

September 14, 2009

RESPONSE TO EARTH RIGHTS INTERNATIONAL REPORT

CDA Collaborative Learning Projects and Earth Rights International both *“have the best interests of the people of Burma, and in particular those in the pipeline area in mind,”* as Paul Donowitz of ERI says in an email to Mary Anderson on September 9, 2009. CDA reaffirms that in all of our work around the world, we identify “the best interests of people” as unequivocally including freedom from abuse and enjoyment of basic human rights.

The recent criticism of CDA’s methodology and impacts by ERI provides a case study of two organizations working in very troubled circumstances. The challenges encountered in settings such as this often prompt divergent analyses and strategies and the case of Myanmar/Burma seems to be no exception. ERI has chosen to adopt an advocacy role. CDA’s Corporate Engagement Project has chosen to work with (not for) corporations around the world to generate lessons, tools and approaches that can help companies ensure that they have positive, rather than negative, impacts on the communities in which they work, including (but not limited to) Myanmar/Burma. CDA’s primary concern at this time is that we not let interagency differences obscure the real issues that people face who wake up each morning in precarious circumstances.

The evidence from CDA’s experience in many countries is that social progress is built on multi-faceted campaigns in which many individuals and groups engage in varied ways and at different levels working toward a common goal. We recognize that ERI’s attack on CDA’s methodology is simply one manifestation of such multi-faceted campaigns. We regret that ERI feels the need to discredit our methodology, one which is widely tested and proven to be useful in generating lessons that have improved humanitarian, development and peacebuilding practice in circumstances equally difficult.

We welcome the fact that ERI has offered recommendations to the companies, the government and CDA. Over recent years, CDA has invited human rights groups active in relation to Burma/Myanmar, including ERI, to suggest “benchmarks” by which they would assess company actions in that country and against which they would be willing to recognize improvement. The new report by ERI suggests that, for the first time, this is a conversation we can begin to have.

CDA is concerned by a number of factual errors and misrepresentations and misunderstandings that appear in ERI’s Report. For the public trying to understand different approaches to work in Myanmar/Burma, we provide clarifications on these points of fact. We do so to be clear about how we work in this country.

RESPONSE TO EARTH RIGHTS INTERNATIONAL REPORT FACT SHEET:

It is important to be clear about what the Corporate Engagement Project is. We are neither a consulting firm, nor an auditing firm, nor a think tank, nor an academic research group, nor a human rights monitor, nor an operational NGO.

The Corporate Engagement Project:

- Is a collaborative learning effort involving over sixty companies with the purpose of learning how corporate approaches impact people's lives.
- Visits the sites of corporate operations where we speak with a broad group of local stakeholders to hear how they describe the impacts of the corporate presence. In every setting, from the people who agree to speak with us, we hear positive and negative comments.
- Conveys the perceptions of local stakeholders to company managers including the suggestions people have made for how the company can improve. In this respect, the CEP reports are as much reports by stakeholders as they are "our" reports.
- Publishes all site visit reports. Companies agree to this as a precondition for their participation in CEP.
- Collects the insights gained during individual site visits that feed into the larger Corporate Engagement Project, where we analyze patterns across sectors of industry and across contexts. Based on the patterns, we develop tools and options for companies, NGOs and UN agencies. The lessons learned through the Corporate Engagement Project are made public, for example through the recent publication, "Getting it Right; Making Corporate-Community Relations Work" by Luc Zandvliet and Mary B. Anderson (Greenleaf Publishing).

Correction of Factual Errors

- Some statements in the ERI report are simply incorrect. The report states ten times that Total "hired" or "commissioned" CDA to conduct an assessment. This is not the case. CDA is not a consultancy. The Yadana project signed up to the CEP project with the understanding that they would not in any way try to determine how CEP should work, where CEP could go, with whom CEP should speak or what would be included in the public report.
- CDA has not solicited employment from future gas projects in Burma including from the Shwe gas project.
- CDA neither condemns nor endorses companies. We report the judgments offered by local people. It is therefore erroneous to say that CDA "boldly touts" the Yadana operations as "wholly positive and a quintessential example of corporate responsibility." On the contrary, each report includes the comments of activists and others critical of the Yadana operations.
- CEP has never been accompanied by the military or by civil informants inside the pipeline corridor (on one occasion, the military accompanied CEP outside the corridor and the CEP team cut this visit short). We are aware that informants have participated in some public discussions we have had with villagers. People in the pipeline corridor have told us this as we talk with

them. For this reason, public discussions are only a fraction of the overall number of conversations we have had; most occurred in private spaces.

- During the first four CEP visits to Myanmar, CDA hired interpreters separately from any input by Total and at the recommendation of respected NGOs. One of the translators with whom we worked during the first three visits decided to accept a position with Total between visit four and five. She was part of the last CEP visit. CEP engaged another qualified independent interpreter for this visit as well in order to maintain our ability to have conversations without Total staff present.
- Mary Anderson did not tell the ERI visitors to CDA that one of our staff was unable to talk with villagers along the border because he was “too corporate.” She has no knowledge of any incident to which this may have referred.

