event that no one can attend.<sup>188</sup> They “extort money from the villagers,” said one refugee.<sup>189</sup> And in many cases the soldiers drop all pretense of requisitioning supplies, and simply demand money: “We all had to pay them, as they demanded,” said a resident of the “pipeline village of Kaleinaung”;<sup>190</sup> “We have to pay money every time the soldiers come into the village,” said another from the village of Kanbawk.<sup>191</sup> “It becomes a habit,” remarked one refugee, “of welcoming the Burmese soldiers.”<sup>192</sup>

## 6 • SITTING IDLY BY

### *Chevron's silence during the 2007 demonstrations and crackdown*

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The most visible recent iteration of the Burmese military's violent suppression of dissent and oppression of its population began in September 2007, when the regime attacked thousands of people, led by Buddhist monks, who took to the streets across Burma to protest the SP-DC's policies. Significantly, the protests began after the junta's decision to raise energy prices dramatically—including a 500 percent increase in natural gas prices. Although the regime is selling millions of cubic feet of gas to Thailand every day, its own citizens, who use natural gas for automobiles and cooking, face shortages and high prices.<sup>193</sup> Moreover, the protests reflected the utter failure of the Yadana Project, and other mega-development projects, to improve the Burmese economy and the general situation of the people. Mounting over several weeks, there were over 200 protests in at least 66 towns and cities across Burma; they peaked in late September, as tens of thousands of monks and other protestors took to the streets in the largest protests since 1988.<sup>194</sup>

On September 26, 2007, the Burmese military, as it had done before, started



Photo: Patrick Shank

*Led by thousands of Buddhist monks, demonstrators filled the streets of Burma's cities in September 2007.*

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beating and shooting protestors in the streets.<sup>195</sup> The number of protestors killed remains in dispute; Human Rights Watch believes that the death toll is "much higher" than the 10 deaths reported by the regime,<sup>196</sup> and this view has been echoed by others.<sup>197</sup> The U.N. Special Rapporteur on human rights in

“I want to condemn absolutely the appalling level of violence against the people of Burma. I am afraid that we believe the loss of life in Burma is far greater than is being reported so far.”

—UK Prime Minister Gordon Brown, on September 28, 2007

“At Chevron, ‘human energy’ captures our positive spirit in delivering energy to a rapidly changing world,” said Rhonda Zygocki, Chevron vice president of Policy, Government and Public Affairs. “We believe that viable answers are out there to meet future demand, but that people must work together to find them.”

—Chevron press release on the same day

Burma, in a brief investigation hindered by lack of cooperation by the Burmese authorities, found evidence of at least 30 killings in Rangoon alone, and stated in his December 2007 report to the Human Rights Council that “several reports of killings indicate that the figure provided by the authorities may greatly underestimate the reality.”<sup>198</sup>

The abuses and terror did not stop with the killings. The regime’s soldiers and associated groups led a systematic effort to break up the roots of the multi-city protests. The initial violent crackdown was followed by a series of well-orchestrated nighttime raids on monasteries and private residences,

during which monks and suspected dissidents were beaten, abducted, and in some cases disappeared.<sup>199</sup> Monks were summarily disrobed en masse by the SPDC and its associates in the Buddhist monastic community. Human rights groups estimate that, by October, at least 6000 people had been arrested for their suspected involvement in the protests.<sup>200</sup> Even today, numerous monasteries remain empty or under surveillance, and hundreds of monks and other protestors remain in detention.

Chevron’s role in Burma, and in particular the fact that the protests had been sparked by skyrocketing domestic energy prices, was noted in mid-September,



*Soldiers preparing to respond to demonstrators in Rangoon on September 27, 2007.*

as the protests were gaining strength but before the violent crackdown.<sup>201</sup> At that point Chevron had made no public statements about its involvement in Burma since acquiring Unocal two years before, and it maintained its silence as the protests grew, and as the blood started flowing. On September 27, shortly after the shooting began, EarthRights International called on Chevron—as the largest U.S. investor in Burma and the regime’s business partner—to condemn the abuses and urge its partner to stop the violence.<sup>202</sup> Still, Chevron maintained its silence, issuing no statement on Burma. Instead, on the following day, September 28, 2007, it issued a press release about its “new integrated global advertising campaign,” “called the ‘Power of Human Energy.’”<sup>203</sup> As people around the world watched through their television sets as the violence unfolded on the streets

of Burma, international news programs were interrupted by Chevron’s inspiring images of human achievement, set to soft piano music, as part of their \$15 million “Human Energy” advertising campaign, in which they claim Chevron can provide resources “more intelligently, more efficiently, more respectfully.”<sup>204</sup>

Finally, on October 2, 2007, a week after the crackdown started, Chevron issued its first statement on the situation. It began promisingly: “Chevron supports the calls for a peaceful resolution to the current situation in Myanmar in a way that respects the human rights of the people of Myanmar.”<sup>205</sup> But that was the last mention of human rights, and it was the closest the company came to criticizing the brutality of its business partner. The statement went on to assert that the Yadana Project was “helping to meet the energy needs of millions of people in the region” (without mentioning that the beneficiaries of the Yadana Project live in Thailand, not Burma), and to mention the project’s “socio-economic program” in the pipeline region.<sup>206</sup> The statement was updated on October 18, 2007, to include an argument against new economic sanctions on Burma’s regime, but still failed to condemn the violence or suggest that Chevron would actively seek to rein in its business partner.<sup>207</sup> As of this writing, Chevron has made no further statement on the issue.



