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กรณีการใช้สิทธิเหนือสิทธิบัตรยาในประเทศไทย



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The Networking of Transnational Social Movements:
The Case of Compulsory Licensing in Thailand



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A Thesis Submitted in Partial Fulfillment of the Requirements
For the Degree of Master of Arts in International Development Studies
Faculty of Political Science

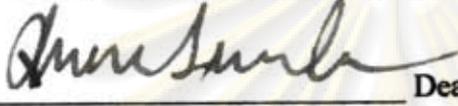
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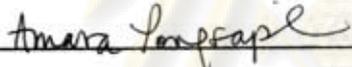
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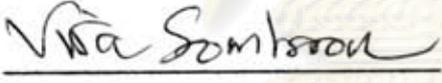


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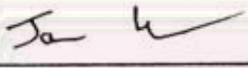
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การประกาศใช้สิทธิตามสิทธิบัตร หรือ ซีแอล ได้เสนอทางรอดอย่างหนึ่ง เพื่อจัดการปัญหาการเข้าถึงยา
ที่จำเป็น ในขณะที่เดียวกันขบวนการทางสังคมข้ามพรมแดนก็ได้ช่วยให้วิธีการนี้เกิดความชอบธรรมทางกฎหมาย
การรณรงค์เรื่องซีแอลและการสร้างเครือข่ายของขบวนการทางสังคมข้ามพรมแดนได้ดำเนินการไปพร้อมๆกัน
เพื่อเสนอแนวทางเลือกต่อกฎระเบียบของตลาดเภสัชกรรม งานวิจัยชิ้นนี้ได้ประเมินความสำเร็จของขบวนการ
ทางสังคมข้ามพรมแดน ภายหลังจากที่ประเทศไทยได้ประกาศใช้สิทธิตามสิทธิบัตร เมื่อเดือนพฤศจิกายน ปี พ.ศ.
2549 การศึกษานี้มีวัตถุประสงค์เพื่อกำหนดแนวทางความยั่งยืนของการเคลื่อนไหวประเด็นซีแอลในอนาคต โดย
มีการประเมินลักษณะต่างๆ เหตุผล และธรรมชาติของเคลื่อนไหว

ข้อค้นพบในการวิจัยได้แสดงให้เห็นว่าเครือข่ายของขบวนการทางสังคมข้ามพรมแดนจำเป็นต่อ
ความสำเร็จของการรณรงค์ประเด็นซีแอลของประเทศไทย งานวิจัยนี้ได้ประเมินความสำเร็จของขบวนการทาง
สังคมข้ามพรมแดนและนัยยะทางทฤษฎีของการเคลื่อนไหวนี้ มีการอธิบายลักษณะเด่นที่ประการของขบวนการ
ทางสังคมข้ามพรมแดนดังนี้ 1) การเข้าร่วมของผู้กระทำการที่มีความแตกต่างหลากหลาย 2) การแบ่งงานกันใน
เชิงยุทธศาสตร์ 3) การตอบสนองเพื่อเผชิญกับความกดดันกรณีซีแอล และ 4) ความต่อเนื่องของการรณรงค์ซีแอล
ลักษณะเด่นเหล่านี้เป็นตัวกำหนดการบรรลุความสำเร็จของขบวนการทางสังคม

การศึกษานี้ได้ใช้กรอบของหลัก “สามเหลี่ยมเข็มนาฬิกา” เพื่อแสดงให้เห็นลักษณะของขบวนการทาง
สังคมข้ามพรมแดน ประการแรก เครือข่ายที่แตกต่างได้กำหนดพื้นฐานความรู้ที่เข้าใจร่วมกันเพื่อให้การ
สนับสนุนด้านข้อมูลที่คัดค้านบริษัทต่างๆ และแก่ผู้ทำการล๊อบบี้ ประการที่สอง เครือข่ายที่แตกต่างทำให้เกิด
แรงกระตุ้นต่อการระดมพลังทางสังคมในการสนับสนุนประเด็นซีแอลของประเทศไทย ประการสุดท้าย ประเด็น
ซีแอลจำต้องได้รับความใส่ใจและยอมรับในระดับโลก ทั้งโดยบุคคล รัฐบาลต่างๆ และองค์การระหว่างประเทศ

ขบวนการทางสังคมข้ามพรมแดนแสดงให้เห็นลักษณะที่สำคัญๆ ที่ลักษณะ ได้แก่ ลักษณะที่หนึ่ง
ขบวนการทางสังคมนี้จะพุ่งเป้าหมายไปที่บริษัทต่างๆเป็นสำคัญ โดยขบวนการนี้จะประกอบด้วยเครือข่ายอย่าง
ไม่เป็นทางการที่มีการนิยามความหมายตนเองแบบหลวมๆ และมีอัตลักษณ์ที่ส่งเสริมร่วมกัน นอกจากนี้
ขบวนการทางสังคมนี้ได้เชื่อมโยงการรณรงค์ประเด็นซีแอลของประเทศไทยให้เข้ากับกรอบหลักของเสรีนิยม
ใหม่ที่มีมุมมองกว้างมากขึ้น การรณรงค์ประเด็นซีแอลถือเป็นลักษณะหนึ่งของขบวนการทางสังคมในมุมมอง
ที่ว่ากรรณรงค์นี้ได้ทำให้เกิดความท้าทายที่แตกต่างต่อมหาอำนาจของสหรัฐอเมริกา และต่อการครอบงำด้าน
เภสัชกรรมภายใต้แนวทางของตลาดเสรี

ท้ายที่สุด งานวิจัยนี้ได้ศึกษาถึงความยั่งยืนของขบวนการทางสังคมข้ามพรมแดน และเสนอว่าขบวนการ
ทางสังคมข้ามพรมแดนที่มีการสร้างเครือข่ายของผู้ร่วมกระทำการในระดับโลกที่ประสบความสำเร็จ จะยังคงมี
บทบาทที่สำคัญในการเคลื่อนไหวเรื่องการประกาศใช้สิทธิตามสิทธิบัตรหรือซีแอลในอนาคต ถ้าขบวนการนี้
สามารถเป็นแบบจำลองของความชอบธรรมทางกฎหมายระดับโลกที่ประสบความสำเร็จได้ในกรณีซีแอลของ
ประเทศไทย

สาขาวิชา การพัฒนาระหว่างประเทศ
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ลายมือชื่อนิติ.....
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CL offers a viable means to address the access to essential medicine problem. Transnational social movements, in turn, legitimize this method. The CL campaign and the networking of transnational social movement worked in conjunction to present an alternative to pharmaceutical market order. This research evaluates the success of the transnational social movement after Thailand's issuance of Compulsory Licensing (CL) in Nov 2006. By assessing the characteristics, reasons, and nature of the movement, this work aims to determine its sustainability for future CL movements.