Notes that might mislead the reader

- At several points, ERI’s report refers to events that happened some years before the first CDA visit to Myanmar/Burma in 2002. By proximity, this seems to suggest a link to the CDA visits. For example, photos taken in 1996 and not related to the CDA visits create an impression that the pictured events are relevant to CDA’s work in the pipeline corridor.
- There have been multiple visits by foreigners to the pipeline corridor at the invitation of the Yadana project. Some of the references to visits by “foreigners” interspersed with references to CDA suggest that CDA is always involved. We urge readers to be aware whether claims pertain to a CDA visit or to other “foreigners.” For example, in one case where it is reported that “foreigners” arrived in five trucks, we know that CDA was not part of this group.
- ERI states that there is a difference between the “pipeline corridor,” for which the Yadana project takes direct responsibility and the “pipeline area” which ERI defines as larger than the corridor. In our reports, we have been clear that, by all accounts, the situation in the pipeline “corridor” is significantly different from conditions outside this corridor. We recommend that readers note which comments pertain to each of these areas as discussions of both areas are interwoven. A review of the interviews that ERI cites shows that some are referred to multiple times. While such interviews may provide information in support of ERI’s discussion, it is useful to note how many times the same interview is cited.

All of the five CDA reports of visits to the Yadana pipeline area are public and on our website (www.cdainc.com/cep). We encourage people to read these reports. CDA has made them public in order to engage an increasing number of people in discussions of corporate-community relations, to maintain transparency about our work in all countries and to solicit feedback on their factual accuracy. We continue to welcome feedback.

Three additional points of clarification

1. ERI rightly notes that, when CDA began our Corporate Engagement Project, we were registered as an S-Corp (for profit) in the Commonwealth of Massachusetts. We had been registered this way from our founding in the mid-1980s. Although we established ourselves this way, however, CDA always conducted the majority of our work on a not-for-profit basis. We raised funds from donor governments and NGOs for our collaborative learning projects, such as Do No Harm, Reflecting on Peace Practice and others, on the basis of a proposed budget which included no profit. Further, if funds remained at the completion of the project, these were returned to the donor. No project had a profit margin; each covered all direct expenses including the fairly modest salaries of the one or two CDA staff involved.

This was the circumstance also for our starting of CEP. The first donors to this project were the World Bank, the government of Holland and the Foreign Ministry of Canada. Each of these donors understood clearly, as have corporate donors since, that the project was not for profit.

CDA subsequently decided to change into a non-profit entity, precisely because all of our work was carried out on this basis in any case and donors suggested that it would make more sense to be registered as the non-profit organization that we, in fact, are. The majority of CDA's resources come from grants from donor governments.

2. ERI rightly quotes Mary Anderson from our conversation on April 16, 2009, as saying that much of the human rights work that is carried out around the world is based on a "western, top-down" approach. What ERI does not say is that this comment was made in the context of a broader discussion about how outsiders can helpfully interact with, and support, local actors in their efforts to achieve better economic, social and political circumstances. Mary Anderson was making the point that, over the years of working with many local societies, CDA has heard people in those societies comment about the misfit between the principles stated in global campaigns and their own standards for judgment. We have heard this in relation to post-conflict justice, in relation to corruption and in relation to human rights.

Mary Anderson's point in the conversation with Paul Donowitz and Ka Hsaw Wa was that CDA's approach in our conversations in Burma/Myanmar was to listen for the definitions of local people (which, as our reports note, showed some consistencies and some variations). We found that they diverged from the international definition of forced labor, but that they all were very clear on when labor was forced and what made it wrong when it happened.

Finally, CDA is troubled by ERI's conclusion that the people with whom CDA spoke in Myanmar/Burma had definitions that were "inconsistent with the prevailing legal definition" and that this was "due to local villagers' general lack of formal education." In our experience, formal education has never been necessary for people to know the difference between justice and injustice as it affects their lives.

3. The claim that “CDA’s reports are effectively dangerous and have potentially harmed the lives of thousands of people, directly and indirectly” is a strong allegation and obviously one that we take very seriously. What drives all of CDA’s work is accountability. In each of our projects, the purpose is to learn how those of us who work internationally can do so holding ourselves accountable for the unintended impacts of our work, as well as those we intend. Our most well known project, *Do No Harm*, provides a framework for anticipating and tracing the inadvertent negative impacts of humanitarian and development assistance. The approach it teaches is widely used by local and international assistance actors who find it challenging and practical. In CDA, we hold ourselves to its standard as well.

CDA staff have worked in over 70 countries in the world, many of them in circumstances of conflict, injustice and suffering. (Democratic Republic of the Congo, Kosovo, Iraq, Afghanistan, Pakistan, Rwanda, Bosnia, Georgia, Southern Sudan to name only some of these.) We regularly engage with people whose lives are in danger. In many of these countries, local people tell us that our approach—the fact that we listen to them and respect their thinking and analyses—is a positive experience. They have not accused us of either naiveté or complicity in wrongs done to them; on the contrary, they often engage in the processes we are involved in because they see these as supportive of their own efforts to change things.