## 7 • NO SAFE HARBOR

### *Chevron's continuing legal liability after the Unocal settlement*

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#### The Unocal litigation and settlement

For nearly nine years, from 1996 until 2005, Unocal faced litigation in U.S. courts over its culpability for abuses connected with the Yadana pipeline project. The *Doe v. Unocal* and *Roe v. Unocal* lawsuits were brought on behalf of sixteen victims of the pipeline project who became refugees and sought to gain some measure of accountability for these abuses.<sup>208</sup> Their injuries were representative of the abuses faced by victims of the Yadana project: murder, rape, torture and physical beatings, forced relocation, and widespread, frequent, and brutal forced labor.<sup>209</sup>

In March of 2005, Unocal agreed to settle *Doe v. Unocal* and *Roe v. Unocal*. Although the terms of the settlement are confidential, a joint statement released by the parties indicates that the settlement compensates the *Doe* and *Roe* victims and also provides funds that allow the plaintiffs to establish humanitarian relief programs for other victims of the pipeline project.<sup>210</sup>

#### Can Chevron be sued again?

While the settlement ends the legal claims of the sixteen *Doe* and *Roe* plaintiffs, it does not protect Unocal—or Chevron—from further liability for past or ongoing abuses. The *Unocal* litigation was not a class action, in which a few plaintiffs can represent a large group of victims. Under basic principles of U.S. law, in the absence of a class action, a settlement of one victim's lawsuit does not prevent another victim from bringing his or her own lawsuit. Although other victims of the Yadana project may benefit from the humanitarian programs established with the settlement money, these victims still have the right to bring their own lawsuits against Chevron. Moreover, the litigation obviously could not address any of abuses that have occurred after the settlement. Chevron's potential liability, therefore, is still enormous. Each of the many thousands of victims of the Yadana Project is entitled to bring suit against Chevron.

The legal principles that were used to litigate the *Unocal* cases apply equally to Chevron. Because Unocal was a U.S. corporation headquartered in California, it was subject to jurisdiction in the



United States and also subject to California law. The plaintiffs asserted violations of both California law and international law, which is part of U.S. federal law and incorporated in the Alien Tort Statute.<sup>211</sup> Centuries-old rules dating back to English law allow transnational lawsuits to be brought wherever the defendant can be found, regardless of where the abuses occurred.<sup>212</sup> Because Chevron is also a U.S. corporation headquartered in California, it is also subject to all of these legal rules.

The conduct of Unocal and its partners in the Yadana consortium led to legal liability in two ways. First, the oil companies were aiding and abetting the Burmese military in committing murder, rape, forced labor, and other abuses; they provided financial, logistical and other support to the soldiers who were routinely violating human rights.<sup>213</sup> Aiding and abetting liability is well-recognized in international law and U.S. law: where the abettor provides substantial assistance to the perpetrator, knowing that the abuses will occur, the abettor is liable.<sup>214</sup> Second, the Yadana consortium used the Burmese military as its agent: it “hired the military to provide security for the Project.”<sup>215</sup> Just as a dance club would be liable if it employed a bouncer with a known history of violent crimes, and that bouncer committed acts of violence, the oil companies are liable

for employing a violent military force to provide security and other services for their project. Again, Chevron’s responsibility is equal to Unocal’s; the Yadana consortium most likely still provides financial and logistical support to the Burmese military, and it unquestionably still relies on Burmese soldiers to provide security for the pipeline project.

### Will Chevron be sued again?

Whether Chevron actually will be sued depends on whether there are victims willing to stand up against the oil companies’ behavior and lawyers willing to take their case. There are no restrictions on EarthRights International bringing such a suit again.

The only limiting factors for such suits are statutes of limitations, which are legal provisions that require lawsuits to be brought within a certain period of time after an abuse occurs. While violations of California law typically need to be brought to court within two to four years,<sup>216</sup> lawsuits for violations of international law can be brought in U.S. courts up to ten years after they occur<sup>217</sup> (and sometimes much longer, depending on the circumstances<sup>218</sup>). At present, victims of abuses dating back at least as far as 1998 could still bring their claims in U.S. courts.

The interviews discussed above suggest that, since 1998, there are numer-

Each of the many thousands of victims of the Yadana Project is entitled to bring suit against Chevron.

ous victims of the Yadana Project, and that people are being harmed every day the pipeline project continues to rely on the Burmese military to provide security. Chevron therefore still faces massive potential liability for the Yadana Project, with no end in sight.

## Conclusions

The Yadana Project, in which Chevron is a partner, remains a highly destructive endeavor. It is the largest source of income for the Burmese military regime, which brutally oppresses its people. The companies continue to rely on Burmese forces for pipeline security, and those forces continue to conscript forced labor and commit serious human rights abuses in the course of their operations. While the oil companies have trumpeted their socio-economic programs in the region, the purported benefits of these programs accrue only to a small portion of the people affected by the Yadana Project. Moreover, these programs do not always appear to work as intended even for the beneficiaries, and despite these programs conditions of life in the pipeline region are still

so dire that people continue to flee for the relative safety of the Thai border. Due to its involvement in the Yadana Project, Chevron remains vulnerable to liability for the abuses committed by the associated security forces.





## APPENDIX A:

### *Another Yadana: The Shwe Gas Project*

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Burma's largest-known natural gas field is called "Shwe," meaning gold in Burmese, and it is currently being developed by the Korean company Daewoo International and state-owned corporations from South Korea and India. The project will most likely involve construction of an overland gas pipeline to Kuming, China, possibly by PetroChina, the 88-percent-owned subsidiary of the wholly state-owned China National Petroleum Corporation. The proposed Shwe pipeline to China, at approximately 1,470 miles long, will be at least 40 times longer than the Yadana pipeline, traversing 24 townships in Burma through Arakan State, Magwe Division, Mandalay Division, and Shan State.<sup>219</sup>

EarthRights International and the Shwe Gas Movement, an international coalition of non-governmental organizations led by activists from western Burma, are concerned about the human rights impacts of this project, and abuses connected to the early stages of the project have already been documented.<sup>220</sup>