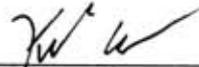
Research findings illustrate that the networking of transnational social movements proved necessary, if not crucial, to the success of the Thai CL campaign. This research assesses the success of the transnational social movement and its theoretical implications. Four major features describe the transnational social movements: 1) Involvement of heterogeneous actors; 2) strategic division of labor; 3) responsiveness to counter-CL pressure; and 4) continuation of the CL campaign. These features determined the achievements of the social movements.

This study applied the "Triangle that Moves Mountain" framework to illustrate the characteristics of the transnational social movements. First, different networks formulated a comprehensive knowledge base to provide informational support against pharmaceutical companies and their lobbyists. Secondly, different networks provided the impetus for social mobilization in support of the Thai CL issue. Lastly, this issue required global engagement from individuals, national government, governments of other nations, and international organizations.

The transnational social movement exhibited four vital characteristics of social movements. First, it targeted pharmaceutical companies' priorities, consisted of loosely defined informal networks, and fostered collective identities. In addition, the social movement linked the Thai CL campaign to the broader neo-liberal master frame. The CL campaign was characteristic of a social movement in the sense that it made distinct challenges to US hegemony and pharmaceutical dominance under the guise of the free market.

Finally, this research looks at the sustainability of the transnational social movement. Given the successful networking of globalized actors, transnational social movement can continue to play a vital role in future compulsory licensing movements, if they are able to replicate the global legitimacy achieved in the Thai CL case.

Field of study: International
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Student's signature: 

Advisor's signature: 

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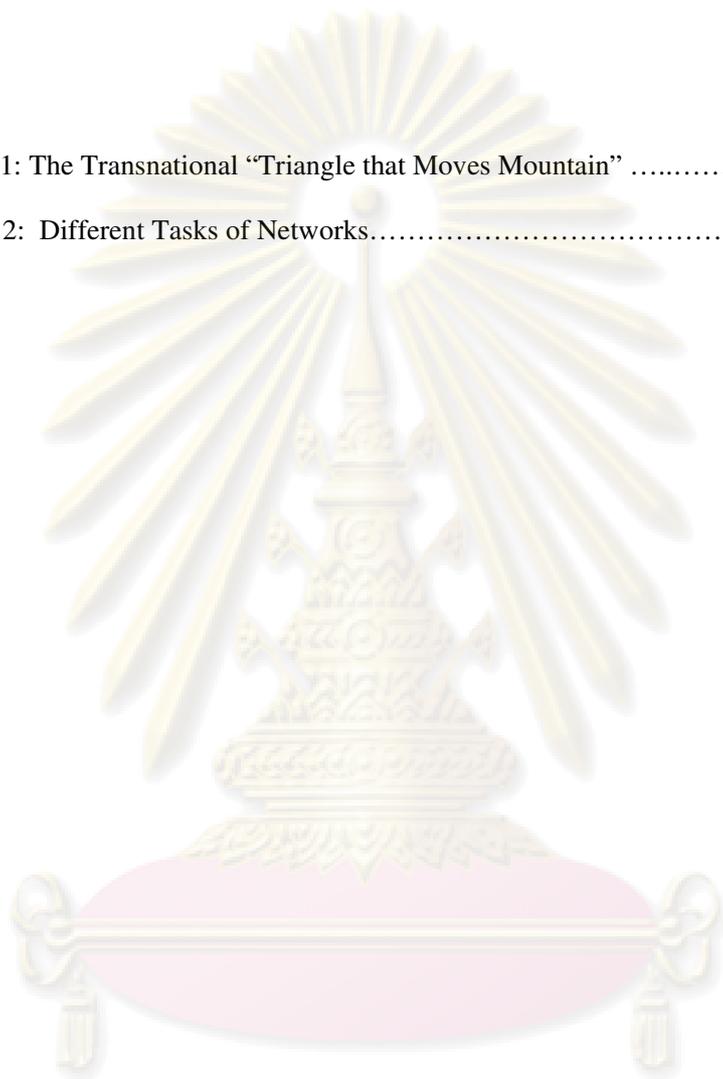
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LIST OF ABBREVIATIONS

ACT UP	AIDS Coalition to Unleash Power-Paris
ADAP	AIDS Drug Assistance Programme
AVERT	Averting AIDS & HIV
ARV	Antiretroviral
AZT	Zidovudine
CARE	Comprehensive AIDS Resource Emergency
CHAI	Clinton HIV/AIDS Initiative
CL	Compulsory Licensing
CMC	Computer- Mediated Communication
DDL	Didanosine
DSG	Drug Study Group
FDA	Food and Drug Administration
FTA	Free Trade Agreement
GMP	Good Manufacturing Practice
GPO	Government Pharmaceutical Organization
HCP	Health Consumer Protection Programme
H & DF	Health and Development Foundation
HKFF	Henry Kaiser Family Foundation
IEC	Information Education and Communication
IP	Intellectual Property
KEI	Knowledge Ecology International
MFS	Medicins Sans Frontieres International
MoPH	Ministry of Public Health
NGO	Non- Governmental Organization

NSM	New Social Movement
OECD	Organization for Economic Cooperation and Development
PD	Paradigm Dialogue
PLHWA	People Living with HIV/AIDS
PNHP	Pharmacy Network for Health Promotion (PNHP)
R & D	Research and Development
SGAC	Student Global AIDS Campaign
SPR	Social Pharmacy Research Unit
TNP+	Thai Network of People Living With HIV/AIDS
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
TWN	Third World Network
UDHR	Universal Declaration of Human Rights
US	United States
USTR	United States Trade Representative
UCGH	University Coalition for Global Health
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

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CHAPTER I

INTRODUCTION

1.1 Rationale

Globalization creates a web of interconnectedness that redefines global transactions in both positive and negative aspects. It has created a world in which emergency aid arrives from all over the globe when a natural disaster devastates a particular country. More importantly, it sheds light onto widespread problems like the Aids epidemic, world hunger, poverty, genocides, and human rights violations. Although there are ample resources to give succor to the suffering, the world at large has consistently failed to provide help to those in need. Nevertheless in 2001, the members of World Trade Organization signed the Doha Declaration, reemphasizing the flexibilities of intellectual property rights included in the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement which, “does not and should not prevent members from taking measures to protect public health” (Aner, 2008, p.93). In addition, Article 25 of the Universal Declaration of Human Rights (UNHR) states that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing housing, and medical care and necessary social services, and the rights to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control” (Universal Declaration of Human Rights, 1948). Given the human rights standards and the WTO trade agreements, developing countries have every right to employ compulsory licensing (CL) to ensure public health.