The Shwe Project's beginnings date back to August 2000, when Daewoo entered into a production sharing contract with the Burmese military regime

to explore and exploit gas in block A-1, an offshore block in Burma's Bay of Bengal. The company then sold a ten percent stake to Korea Gas Company (KOGAS), a state-owned Korean company, followed by the sale of a 20 percent stake to Oil and Natural Gas Corporation (ONGC) Videsh of India, and a ten percent stake to Gas Authority of India Ltd. (GAIL), both state-owned Indian companies, while keeping a 60 percent share for itself. As the operator of the project, Daewoo began test drilling in November 2003, and in December 2003 the company discovered a large natural gas field—what it described as a "world-class commercial-scale gas deposit."<sup>221</sup>

The company was then awarded rights to block A-3, which was followed by another discovery. Blocks A-1 and A-3 are now estimated to hold up to 10 trillion cubic feet of natural gas, nearly twice as much as Yadana. The Shwe Gas Movement estimates that the project will earn the regime approximately \$12-17 billion over a period of twenty years.<sup>222</sup>

The Shwe Gas Movement is leading an international campaign to stop the Shwe Project until the people of Burma can participate in development deci-



sions without fear of reprisal, and under a democratic-elected civilian government. In September 2006, ERI and the Korean Federation for Environmental Movements sent letters to the chief executive officers of Daewoo International and Korea Gas Corporation demanding the companies conduct environmental and human rights impact assessments for the Shwe Project, as required under

Korean and international law.<sup>223</sup> The companies failed to acknowledge or respond to the letters and the project is proceeding.

For more information on the Shwe Project and campaign, including the comprehensive 2006 report *Supply and Command*, visit the Shwe Gas Movement's website at <http://www.shwe.org>.

## APPENDIX B:

### *China in Burma*

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The proposed Shwe natural gas pipeline to China is also planned to run parallel to a proposed oil pipeline from the town of Sittwe in Burma to Kunming, Yunnan Province, China. The oil pipeline will allow China to bypass the Straits of Malacca in transporting oil from the Middle East and Africa to Kunming in Southwestern Yunnan Province. The oil pipeline was approved by China's National Development and Reform Commission in April 2007, but is awaiting final approval from the junta and Chinese authorities.<sup>224</sup> Like the Shwe Project, this pipeline brings similar human rights concerns, and raises larger questions about Burma's geopolitical significance to China.

While Thailand is Burma's largest trading partner, China is currently one of the Burmese junta's closest allies, providing financial support in the form of conditions-free loans,<sup>225</sup> political support, and military armaments,<sup>226</sup> while also investing heavily in Burma's natural resources. In September 2007, ERI released the background paper, "China in Burma: The Increasing Investment of Chinese Multinational Corporations in Burma's Hydropower, Oil & Gas, and

Mining Sectors," which documents at least 26 Chinese multinationals involved in over 70 projects in Burma over the past decade.<sup>227</sup> The projects range from small hydropower projects to the oil and natural gas pipelines mentioned above, and they are indicative of the increasing presence and influence that China has in Burma.

China's political support of the regime in Burma was indicated most famously by its veto of a United Nations Security Council resolution in January 2007, preventing the Security Council from taking action that might have helped prevent the brutal crackdown later that year. On January 15, 2007, three days after the veto, China was awarded lucrative exploration contracts by the Burmese regime's oil company, the Myanmar Oil and Gas Enterprise.<sup>228</sup>



# ENDNOTES

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- 1 Chevron Corporation, "Chevron Announces New Global 'Human Energy' Advertising Campaign," Press Release (Sep. 28, 2007) (available at <http://www.chevron.com/news/press/Release/?id=2007-09-28>).
- 2 See EarthRights Int'l, "Total Denial Continues: Earth Rights Abuses Along the Yadana and Yetagun Pipelines in Burma" at 13-49 (2d. ed. 2003) (available at <http://www.earth-rights.org/files/Reports/TotalDenialContinues.pdf>).
- 3 Chevron Corp., "Chevron Reports Fourth Quarter Net Income of \$4.9 Billion, Up 29 Percent From \$3.8 Billion in Fourth Quarter 2006," Press Release (Feb. 1, 2008) (available at <http://www.chevron.com/news/press/release/?id=2008-02-01>).
- 4 See The World Bank Group, "Total GDP 2006" (July 1, 2007) (available at <http://sitere-sources.worldbank.org/DATASTATISTICS/Resources/GDP.pdf>).
- 5 Burma's 2006 GDP was estimated at \$9.3-9.6 billion. See Economist Intelligence Unit, "Country Report: Myanmar 2007-2008" (May 2007); U.S. Central Intelligence Agency, "CIA World Factbook: Burma" (2007) (available at <http://www.umsl.edu/services/gov-docs/wofact2007/geos/bm.html>).
- 6 U.S. Dep't of State, "2007 Country Reports on Human Rights Practices: Burma" (Mar. 11, 2008) (available at <http://www.state.gov/g/drl/rls/hrrpt/2007/100515.htm>).
- 7 U.N. Human Rights Council, "Situation of Human Rights in Myanmar," Resolution S-5/1, A/HRC/RES/S-5/1 (Oct. 2, 2007) (available at [http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_S\\_5\\_1.pdf](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_S_5_1.pdf)). On March 28, 2008, the Human Rights Council passed another resolution the "Situation of Human Rights in Myanmar"; the final text of that resolution is not available as of this writing.
- 8 See U.N. Human Rights Comm'n, "Situation of Human Rights in Myanmar," Various resolutions, E/CN.4/RES/2005/10 (Apr. 14, 2005); E/CN.4/RES/2004/61 (Apr. 21, 2004); E/CN.4/RES/2003/12 (Apr. 16, 2003); E/CN.4/RES/2002/67 (Apr. 25, 2002); E/CN.4/RES/2001/15 (Apr. 18, 2001); E/CN.4/RES/2000/23 (Apr. 18, 2000); E/CN.4/RES/1999/17 (Apr. 23, 1999); E/CN.4/RES/1998/63 (Apr. 21, 1998); E/CN.4/RES/1997/64 (Apr. 16, 1997); E/CN.4/RES/1996/80 (Apr. 23, 1996); E/CN.4/RES/1995/72 (Mar. 8, 1995); E/CN.4/RES/1994/85 (Mar. 9, 1994); E/CN.4/RES/1993/73 (Mar. 10, 1993); E/CN.4/RES/1992/58 (Mar. 3, 1992).