Moreover, developing countries have a duty to their citizens to provide access to essential medicines. Unfortunately, in following the prescribed human rights standards, Thailand has faced serious opposition from pharmaceutical companies after it issued compulsory licensing for HIV/AIDS drugs and medicine to treat heart disease. Although

developed countries such as Canada and the United States have regularly issued CL, developing and underdeveloped nations fear the wrath of international pharmaceutical companies if they use this legal mechanism. Globalization also facilitates dissemination of information. Countries must rely on this information to progress or succumb to the manipulation of information. In the case of Thai CL, the transnational social movements use information as a tool to counter pharmaceutical companies' "misinformation." Therefore, globalization offers an outlet in the form of transnational social movements that allows cooperation and collaboration to legitimize CL.

This paper argues that the Thai CL case displays characteristics of contemporary social movements because it was a movement of heterogeneous actors among heterogeneous organizations that works interdependently and independently through a high level of networking. The transnational social movement transfers the Thai CL campaign onto the global arena, provides worldwide support with dense networks, and fosters collective identities necessary for ongoing access to medicine goals. Most importantly, the networking of transnational social movements legitimizes CL with the force of facts against the pharmaceutical corporations.

As discussed in the literature review section, The *WTO Decision on Compulsory Licensing* recognized there are "limited possibilities" of CL, despite a dire need for middle-income and low-income countries (Aner, 2008, p.58). Therefore, it is essential to analyze the potentials of transnational networks to ultimately fulfill the need of overall access to essential medicines through compulsory licenses. CL transnational networking model can be applied on three different levels. First, other countries may follow the transnational networking model specifically for compulsory licensing for AIDS medicines. For example, after collaboration and direct networking with the Thai Ministry of Public Health, Brazil initiated compulsory licensing for a generic version of Efavirenz on 4 May, 2007 (Kijtiwatchakul, 2008, p.71). By issuing CL, Thailand undermines pharmaceutical companies' interests, but at the same time, it establishes standards for

other developing countries to follow suit, in attempts to improve overall access to healthcare and medicine. Secondly, this movement can help initiate use of CL for other essential yet expensive medicines to treat cancer or heart disease in Thailand and in other countries, again, with the overall goal to increase access to medicine. Lastly, this same web-like networking phenomenon can also be used as a model for future CL social movements. It is also vital to investigate the nature of this social movement to discover the reasons for participation of heterogeneous actors. Although the various actors may appear committed to the same cause of increasing access to treatment of HIV/AIDS patients upon initial perusal, deeper analysis is required to understand both the underlining and the implicit reasons behind the worldwide CL campaign to see if it is a viable opportunity for other CL social movements.

1.2 Overview/literature review

The literature review focuses on the two sections. The first section analyzes literatures on the theoretical framework of transnational social movements and global civil society in order to provide an understanding on CL social movements. In this part, the review investigates whether the Thai CL networking movement complied with pre-existing literatures. The second section accesses the literatures specifically on CL including Thailand's CL issuance. In addition, this literature research provides a comprehensive overview of the theories transnational social movement and its application to the CL phenomenon.

1.2.1 Social movements literature

In pursuit of development, many countries sacrifice the welfare of marginalized groups of people. Development must mean progress for everyone and not only for those that have opportunities to embrace globalization. When interests of the poverty-stricken conflict with interests of the elites, or national development, or the West, it is usually the

poor that suffers. The CL issue represents this problem on a larger scale. Wisartsakul poses a question: “how can small people like us take on the giants of the pharmaceutical industry with their billions of dollars world class lawyers?” (Wisartsakul, 2004, p.16). It is the duty of each nation to provide basic rights to its citizens. The World Trade Organization acknowledges these universal rights by allowing flexibilities in the Trade Related Aspects of Intellectual Property Rights for countries to use compulsory licensing. The CL campaign pertains to many aspects that require in-depth analysis such as human rights, developed versus developing country, poor versus rich, intellectual property, people versus profits, and ethics versus neo-liberal economics. However, there are many literatures that study these reoccurring themes. One lacking area of study is this networking of transnational social movements in the CL case that succeeds in helping Thai CL stand up to big pharmaceutical corporations. First, the literature review identifies the key theories of social movements and their application to the transnational social movements. Secondly, this literature review of Thai compulsory licensing campaign reveals a need for further research on the networking of transnational social movements that legitimized CL in face of pharmaceutical companies’ retribution.

In the era of globalization, interconnectedness defines the interactions between ideas, people, organizations, businesses, governments, and states. People share cultures, ideologies, religions, and identities by exposing them to the globalized world. However, interconnectedness and connection also creates awareness of diversity and suffering resulting from these differences. Development must create progress for everyone and not only for those that have opportunities to embrace globalization. Therefore, the current movements entail alleviating suffering by using the globalization as the principal tool. In the 1960’s, feminist and environmental movements played essential roles in raising awareness, fighting for their beliefs, and more importantly, influencing proactive changes. Transnational social movements and networking of different actors characterize the current trend. These movements mimic web-like associations because they extend to and from all different directions to fulfill social gaps in development whereas capitalism

provides a top-down vertical approach to development. For example, marginalized ethnic groups can work with, struggle for, and receive support from prominent figures in international organizations on issues at hand. While this phenomenon is relatively novel, many studies focus on these movements that began in the 1960's and those that are evolving. In the end, it is vital to analyze preexisting literature to dissect the anatomy of the novel forms of transnational social movements that characterizes the Thailand Compulsory Licensing movement. This research unearths some knowledge gaps in explaining the future of transnational networking and dealing with future global concerns. The subsequent research addresses the question of why the Thai CL case attracts such a variety of actors. CL and other global concerns require this new brand of transnational networking to influence decision-makers and market forces as the Thai case exemplifies. The literature review outlines key characteristics of social movements. This movement fosters collective identity, targets pharmaceutical corporations, and comprised of dense informal networks that define social movements.

Historically, social movements consisted of actors directly affected by certain social issues, and organizations sympathetic to their respective causes. Generally, the middle-class and scholars provided the impetus behind such social movements. In direct contrast, however, current movements and collective action have the support of heterogeneous actors from diverse organizations. *Social Movements: An Introduction* by Porta and Diani presents a comprehensive insight into emerging social movements (Porta & Diani, 2006). The work argues that this new wave of transnational movement consist of "heterogeneous" actors. Porta and Diani state that, "in truth, associating expressions like global justice movement with unitary homogeneous actors would be misleading. The initiatives against neoliberal globalization are very heterogeneous, and not necessarily connected to each other" (Porta & Diani, 2006,p.2). This classification of collective action fails to truly justify the diversity of CL movements. Although these actors are not necessary connected, they do share some common characteristics. Diani contends that social movements "are involved in conflictual relations with clearly identified opponents,

are linked by dense informal networks, and share a distinct collective identity” (Porta & Diani, 2006, p.21). In emphasis, the shared collective identity links a heterogeneous group of actors to the realization of a common purpose. Porta and Diani also illustrate how collective identity plays a crucial role in social movements. Contrary to social movements, Porta and Diani argue that, networks of collective actions:

Instrumentally share resources in order to achieve specific goals, yet do not develop any particular sense of belonging and of a common future during the process. Once a specific battle has been fought, there need not be any longer-term legacy in terms of identity and solidarity, nor attempts to connect the specific campaign in a broader framework (Porta & Diani, 2006, p.24).

An understanding of transnational movements that involved cooperation between different individuals and diverse organizations, as exemplified by the CL case, requires further studies.

Since the late 1960s, “New Social Movements” (NSM) developed on issues such as universal human rights, environmental conservation, gay rights, and women’s rights (Porta & Diana, 2006, preface). NSM consists of heterogeneous actors, as compared to previous social movements which were generally characterized by homogeneous class conflicts. Moreover, Marxian labour and class struggles define previous social movements while many NSMs aim to offset neoliberal globalization. Porta and Diani offer Alberto Melucci’s definition of new social movements. In Melucci’s opinion, “ new social movements try to oppose the intrusion of the state and the market into social life, reclaiming individuals’ right to define their identities and to determine their private and affective lives against the omnipresent and comprehensive manipulation of the system” (Porta & Diani, 2006, p. 9). In the CL case, the transnational social movements help retrieve individuals’ right to medicine, Thailand’s right to use CL, and global citizens’ right to oppose dominance by the neoliberal market. In this sense, the transnational social

movement is an embodiment of a new social movement because individuals seek to assert their autonomy amidst dominance by the pharmaceutical market.

Social movements are also transnational in nature, as supported by the observations of Bystydzienski and Schacht, who noted that, “the opposition to neoliberal globalization has been conducted by broad coalitions of organizations, usually with a transnational basis (Porta & Diani, 2006, p.4). This research describes the transnational social movements, but fails to examine the influences of such a heterogeneous cast. Furthermore, the research seeks to answer the core questions:

Have there been changes in the main conflicts addressed by social movements? How do certain social actors come to develop a sense of commonality and to identify with the same “collective we”? What are the roles of identities and symbols, emotions, organizations, and networks, in explaining the start and persistence of collective action? What forms do organizations take in their attempts to maximize the strength of collective challenges and their outcomes”(Porta & Diani, 2006, pp.5-6).

Based on these questions, it will be vital to examine the nature of heterogeneous groups in transnational social movements in terms of CL in Thailand. This study will determine how and why heterogeneous groups change the dynamics of social movements, and whether this trend will define future social movements. This analysis of social movements up to 2006 will provide comprehensive insight into social movements because it identifies the key elements of new social movements. Furthermore, this literature provides the theories behind the transnational social networking which will be significant in the analysis of emerging forms of transnational movements. Porta and Diani look at the changing social structures that define collective action, the “symbolic dimension” of collective movements, collective action and identity, politics of protests, networks, and individuals, role of media, and social movements and democracy. Like

other works, this literature explains the theoretical context of social movement that must be analyzed and applied to the CL issue. In summary, further studies are required to justify the web of transnational networking exhibited in the Thai CL case.

The literature by McIntyre-Mills focuses on the potentials and necessity of social movements to counter the forces of capitalism and neoliberal globalization. Transnational networks create a “web of meaning through Paradigm Dialogue (PD)” by sharing the knowledge of different actors (McIntyre-Mills, 2000, p.71). “In everyday life, PD is about the mechanics and ethics of having a democratic conversation that enables all participants to express their points of view and be listened to with respect” (McIntyre-Mills, 2000, p.7). PD, Triple Loop Learning*, and finding common denominators different actors are tools to share information and participate in problem solving and prevention. McIntyre-Mills observes that “it is only by forging webs of meaning across the divides of culture and economics that we can end sectarian violence and philosophy that “the market dictates” the extent to which we can behave in ethical ways towards one another” (McIntyre-Mills, 2000, p.72). This research mainly focuses on the tools for global citizenship and social movements. McIntyre-Mills argues that “Social justice concerns are not limited to certain groups if they can utilize the potentials of transnational networks” (McIntyre-Mills, 2000, p.145). Therefore, social movements take on new forms that reshape the consciousness of individuals involved in the process. Clearly, this book provides the framework, potentials, and strategies of global citizens in transnational social movements. It explains how people can influence changes by working together through social movements. However, it fails to clarify how transnational networking and its diversity affects the global concerns at hand. Nevertheless, it is essential that we analyze the foundations of Thai Compulsory Licensing transnational social movement. By doing so, we can see whether it applied vital mechanisms such as Paradigm Dialogue in their networking.

* A ‘liberative tool’ that emphasizes the questions of How, Why, and What to connect variables in order to solve complex problems. McIntyre-Mills(2000) suggests actors to use this ‘holistic’ method along with PD in order to solve and prevent conflicts.

Civil Society and Problem of Global Democracy by Michael Goodhart analyses whether “we can conceive global democracy in terms of global civil society” (Goodhart, 2005, p.3). There are many arguments that debate whether global civil society can create a form of global democracy that deals with transnational issues. Goodhart argues that “the actors populating GCS fill a void created by the retreat of the state and the spread of global capitalism, in effect bridging the democratic disjuncture and compensating for democratic deficit” (Goodhart, 2005, p. 3). In context of this observation, global civil society can play a major role in correcting capitalistic market failures, such as poverty, income inequality, world hunger, and lack of access to essential medicines. This literature is invaluable because it also notes the heterogeneous nature of transnational movement. It states that transnational networks are comprised of “a medley of boundary-eclipsing actors-social movements, interest groups, indigenous peoples, cultural groups, and global citizens- [that] are seen to be constructing networks, knowledge and practices that entail a reshaping of the political architecture of international relations” (Goodhart, 2005, p. 4). However, given that the literature focuses on how global civil society influences global democratic governance, there is problem with the authors simply stating that movements are heterogeneous in nature because there are different motivations behind each participant. Therefore, there still is a need for investigation into the motivations behind these “boundary-eclipsing social movements.”

Global Legitimacy Game: Civil Society, Globalization, and Protest by Alison Van Rooy illustrates the legitimacy of the theoretical background and examples of contemporary global movements. This literature is practical in the sense that it combines the theories and examples of how specific movements shape and redefine social movements. This literature examines civil society in 2002, focusing on “38,000 international NGO association, 529 universal membership organizations and networks, informal, a host of transnational associations and networks, 850 transnational religious orders, 2700 semi-autonomous international bodies, and another 4500 internationally-

oriented national organizations” (Rooy, 2004, p.12). It is important to realize that the sheer number of organizations magnified by their expertise, organization capacity, and networking presents a monumental force in the global arena. In the Thai transnational movements, the web of transnational networking also commands an influential force. In addition, Rooy touches upon specific movements to strengthen his arguments, including Greenpeace, Earth Summit, GMOs, Nike Labour Standards, Shell Shock and Nigerian Oil, Child Labour and Rugmark, African trade of Blood Diamonds, peace campaigns, disarmament and mass mobilizations, landmines convention and the Internet, human rights campaigns, IMF protests, Jubilee debt campaign, and the Battle of Seattle and the WTO (Rooy, 2004, p.13). These movements and issues represent the contemporary issues that shape transnational movements. Therefore, further studies on the CL movement will help explain the struggle for legitimation on the global sphere.