- 9 U.N. General Assembly, “Situation of Human Rights in Myanmar,” Resolution 61/232 (Dec. 22, 2006) (available from link at <http://www.un.org/Depts/dhl/resguide/r61.htm>).
- 10 This photo is made available and licensed under a Creative Commons Attribution-Non-commercial-No Derivative Works 2.0 license (see <http://creativecommons.org/licenses/by-nc-nd/2.0/deed.en>).
- 11 In addition to the majority Burman population, there are seven major indigenous ethnic nationalities in Burma (Arakan, Chin, Kachin, Karen, Karenni, Mon, and Shan), and there are over 130 smaller ethnic groups and sub-groups.
- 12 See generally “Production Sharing Contract for Appraisal, Development and Production of Petroleum in the Moattama Area Between Myanma Oil & Gas Enterprise and Total Myanmar Exploration & Production” (July 9, 1992), pages 2462-2553 of Ex. 1 to the partial trial of *Doe v. Unocal Corp.*, BC 237980 (Sup. Ct. Cal., L.A. County) (admitted into evidence, Dec. 11, 2003) [hereinafter “PSC”].
- 13 *Ibid.* sec. 9 (providing that MOGE is entitled to at least 40% of the value of the gas), sec. 10 (providing that MOGE is entitled to a 10% royalty); see also “Memorandum of Understanding for the Moattama Gas Project” sec. 4(c) (July 9, 1992), pages UYP 2555-2572 of Ex. 1 to the partial trial of *Doe v. Unocal Corp.*, BC 237980 (Sup. Ct. Cal., L.A. County) (admitted into evidence, Dec. 11, 2003) [hereinafter “MOU”] (providing that the consortium will be subjected to a 30% income tax on profits, after a three-year tax holiday).
- 14 Myanmar Ministry of Energy, “Organization Chart of Ministry of Energy,” at <http://www.energy.gov.mm/Organisation%20Chart.jpg>.
- 15 See generally “Total Denial Continues,” *supra* note 2, at 38-52.
- 16 See “Deed of Assignment By and Between Total Myanmar Exploration & Production and Unocal Myanmar Offshore Co. Ltd.” (Jan. 28, 1993), Ex. 6(C) to the partial trial of *Doe v. Unocal Corp.*, BC 237980 (Sup. Ct. Cal., L.A. County) (admitted into evidence, Dec. 16, 2003).
- 17 See “Deed of Assignment By and Between Total Myanmar Exploration & Production, Unocal Myanmar Offshore Co. Ltd., and PTTEP Int’l Ltd.” (Jan. 29, 1995), Ex. 4(C) to the partial trial of *Doe v. Unocal Corp.*, BC 237980 (Sup. Ct. Cal., L.A. County) (admitted into evidence, Jan. 14, 2004).

- 18 While PTT has been partially privatized and is listed on the Stock Exchange of Thailand, see Stock Exchange of Thailand, “PTT Public Co., Ltd.,” at <http://www.set.or.th/set/stockquotation.do?symbol=ptt>, it is still majority-owned by the Thai government’s Ministry of Finance. See PTT Public Co. Ltd., “Shareholder Structure,” at [http://www.pttpcl.com/en/ptt\\_core.asp?page=ir\\_sh](http://www.pttpcl.com/en/ptt_core.asp?page=ir_sh). PTTEP, in turn, while also listed on the stock exchange, see Stock Exchange of Thailand, “PTT Exploration,” at <http://www.set.or.th/set/stockquotation.do?symbol=pttep>, is 66% owned by PTT. See PTT Exploration & Production Public Co. Ltd., “FAQ,” at [http://www.pttep.com/en/InvestorRelations\\_FAQ.aspx](http://www.pttep.com/en/InvestorRelations_FAQ.aspx).
- 19 See “Deed of Assignment By and Between Total Myanmar Exploration & Production, Unocal Myanmar Offshore Co. Ltd., PTTEP Int’l Ltd., and the Myanmar Oil & Gas Enterprise” (Oct 31, 1995), Ex. 4(F) to the partial trial of *Doe v. Unocal Corp.*, BC 237980 (Sup. Ct. Cal., L.A. County) (admitted into evidence, Jan. 14, 2004) [hereinafter “MOGE Assignment Deed”].
- 20 See *ibid.* art. 1.2.
- 21 See generally “Export Gas Sales Agreement between Myanmar Oil and Gas Enterprise and Total Myanmar Exploration and Production and Unocal Myanmar Offshore Co. Ltd and PTTEP Int’l Ltd. and Petroleum Authority of Thailand” (Feb. 2, 1995), Ex. 5B to the partial trial of *Doe v. Unocal Corp.*, BC 237980 (Sup. Ct. Cal., L.A. County) (admitted into evidence, Dec. 16, 2003) [hereinafter “EGSA”]. Just as MOGE was on both sides of the Production Sharing Contract, PTT was on both sides of the Export Gas Sales Agreement, participating both as the buyer of the gas and, through its majority-owned subsidiary PTTEP, as a partner in the consortium that sold the gas.
- 22 EarthRights Int’l & Southeast Asia Information Network, “Total Denial: A Report on the Yadana Pipeline Project in Burma” (June 1996) (available at <http://www.earthrights.org/files/Reports/TotalDenial96.pdf>).
- 23 See *ibid.*; “Total Denial Continues,” *supra* note 2; EarthRights Int’l, “Supplemental Report: Forced Labor Along the Yadana and Yetagun Pipelines” (supplement to “More of the Same: Forced Labor Continues in Burma”) (2001) (available at <http://www.earthrights.org/files/Reports/supp.pdf>); EarthRights Int’l, “Fueling Abuse: Unocal, Premier & TotalFinaElf’s Gas Pipelines in Burma” (2002) (available at <http://www.earthrights.org/files/Reports/fuelingabusenglish.pdf>).
- 24 These lawyers included Dan Stormer, Anne Richardson, Cornelia Dai, and Patrick Dunlevy at Hadsell & Stormer; Paul Hoffman at Schonbrun DeSimone Seplow Harris & Hoffman; Judith Brown Chomsky; and Jennie Green at the Center for Constitutional Rights.
- 25 E.g., *Doe v. Unocal Corp.*, 963 F. Supp. 880 (C.D. Cal. 1997).