Upon examination of the aforementioned literatures, it is clear that while many studies analyze the theoretical background of particular movements and identifies the important themes, few studies actually show that heterogeneous transnational networking is vital to address global concerns. There should be a study of linkages between the new form of transnational networking, its effectiveness in today’s globalization context, and the future of social movements. In addition, further studies are required on social movements and their heterogeneous composition to explain or justify CL transnational networking case that takes diversity of actors to a whole new level. In order to use this model in the future, it is of vital importance to determine the aspirations of each group. Moreover, research focused specifically on the role of transnational social movements in the CL drug issue will further our understanding and knowledge of social movements. Likewise, case studies of transnational social movement that relates to the CL issue may also prove beneficial to the overall research.

1.2.2 Compulsory licensing literature

The WTO Decision on Compulsory Licensing by Emelie Aner reviews the World Trade Organization decision to allow flexibilities in TRIPS. Aner analyses CL's effectiveness and the possibilities in saving more lives. It is important to note that Aner works for the National Board of Trade, which a government agency is dealing with foreign trade and trade policies. In addition, this organization advises government on trade policies. Aner observes that "discussion is mainly carried on in academia, NGOs, the pharmaceutical industries, national parliaments and the European parliament, and to some extent in the UN bodies WHO and WIPO" (Aner, 2008, p. 16). Given the economic and the social nature of CL, it is understandable that many actors are involved. For that reason, National Board of Trade researchers confer with many groups across the board to evaluate and monitor the use of CL. This lengthy and varied list includes the Africa Groups of Sweden, Canadian Access to Drugs Initiative, the European Generic Medicines Association, the Indian Pharmaceutical Alliances, the International Federation of Pharmaceutical Manufacturers & Associations, the Medecins Sans Frontieres/ Doctors Without Borders experts in the European Commission, Swedish Association of the Pharmaceutical Industry, the WTO, the WHO, and individual researchers. Consequently, it is vital to examine how each of these transnational organizations contributes to or complicates the CL issue.

This literature also provides the foundation for present-day use of CL. Aner states that CL is a "common and integrated future of most patent systems because as about one hundred countries exercised some form of CL by the early 1990s (Aner, 2008, p.18). In addition, the most developed countries like United States and United Kingdom can and have used CL as they have "wide provisions for government or crown use which allows their governments to use patents for virtually any public purpose" (Aner, 2008, p.18). On paper, many governments including the most developed support the idea of CL as long as it meets certain conditions. On the other hand, this work acknowledges that there are

limited uses of CL due to several factors. However, it concludes that use of CL does not undermine research and development. In addition, this paper analyses the WTO's Decision to amend the clause which states that CL is "predominately for domestic use," in August 2003, in order to ensure greater access to medicine for those in need. The study also examines the economics of CL from different points of view, different factors that influence pricing, why certain decisions were made, how each decision was implemented, and the problems of exercising CL rights for developing countries. After the in-depth explanations of these factors, the research analyzes CL implementation. In this section, Aner provides many instances of countries and NGOs attempting to make use of CL. For example, Mediciens Sans Frontieres attempted to use CL for HIV/AIDS medicines patented by Apotex, a Canadian company, on behalf of an anonymous country, but ultimately failed in this endeavor (Aner, 2008, p.29). Even after two years, the process was still incomplete; a fact which highlighted flaws in the system since HIV/AIDS patients cannot wait two years to receive affordable medicine. As a result, Mediciens Sans Frontieres decided to purchase generics from two WHO approved Indian companies instead (Aner, 2008, 29). This situation clearly exemplifies some of the reasons why countries remain caution in employing CL. The paper concludes that the developing countries exercised the use of CL with "limited possibilities." According to the research, only Zimbabwe, Malaysia, Mozambique, Zambia, Indonesia, Ghana, Eritrea, Thailand, and Brazil have exercised CL within the past five years (Aner, 2008, pp. 33-34). Given the extraordinary price of drugs and the potentials of CL, it is inexplicable that so many developing and undeveloped countries have not utilized CL, even though it is the most logical choice in saving human life. In the attempts to resolve the fact that many countries failed to use CL, one must analyze the potentials of transnational social movements. The Thailand case and set a precedent for other countries to employ CL through transnational networking. In order to fully understand the situation, there need to be further exploration of transnational social movement in the CL case.

Global Public Policy: Business and the Countervailing Powers of Civil Society by Ronit provides a study of the business perspective that can be applied to the Thai CL issue. Due to their fear of repercussions by pharmaceutical companies, developing countries do not utilize CL. It is essential to examine the political economy behind the CL issue to discover the potentials of transnational networking. Within the business context, social movements provide a balancing force to counter market forces. Ronit argues that research generally “focus attention exclusively on civil society organizations and their struggle for economic and social change, or to treat business political behavior as more or less unchallenged by countervailing groups and to side-step their changing strategies” (Ronit, 2007, p.2). The interaction, dialogue, and compromise between business sectors and civil society remain a viable option. For instance, “organizations involved in various aspects of environmental protection, development antagonisms by bringing business and civil society organizations closer together under the auspices of intergovernmental agencies, or to foster cooperation on a purely private basis or with some degree of supervision” (Ronit, 2007, p.5). As described in Aler’s *WTO Decision on Compulsory Licensing*, developing countries can use CL as a bargaining chip to lower drug prices. The CL case shows that compromise between the business sector and civil society is entirely possible and actually quite necessary. In a globalized world, all sides must strike a balance to achieve development and progress. For instance, the initiatives of Global Alliance for Vaccines and Immunization, Medicines for Malaria Venture and the Global Alliance for TB Drug Development exhibit “cooperation among drug companies, intergovernmental organizations and civil society organizations” (Ronit, 2007, p.16). In addition, Ronit stresses the countervailing value of consumers against businesses. The author posits that patients from developing countries in need of life-saving drugs from large pharmaceutical companies are important consumers. Therefore, they possess what Ronit describes as “two voice options” which are protest and participation (Ronit, 2007, p.32). The role of transnational networking reinforces the consumer’s rights as Ronit supports that “consumer interests must be defended in a rapidly increasing number of policy fields and institutional contexts, and here they both compete and cooperate with

other civil society organizations” (Ronit, 2007, p.32). Again, further studies are needed to shed light onto this interaction and interdependence.

Ronit also suggests that civil society lacks capability as a tool to counter businesses. Ronit states that “In terms of their countervailing capacity, civil society displays an organizational immaturity because important regulatory issues are covered by business as well as by intergovernmental organizations in a range of policy areas, whereas civil society has neither established relevant organizations, nor won a degree of expertise sufficient to enable it to deal with these same issues and to respond to new challenges in a timely manner” (Ronit, 2006, p.17). On the other hand, while civil society may lack capacity, there are many advantages to the transnational networking of civil society. A review of such advantages will be reviewed in further studies. Therefore, the Thai CL case presents an innovative form of transnational networking that forcefully counteracts pharmaceuticals companies. This literature focuses on the interaction between “key intergovernmental agencies, business and countervailing groups,” but not the interactions of all transnational networks. In emphasis, this literature and its emphasis on business, intergovernmental agencies, and countervailing groups must be use with other literatures that focuses on civil society, collective actions, social movements, and the totality of networking because they are complementary in the CL case.

The Right to Life by Kannikar Kijtiwatchakul examines the actual networking of diverse groups involved in the transnational movement. The literature incorporated quotes, dialogue, and chronological narratives of key actors and movements in the CL campaign. Kijtiwatchakul emphasized the collaboration and communication between local and transborder actors. For example, she reveals the collaboration of Dr. Mongkol* with transnational partners:

* Under Dr. Mongkol Na Songkla, Thailand’s Minister of Public Health exercised CL in November 2006. Dr. Mongkol was appointed Minister after a blood-less military coup deposed former Prime Minister Thaksin Shinawatra on 19 Sep, 2006.

When there were strong protests that our CL was unlawful, I e-mailed our allied networks overseas asking this question. Prior to the CL announcement, and we didn't communicate much with these networks. With the increasingly vociferous opposition, I contacted Martin Khor of Third World Network, Dr. Carlos Corea of the University of Buenos Aires, and James Love of the Knowledge Ecology International. James Love was most active in replying to me and assured us that we had done nothing wrong. We did learn a lot really (Kijtiwatchakul, 2008, p. 34).

In addition, this literature provides many examples of the actual networking between different groups. It also shows the many actors involved from all levels including the AIDS ACCESS Foundation, the Foundation for Consumers, Health and Development Foundation, Drug Study Group, Social Pharmacy Action Research Unit, the Health and Development Foundation, Medicins Sans Frontiers-Belgium(Thailand), the Government Pharmaceutical Organization's Research and Development Institute, Law Society of Thailand, Ministry of Public Health, National Health Security Office, Government Pharmaceutical Organization, Food and Drug Administration, Department of Intellectual Property and Council of State, public stakeholders like the Thai Network of People Living with HIV/AIDS, Chulalongkorn University's Consumers Health Protection Programme, Rural Pharmacists Foundation, Centre for AIDS Rights, Thai NGO Coalition on AIDS, Foundation for Consumers and Health and Development Foundation, FTA Watch group, Brazilian Ministry of Public Health, Indian generic drug industry, Oxfam, Focus on the Global South, US-based Knowledge Ecology International, Third World Network, Health Gap, Essential Action, movements of foreign NGOs and university students, Thai mass media, Clinton Foundation, and former President Bill Clinton(Kijtiwatchakul, 2008, pp.48-49). This literature is useful because it provides the networking accounts involved in this social movement. The next step in this research includes exploration of these accounts to analyze its achievements and failures in order to access the sustainability of future CL movements.

1.3 Statement of research problem

Globalization allows people to see the adverse effects of their actions. It is possible to make proactive changes or simply save lives, but oftentimes the market, the system, and the people, themselves, fail in this endeavor. The conflict between empathy for human suffering and prioritizing economy over ethics is illustrated in the CL situation in which big pharmaceutical companies choose profit over peoples' lives. Therefore, it is essential to analyze the potential of networking of transnational social movements to ultimately fulfill the need of greater access to essential medicines through compulsory licensing. The struggle for access to treatment initiated by people living with HIV/AIDS (PLWHA) evolved into a pervasive issue that garnered global attention. In the past, issues of the marginalized are brushed aside in the name of national development, but this case differs because it transforms private issues into a national problem. More importantly, it shows how the private issues of a relatively small group of people influence certain national policies that eventually challenge global agenda written by the Western countries. This phenomenon is made possible through the web of transnational networking. There are several key issues to investigate such as how these heterogeneous groups change the dynamics of social movements, and whether this trend will define future CL social movements. In this investigation, it is necessary to analyze the nature of the CL movement and the heterogeneous actors involved in the networking, in order to truly understand dynamics of the social movements. To better utilize this CL network model in the future, one must first conduct a thorough examination of its sustainability.

In response to injustices on the global level, transnational social movements work to counter-balance and influence proactive changes that benefit humanity. The CL campaign is an important issue because it is a combination of many aspects that require in-depth analysis such as human rights, developed versus developing country, poor versus rich, intellectual property, people versus profits, and ethics versus neo-liberal economics. However, there are many literatures that study these reoccurring themes. One

lacking area of study is this new form of transnational networks in the CL case that succeeded in achieving results by combining all these aspects through networking. This CL social movement must be applied to the social movement framework theorized by Porta and Diani. In the conceptual framework, independent variables are nature of the transnational social movement and threats by United States and pharmaceutical companies. The dependent variables are the success and failures of the CL campaign. By determining the nature of the social movement in response to threats by U.S and big pharmaceutical companies, this study will answer whether future CL transnational social movement can replicate the successes and minimize the failures.

1.4 Research questions

- 1.4.1 What is the nature of the networking of the transnational social movement? (Focus on US and Thai networks)
- 1.4.2 What did it achieve and what it did not achieve?
- 1.4.3 Is it a sustainable model for future social movement on CL?

1.5 Research objectives

In order to answer these research questions, the study must determine the nature of CL transnational social movements in Thailand and apply it to popular social movement theories. The nature of the movement includes characteristics, reasons, and dynamics behind the involvement of the transnational social movement and its heterogeneous composition with an emphasis on the collaboration between networks in the United States and Thailand. The research will also evaluate the success and failures of this movement. Consequently, this analysis will determine its effectiveness and sustainability for future CL social movement.

1.6. Hypothesis (expected outcome)

The transnational social movement of compulsory licensing in Thailand is a sustainable model for the future CL campaigns because the heterogeneous actors grants the movement global, national, and local legitimacy to counter U.S. pharmaceutical retaliation. This phenomenon can be a model for future CL movements if heterogeneous actors are able to replicate the legitimacy illustrated in the Thai CL case.