- 26 See EarthRights Int'l, "Historic Advance for Universal Human Rights: Unocal to Compensate Burmese Villagers" (Apr. 2, 2005), at [http://www.earthrights.org/legalfeature/historic\\_advance\\_for\\_universal\\_human\\_rights\\_unocal\\_to\\_compensate\\_burmese\\_villagers.html](http://www.earthrights.org/legalfeature/historic_advance_for_universal_human_rights_unocal_to_compensate_burmese_villagers.html).
- 27 "Chevron Swoops for Unocal," Int'l Petroleum Finance (Apr. 11, 2005).
- 28 Rick Jurgens, "Unocal approves sale to Chevron," *Contra Costa Times* (Aug. 11, 2005).
- 29 Compare Unocal Corp., "Unocal in Burma" (Myanmar), at <http://www.unocal.com/myanmar/>, updated Nov. 30, 1998 (now archived at <http://web.archive.org/web/19990220170603/http://www.unocal.com/myanmar/>) to Chevron Corp., "Chevron Worldwide," at <http://www.chevron.com/countries/> (accessed Mar. 26, 2008) (no mention of Burma at all).
- 30 Bertil Lintner, "Paper Tiger," *Far Eastern Economic Review* (Aug. 7, 1997).
- 31 *Ibid.*
- 32 *Ibid.*
- 33 James Finch, "Time for Compromise in Burma," Int'l Herald Tribune (Oct. 14, 1997).
- 34 Roger Mitton, "Country in Limbo," *AsiaWeek* (Feb. 13, 1998) (quoting Gen. Khin Nyunt, then the First Secretary of the SPDC).
- 35 "Myanmar: Generals under siege," *The Economist* (Mar. 7, 1998).
- 36 "Time for Compromise in Burma," *supra* note 33.
- 37 Platt's Oilgram News, "Thailand," (Aug. 14, 2000).
- 38 Paul Hueper, "Gas exports up and running," *Petroleum Economist* (Aug. 1, 2001).
- 39 Yadana gas has a known heating value of about 712 BTU/cf. See *ibid.* The price of gas was reported at 175 Thai baht per million BTU (mmBTU) in 2001, see Yuthana Praiwan, "Thai Industry Official Says Unocal's Gas Price Cut Is Not Enough," *Bangkok Post* (Oct. 4, 2001), which at then-current exchange rates was about \$3.92/mmBTU, or about \$2800 per million cubic feet of gas.
- 40 Ye Lwin & Kyaw Thu, "Govt dominates foreign trade as gas sales pump up exports," *Myanmar Times* (June 4, 2007) (available at <http://www.mmtimes.com/no369/b004.htm>).

- 41 The only gas-exporting projects operating in Burma are the Yadana Project and the parallel Yetagun Project, and the value of each is approximately equal. While Yadana has a higher gas volume, Yetagun gas has a higher heating value (1,024 BTU/cf as opposed to Yadana's 712 BTU/cf). See "Gas exports up and running," supra note 38. In 2006, according to Total, Yadana produced an average 680 million cubic feet per day (mmscfd), while (prior to December 2006) about 40-50 mmscfd of Yadana output went to domestic consumption. Total S.A., "Total in Myanmar: A Sustained Commitment" at 7, 13 (2007) (available at [http://burma.total.com/en/publications/sustained\\_commitment.pdf](http://burma.total.com/en/publications/sustained_commitment.pdf)). According to PTTEP, in 2006 Yetagun produced an average 411 mmscfd, see PTTEP, "Presentation at Asian Investment Conference, Hong Kong," slide 29 (Mar. 29-30, 2007) (available at [http://www.pttep.com/inc/download.aspx?file=../download/DocumentFile\\_89Roadshow\\_CSFB\\_29-30%20Mar%2007.pdf](http://www.pttep.com/inc/download.aspx?file=../download/DocumentFile_89Roadshow_CSFB_29-30%20Mar%2007.pdf)). The 630 mmscfd exported from Yadana produced 448,560 million BTU (mmBTU), while the 411 mmscfd exported from Yetagun produced 427,440 mmBTU. If the price per mmBTU is equivalent on the two projects, as reports suggest, see Bruce Hawke, "The Burma-Thailand Gas Debacle," *The Irrawaddy* (Nov. 15, 2004) (available at [http://www.irrawaddy.com/article.php?art\\_id=4216](http://www.irrawaddy.com/article.php?art_id=4216)), then Yadana accounts for about 51.2% of the total export revenue.
- 42 See PTTEP, "Analyst Meeting Presentation, Sofitel Centara Grand Bangkok," slide 27 (Feb. 12, 2008) (available at [http://www.pttep.com/inc/download.aspx?file=../download/DocumentSSHE\\_ReportFile\\_418Analyst%20Meeting%202007%20-%20Financial%20Results.pdf](http://www.pttep.com/inc/download.aspx?file=../download/DocumentSSHE_ReportFile_418Analyst%20Meeting%202007%20-%20Financial%20Results.pdf)).
- 43 "Total in Myanmar," supra note 41, at 7.
- 44 This is based on the reported heating value of 712 BTU/cf. See "Gas exports up and running," supra note 38.
- 45 The EGSA's "normal price" formula is  $P1[0.2(Iy/I) + 0.2(OMy/OM) + 0.5(Fy/F) + 0.10]$ , where P1 is \$3/mmBTU, Iy is the U.S. Consumer Price Index averaged over the preceding six months, I is 170.036, OMy is the U.S. Producer Price Index for Oil and Gas Field Equipment (series 1191) averaged over the preceding six months, OM is 117.711, Fy is the price of Singapore 180 CST fuel oil averaged over the preceding six months and converted to US\$/barrel, and F is \$15.50/barrel. For the end of 2007, ERI calculates that Iy would be 204.14, OMy would be 178.61, and Fy would be approximately \$60/barrel, resulting in a price of approximately \$7.71. See "EGSA," supra note 21, art. XI; data on the Consumer Price Index and Producer Price Index is available from the U.S. Bureau of Labor Statistics (<http://www.bls.gov/>), and data on the price of Singapore fuel oil is available from Platt's (<http://www.platts.com/>).
- 46 See "PSC," supra note 12, sec. 10 (providing for a royalty of "ten percent (10%) of the Available Petroleum from the Contract Area," not including costs of production and transportation).