1.7 Research methodology

This research utilizes qualitative research methods based on primary and secondary sources. Primary data was collected in the form of personal interviews and personal communication with key informants. Interviews were conducted in both Thai and English during the period of 30th June 2008 to 15th August 2008. The interviewees include CL expert Kannikar Kijtiwatchakul from Doctors without Borders (Belgium), organization leader Sangsiri Teemanka from Aids Access Foundation, Professor Surat Horachaikul of Chulalongkorn University, and social activist, Jon Ungpakorn (see appendix A for complete list of informants and appendix B for sample interview questions). Primary data was collected by using an Intellectual Property Group Email. This data set totals over 4,700 emails pertaining to the CL, Thai CL campaign, and ongoing intellectual property rights issues. In addition, the researcher made observations by attending meetings, conferences, and lectures relating to CL and transnational networking. The researcher attended and participated in conference held by AIDS ACCESS Foundation on ACCESS Regional Working Group. In this meeting, representatives from Thailand, Nepal, Cambodia, Myanmar, and Kunming (China) discussed the role of networking on access to treatment for Aids patients. Data from participant's observations proved most crucial in analyzing the transnational social movements. In addition, the researcher attended a lecture on Compulsory Licensing, WTO, and USTR meeting held by a law expert.

Secondary data focuses on the transnational social movements that supported the Thai CL issuance. Secondary sources consist of literatures, news articles, journal, articles, websites, organization's meeting summaries, official documents, brochures, paperwork, DVDs, historical background, mission statements, international statures, international laws, international agreements, reports on CL and transnational networks. There is a need of an in-depth analysis on the theories behind the emerging transnational movements that comprised of heterogeneous actors.

1.8 Significance of research

This research analyzes the nature of the heterogeneous transnational networking exhibited in the CL. Despite the fact that CL in Thailand directly affects only a small group of marginalized people in a single country, it attracts worldwide attention. The web of transnational networking is a vital tool to empower each network in maintaining their cause, whether they are advocates of human rights, promoters of global health, or critics of Western hegemony. Each network contributes to the movement, and at the same time, maintains their causes, principles, and values. In other words, CL case requires an assembly of forces because there are many issues involved. For example, human rights organizations mobilize NGOs within their own networks to campaign on CL issue with a human rights approach, while a medicine based organization provides expertise on pharmaceutical information in order to formulate a strong argument against US pharmaceutical companies. These transnational movements pool together resources, expertise, and networks in order to strengthen the CL movement. Therefore, heterogeneous networks that are specialized in different fields are mutually reinforcing. Future social movements can emulate this effective division of labor. If there is heterogeneous networking that exhibits division of labor, it can serve as a model for future CL social movements. Since there are limited CL uses, Thailand's case may open the CL door to many other countries in need of cheaper medicines. Ultimately,

transnational networking can raise overall use of CL to increase access to essential medicines for billions of people despite retaliation by big pharmaceutical companies. This practical and natural response in the CL case, as illustrated in the social movements, may ensure its sustainability. By connecting the CL case to social, political, human rights, economic, and legal issues, this research determines the characteristics and components of the social movements crucial to its success and sustainability.

1.9 Research scope

Due to time limitations, this research provides a general overview of networking of transnational social movement that involved global heterogeneous actors. However, it focuses on the networking between Thai and the US networks because they are the main actors in this movement. In addition, this research emphasizes networking of transnational social movement involved after Thailand issued CL in November 2006, particularly after United States and large pharmaceutical corporations carried out retaliatory actions. Although many literatures are in Thai, the research gained vital information from interviews conducted in Thai.

1.10 Ethical considerations

1.10.1 Academic Purpose: This research was conducted under full ethical considerations for academic and constructive purposes. This paper was not written with the intent to harm the reputation of informants or organizations.

1.10.2 .Voluntary Participation: The researcher received permission to use information from informants prior to interviews. The informants were informed of the researcher's academic objectives.

1.10.3Confidentiality/Anonymity: Before an audio recording device was used, the researcher received consent from the interviewees. Informants expressed their consent for the researcher to use all research findings gleaned from conversations.

CHAPTER II

THEREOTICAL FRAMEWORK: NATURE AND CHARACTERISTICS OF THE TRANSNATIONAL SOCIAL MOVEMENTS

2.1 Introduction

Thai CL campaign evolved into a transnational social movement because this issue encompasses many areas. It requires a parallel social movement in order to legitimize itself against pharmaceutical companies. Although there are numerous definitions of social movements, McIntyre-Mills presents a clear characterization. In her opinion, “the charter of social movements is therefore the inventions of new norms, institutions and practices. Social movements are not satisfied with structural change unless it is accompanied by a reformulation of historicity so as to generate new meaning, spirit and solidarity in the lives of individuals” (McIntyre-Mills, 2000, p. 147). Porta and Diani agrees with this characterization as they state that, “change, in fact, is conceived of as part of the physiological functioning of the system: social movements are accompanied by the emergence of new rules and norms, and represent attempts to transform existing norms” (Porta & Diani, 2006, p. 13). McIntyre-Mills, Porta, and Diani all concur that social movements seek to transform the existing norms, rules, and order. Thai CL transnational social movements challenge the unjust market system established by pharmaceutical corporations. The transnational social movement certified CL legitimacy against the existing economic order which condemns CL as an obstacle to innovation. Despite the fact that members of the movements are not satisfied with the imposition of CL in Thailand, they still seek to ensure its sustainability in Thailand and its implementation in countries that lack access to medicine. The process of this movement fostered a collective identify among some of the participants. Personally, Kijtiwatchakul felt that the transnational social movement created a sense of solidarity among participants even when she never met several of the active participants in the

networks“(Kijtiwatchakul, personal interview, July 29, 2008). With respects to the CL transnational social movement, the heterogeneous participants spawned a novel collective identity that challenges US supremacy. Although this solidarity may be limited, its existence is evidenced by the continuing collective support for CL. The movement developed Thai CL into a launching pad to legitimize the pharmaceutical “profit over people” ideology. Therefore, Thai CL’s success translates into a more global success. Without the transnational social movements CL would have been an isolated success, but the transnational social movement succeeded in providing a more comprehensive victory.

Access to medicine is a persistent problem that necessitates an equally ongoing approach. It is a fact that a lack of access to essential medicine continues to affect millions of people across the world. Thailand’s issuance of CL and the transnational social movement awaken the attention paid to this persistent problem. This CL movement pursues the “task of translating the chronic problem as described by the critical community into an acute problem that will attract media attention is the province of social and political movements” (Porta & Diani, 2006, p. 13). Porta and Diani correctly described social movement as a mechanism to alleviate “chronic problems” by transforming them to an urgent issue. This is, therefore, consistent with the long-lasting problem of access to essential medicine and its transformation into an urgent issue.