- 47 The PSC formula depends on the inflation-adjusted price of gas, EC, according to the following formula:  $EC = E \times IO/I$ , where E is the actual price (about \$7.70 for the end of 2007, as noted above), I is the U.S. Consumer Price Index averaged over the three months of the relevant quarter (which is 209.72 for the last quarter of 2007), and IO is the U.S. Consumer Price Index averaged over the last quarter of 1991 (which is 137.7). For the end of 2007 EC would be about \$5.06; as long as it is greater than 2.9, then the highest allocation scale applies. Under this scale, MOGE is entitled to 60% of the first 300 million cubic feet per day (mmscfd), 70% of the next 300 MMscfd, and 80% of the next 300 MMscfd. At a volume of 650 mmscfd, MOGE is entitled to about 66% of the gas, independently of its status as a 15% partner in the consortium. See “PSC,” supra note 12, sec. 9.
- 48 See “MOGE Assignment Deed,” supra note 19, art. 1.2.
- 49 See “MOU,” supra note 13, sec. 4(c) (providing that the foreign companies’ profits will be subjected to a 30% income tax).
- 50 See “Yadana Natural Gas Project,” *The New Light of Myanmar* (Sep. 13, 1995) (“Myanmar will earn 4900 million US dollars in thirty years for the sale of gas and this is about 450,000 US dollars a day.”).
- 51 Asian Development Bank, “Key Indicators 2007,” vol. 38 at 306 (2007) (available at [http://www.adb.org/Documents/Books/Key\\_Indicators/2007/pdf/Key-Indicators-2007.pdf](http://www.adb.org/Documents/Books/Key_Indicators/2007/pdf/Key-Indicators-2007.pdf)).
- 52 William Boot, “Junta’s Piggy Bank Falls as Economy Sinks,” *Irrawaddy* (Mar. 1, 2008).
- 53 Chevron Corp., “Update to Chevron Statement on Myanmar,” Press Release (Oct. 18, 2007), at <http://www.chevron.com/news/press/Release/?id=2007-10-18a>.
- 54 “Total in Myanmar,” supra note 41, at 7.
- 55 Asian Development Bank, “Greater Mekong Subregion: B1: Implementation of the Yadana-Ratchaburi (Myanmar-Thailand) Gas Pipeline Project,” at [http://www.adb.org/gms/pp\\_b1.asp](http://www.adb.org/gms/pp_b1.asp).
- 56 *Ibid.*
- 57 E.g., Univ. Cal. at Berkeley Human Rights Center & Johns Hopkins Bloomberg School of Public Health Center for Health & Human Rights, “The Gathering Storm: Infectious Diseases and Human Rights in Burma” at 1 (July 2007) (available at <http://www.hrcberkeley.org/pdfs/BurmaReport2007.pdf>); Emanuela Sardellitti, “Myanmar: Courted by the Asian Players,” *Power and Interest News Report* (Mar. 8, 2007) (available at [http://www.pincr.com/report.php?ac=view\\_report&report\\_id=627&language\\_id=1](http://www.pincr.com/report.php?ac=view_report&report_id=627&language_id=1)); “Misery piled upon misery: Myanmar,” *The Economist* (Oct. 6, 2007).
- 58 “CIA World Factbook: Burma,” supra note 5.

- 59 Andrew Cordesman & Martin Kleiber, Center for Strategic & Int'l Studies, "The Asian Conventional Military Balance in 2006: Overview of major Asian powers" at 59 (June 26, 2006) (available at [http://www.csis.org/media/isis/pubs/060626\\_asia\\_balance\\_powers.pdf](http://www.csis.org/media/isis/pubs/060626_asia_balance_powers.pdf)).
- 60 Ibid. at 32, 35; Jaffee Center for Strategic Studies, "The Middle East Military Balance at a Glance" (May 16, 2004) (available at <http://www.tau.ac.il/jcss/balance/glance.pdf>).
- 61 "The Asian Conventional Military Balance in 2006," supra note 59, at 35.
- 62 Ibid.
- 63 U.K. Defence Analytical Services Agency, "UK Defence Statistics" Table 2.7 (2006) (available at <http://www.dasa.mod.uk/natstats/ukds/2006/pdf/UKDS2006Chapter2r.pdf>).
- 64 The U.S. State Department reports that official figures show the Ministry of Health's 2007 budget at 0.3% of Gross Domestic Product (GDP). See "2007 Country Reports on Human Rights Practices: Burma," supra note 6, sec. 5. Because the SPDC's budget is about 20-25% of GDP, expenditures as a percentage of the budget would be four to five times their percentage of GDP, or about 1.2-1.5% of the budget for health care. See "CIA World Factbook: Burma," supra note 5 (calculating the SPDC's budget to be 24.5% of GDP at the official exchange rate); see also "Misery piled upon misery: Myanmar," *The Economist* (Oct. 6, 2007) (noting that the regime is estimated to spend less than 2% of its budget on health).
- 65 See generally "The Gathering Storm: Infectious Diseases and Human Rights In Burma," supra note 57.
- 66 "2007 Country Reports on Human Rights Practices: Burma," supra note 6, sec. 5 (noting that official figures show education expenditures at 1.1% of GDP); see also supra note 64 (explaining that budget figures are about four to five times the GDP percentages).
- 67 United Nations Development Programme, "Myanmar: The Human Development Index – going beyond income," at [http://hdrstats.undp.org/countries/country\\_fact\\_sheets/cty\\_fs\\_MMR.html](http://hdrstats.undp.org/countries/country_fact_sheets/cty_fs_MMR.html).
- 68 See, e.g., Nancy Birdsall and Arvind Subramanian, "Saving Iraq From Its Oil," 83 *Foreign Affairs* 77 (July/Aug. 2004); Terry Lynn Karl, "Oil-led Development: Social, Political and Economic Consequences," CDDRL Working Paper (2007); Michael Ross, "Does Oil Hinder Democracy?," 53 *World Politics* 325, 342, 356 (Apr. 2001); Melissa Dell, "The Devil's Excrement: The Negative Effect of Natural Resources on Development," 26(3) *Harvard Int'l Review* (Fall 2004); Macartan Humphreys, Jeffrey D. Sachs & Joseph E. Stiglitz (eds.), "Escaping the Resource Curse" (2007).
- 69 *Doe v. Unocal Corp.*, 110 F. Supp. 2d 1294, 1306 (C.D. Cal. 2000).

- 70 See “Total Denial,” *supra* note 22; “Total Denial Continues,” *supra* note 2; “Supplemental Report: Forced Labor Along the Yadana and Yetagun Pipelines,” *supra* note 23; “Fueling Abuse,” *supra* note 23.
- 71 See, e.g., Karen Human Rights Group, “Effects of the Gas Pipeline Project,” KHRG #66-21 (May 23, 1996) (available at <http://www.khrg.org/khrg96/khrg9621.html>).
- 72 See, e.g., Human Rights Watch, “Burma/Thailand: No Safety in Burma, No Sanctuary in Thailand” (July 1, 1997) (available at <http://www.hrw.org/reports/1997/burma/index.html>).
- 73 See, e.g., Amnesty Int’l, “Myanmar: Human Rights After Seven Years of Military Rule” (Oct. 1995) (available at <http://www.amnestyusa.org/page.do?id=416485732AE63F8A802569A50071579A>).
- 74 U.S. Dep’t of Labor, “Report on Labor Practices in Burma” (Sep. 1998) (available at <http://www.dol.gov/ILAB/media/reports/ofr/burma1998/main.htm>).
- 75 See Deborah Kelly, “France’s Total Faces Renewed Criticism Over Work in Myanmar,” *Int’l Oil Daily* (Feb. 23, 2005); Manimoli Dinesh & Jim Washer, “United States: Held accountable,” *Energy Compass* (July 9, 2004); Jim Washer & Deborah Kelly, “Corporate: Gray Areas,” *Energy Compass* (Sep. 25, 2003); “Quick Takes: Unocal Corp.,” *Oil & Gas Journal* (Sep. 15, 2003); Kathleen McFall, “Regulation & The Environment,” *Platt’s Oil-gram News* (Sep. 2, 2003); “Myanmar on Their Mind,” *Energy Compass* (June 19, 2003); Jim Washer, “Controversy Rises Over US Tort Law Amid Unocal Myanmar Hearing,” *International Oil Daily* (June 18, 2003); “Unocal Faces Myanmar Suit,” *Oil Daily* (June 17, 2003); “Alien Tort Suits a Concern for Big Business,” *International Petroleum Finance* (June 4, 2003); “Funds Pressure Unocal on Myanmar,” *Oil Daily* (May 23, 2003).
- 76 See Amazon Watch, “The Chevron Toxic Legacy,” Press Release (Apr. 27, 2005) (available at [http://www.amazonwatch.org/amazon/EC/toxico/view\\_news.php?id=926](http://www.amazonwatch.org/amazon/EC/toxico/view_news.php?id=926)).
- 77 See EarthRights Int’l, “EarthRights International Statement Regarding ChevronTexaco’s Acquisition of Unocal” (Apr. 11, 2005) (available at [http://www.earthrights.org/burmafeature/earthrights\\_international\\_statement\\_regarding\\_chevrontexacos\\_acquisition\\_of\\_unocal.html](http://www.earthrights.org/burmafeature/earthrights_international_statement_regarding_chevrontexacos_acquisition_of_unocal.html)).
- 78 See Letter from Richard Trumka, AFL-CIO Secretary-Treasurer, to David O’Reilly, Chairman & CEO of Chevron Corp. (July 22, 2005) (available at [http://www.socialfunds.com/articles/Chevron\\_OReilly\\_July-22-05.pdf](http://www.socialfunds.com/articles/Chevron_OReilly_July-22-05.pdf)); Letter from Richard Trumka, AFL-CIO Secretary-Treasurer, to Sam Nunn, Chevron Corp. Board Public Policy Committee Chair (Aug. 9, 2005) (available at [http://www.socialfunds.com/articles/Chevron\\_Nunn\\_Aug-9-05.pdf](http://www.socialfunds.com/articles/Chevron_Nunn_Aug-9-05.pdf)).
- 79 Total S.A., “The Allegations and Total’s Response,” at [http://burma.total.com/en/controverse/p\\_4\\_1.htm](http://burma.total.com/en/controverse/p_4_1.htm).

- 80 Ibid.
- 81 *Doe v. Unocal Corp.*, 395 F.3d 932, 940 (9th Cir. 2002), vacated upon grant of en banc rehearing, 395 F.3d 978 (2003).
- 82 Ibid. at 942.
- 83 “Total Denial Continues,” supra note 2, at 29 (all battalions, especially 273, 401, 402, 403, 404, 405, 407, 408, 409), 72 (battalions 273, 282), 94-95 (battalions 273, 401, 403, 407, 408, 409); “Total Denial,” supra note 22, at 13-14 (battalions 273, 401, 406, 407, 408, 409, 410); “Supplemental Report: Forced Labor Along the Yadana and Yetagun Pipelines,” supra note 23, at 3 (battalions 273, 282); Confidential Interview #23 (2002), on file with ERI (defector confirming pipeline security duties of battalions 104, 273, 282, 401, 403, 405, 409).
- 84 “Total Denial Continues,” supra note 2, at 72.
- 85 E.g., Interviews #037 (2003, Zinba), #043 (2005, Kanbauk), #010 (2007, Ya Pu), #050 (2005, Kanbauk), on file with ERI.
- 86 Interview #006 (2008, defector from battalion 273), on file with ERI.
- 87 Human Rights Watch, “Sold to be Soldiers: The Recruitment and Use of Child Soldiers in Burma” (Oct. 2007) (available at <http://hrw.org/reports/2007/burma1007/burma1007web.pdf>).
- 88 Human Rights Education Institute of Burma, “Despite Promises: Child Soldiers in Burma’s SPDC Armed Forces” (Sep. 2006) (available at <http://www.hreib.com/images/pb/csreport.pdf>).
- 89 Interview #006 (2008, defector from battalion 273), on file with ERI.
- 90 Betsy Apple, EarthRights Int’l, “School for Rape: The Burmese Military and Sexual Violence” at 34-36 (1998) (available at <http://www.earthrights.org/files/Reports/school-forrape.pdf>).
- 91 Ibid. at 35-36 (ERI Interview #23).
- 92 Interview #011 (2008, Law Ther), on file with ERI; see also Interview #020 (2007, Law Ther), on file with ERI.
- 93 See “Total in Myanmar,” supra note 41, at 14.
- 94 Confidential Interview #001 (2008), on file with ERI.
- 95 Interview #011 (2008, Law Ther), on file with ERI.
- 96 Interview #007 (2008, Zinba), on file with ERI.
- 97 “2007 Country Reports on Human Rights Practices: Burma,” supra note 6, sec. 1(a).

- 98 See generally “School for Rape,” supra note 90.
- 99 Interview #007 (2008, Zinba), on file with ERI; see also Interview #012 (2008, Zinba), on file with ERI.
- 100 Interview #011 (2008, Law Ther), on file with ERI.
- 101 Interview #016 (2007, Law Ther), on file with ERI.
- 102 “Total in Myanmar,” supra note 41, at 26; see also “Update to Chevron Statement on Myanmar,” supra note 53 (claiming credit for building schools and increasing school enrollment).
- 103 Interview #031 (2003, Law Ther), on file with ERI.
- 104 Interviews #021 (2007, Eindayaza), #031 (2003, Law Ther), on file with ERI.
- 105 Interview #037 (2003, Zinba), on file with ERI.
- 106 Interview #045 (2005, Kaleinaung), on file with ERI.
- 107 Interview #016 (2007, Law Ther), on file with ERI.
- 108 See “Total in Myanmar,” supra note 41, at 14.
- 109 Interview #043 (2005, Kanbauk), on file with ERI.
- 110 Ibid.
- 111 Ibid.
- 112 Interview #054 (2005, Ahlersekan), on file with ERI.
- 113 Interview #043 (2005, Kanbauk), on file with ERI.
- 114 Interview #037 (2003, Zinba), on file with ERI.
- 115 Interview #045 (2005, Kaleinaung), on file with ERI.
- 116 Interview #050 (2005, Kanbauk), on file with ERI.
- 117 “Total in Myanmar,” supra note 41, at 44.
- 118 Burma’s general demographics suggest that about two-thirds of the population is in the age range 14-65, and just under half of these are male. See “CIA World Factbook: Burma,” supra note 5.
- 119 “Update to Chevron Statement on Myanmar,” supra note 53.
- 120 Total S.A., “Infrastructure,” at [http://burma.total.com/en/engagement/p\\_3\\_3\\_4.htm](http://burma.total.com/en/engagement/p_3_3_4.htm).
- 121 Interview #009 (2003, Zinba), on file with ERI.
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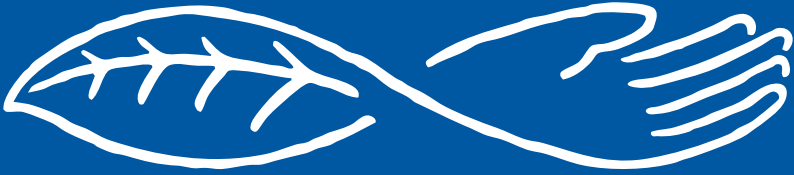
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**EarthRights International combines the power of law  
and the power of people in defense of human rights  
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