2.2 Dimensions of a social movement

Mario Diani believes that social movements display three distinctions: “involved in conflictual relations with clearly identified opponents, linked by dense informal networks, and share a distinct collective identity” (Porta & Diani, 2006, p. 20). Moreover, social movements connect specific issues to the broader framework. The CL transnational social movements also display these key characteristics.

2.2.1 Conflictual collective action

First, CL transnational social movements clearly and specially target US, pharmaceutical corporations and lobbyists, and the neo-liberal market system. In the process, it aims to challenge the existing pharmaceutical companies' principles and the market system that enables monopolies on life saving medicines.

2.2.2 Dense informal networks

Secondly, contemporary social movements consist of “dense informal networks.” Porta and Diani argue that “social movement process is in place to the extent that both individual and organized actors, while keeping their autonomy and independence, engage in sustained exchanges of resources in pursuit of common goals” (Porta & Diani, 2006, p. 21). Ungpakorn contends that the diverse actors in the social movements maintain their own agenda while “serving common interests” (Jon Ungpakorn, personal interview, July 23, 2008). Therefore, these actors realize their own goals while collectively striving to legitimize CL in the global arena. Porta and Diani note that it “follows that more opportunities arise for highly committed and/or skilled individuals to play an independent role in the political process than would be the case when action is concentrated within formal organizations” (Porta & Diani, 2006, p. 21). The CL transnational social movements flaunt many competent independent endeavors. Many prominent activists around the world showcase their expertise in a CL legitimizing campaign. Thai CL provides opportunities for these actors to both independently and interdependently pursue collective goals. Moreover, networks are instrumental because it increases the chances of participation and “strengthen the activists’ attempts to further the appeal of their causes” (Porta and Diani, 2006, p.115).

2.2.3 Collective Identity

Lastly, social movements give birth to “collective identity.” In Touraine’s view, “its brings with it a sense of common purpose and shared commitment to a cause, which enables single activists and/or organizations to regard themselves as inextricably linked to other actors, not necessarily identical but surely compatible, in a broader collective mobilization”(Porta & Diani, 2006, p. 21). Social activist, Jon Ungpakorn describes the transnational social movements as a loose coalition that displayed solidarity although these networks existed before Thailand’s CL issuance (Jon Ungpakorn, personal interview, July 23, 2008). In pursuing collective goals, heterogeneous actors achieve collective identity because these movements are ongoing transformative processes. The networking of transnational social movements is essentially a continuation of pre-existing networks. Transnational social movements existed in the past, act in the present, and are committed to the future collective goal of increasing access to medicine. Porta and Diani suggest that “organizational and individual actors involved in collective action no longer merely pursue specific goals, but come to regard themselves as elements of much larger and encompassing process of change-or resistance to change”(Porta & Diani, 2006, p. 22). Therefore, the transnational social movement is not merely content with Thailand’s domestic CL issuance, but actually seeks to increase global access to essential medicines as a continuing goal.

2.2.4 Latency and activism

This ongoing social movement fosters identity-building and allegiances that continue over time. Porta and Diani observe that social movements “oscillate” between “visible” and long “latent” periods (Porta & Diani, 2006, p. 24). This theory proves consistent with the CL transnational social movement. As mentioned previously, the networks of transnational actors existed prior to Thai CL issuance, but rejuvenated

themselves during this phase of activism. Jon Ungpakorn observed that Novartis* case against India was the hot issue before Thailand's CL campaign (Jon Ungpakorn, personal interview, 20 July, 2008). Before Thai CL, this networking group actively collaborated on the Novartis case. The research of IP Health Group Email verifies that transnational networks revitalized itself during Thailand's CL campaign after a period of "latency." Although these social movements oscillate between activism and "latency," some periods also overlap. Consequently, it would appear that social movements instrumentally maintain their networking in order to revive it at the right movement. Furthermore, networks are essential in maintaining solidarity of allegiances and consolidation. Porta and Diani suggest that the "relationship between individuals and the networks in which they are embedded is crucial not only for the involvement of people in collective action, but also for the sustenance of action over time, and for the particular form that coordination of action among a multiplicity of groups and organizations may take" (Porta & Diani, 2006, p. 116). For instance, computer-mediated communication (CMC) as such IP-Health Group Email provides a space for continual networking. These networks maintain communication during the "latency" period and spring into action during "visible" phase. Again, the Novartis case and CL campaign provide excellent examples of these stages. Each social movement influences the actors, general political and cultural engagement, and succeeding movements.

In fact, Porta and Diani argue that social movements "cannot occur in the absence of a 'we' characterized by common traits and a specific solidarity" (Porta & Diani, 2006, p. 94). Consequently, collective identities form the foundation for social movements by facilitating continual communication, interaction, and mutual support, as illustrated in the CL transnational networks. Porta and Diani contend that:

* In 2006, Novartis challenged India's patent laws that refused to recognize a patent on Glivec, a leukemia drug. Medecins Sans Frontieres collected over 300,000 signatures urging Novartis to drop the case. In 2007, India's Court ruled against Novartis. (India's cheap drugs under patent treat, BBC News. Retrieved on 16 Aug 2008)

To identify with a movement also entails feelings of solidarity towards people to whom one is not usually linked by direct personal contacts, but with whom one nonetheless shares aspirations and values. Activists and movement sympathizers are aware of participating in realities which are much vaster and more complex than those of which they have direct experience. It is in reference to this wider community that the actor draws motivation and encouragement to action even when the field of concrete opportunities seems limited and there is a strong sense of isolation (Porta & Diani, 2006, p.95).

CL movement exhibits these characteristics. While actors in a social movement develop collective identities, they often acquire identities without even recognizing that fact.

Collective identities create an undeniable bond that transgresses boundaries. Lack of treatment for Thai patients with HIV/AIDS, nevertheless, affects global health concerns. It is also vital to note that collective identities are formed from diverse motivations, expectations, and activism so participants remain “autonomous, distinctive component” of a social movements (Porta & Diana, 2006, pp.98-99). Therefore, social movements must find the right identity fostering formula that attracts as many people as possible. In this case, CL social movement used “moral shocks” to emotionally affect both participants, as well as the general public. CL social movement targets pharmaceutical corporations’ principles of treating patients solely as consumers. This ‘profit over people’ ideology effectively unifies and mobilize heterogeneous actors to act or show support for Thai CL.

Given the three dimensions of social movements, the Thai CL transnational networks embody a new social movement that has a transnational basis. This movement evidently targets pharmaceutical corporations as a major opponent, are comprised of a web of transborder informal networks, and foster collective identities in the ongoing struggle to increase access to essential medicines. Although some might argue that the CL transnational social movement resembles informal networks of collective action, it is the formation of identities that divorce the two concepts. Porta and Diani characterize the

informal networks of collective action as “actors mobilizing on a common goal” based on a “purely contingent and instrumental nature” and “resource mobilization and campaigning is then conducted mainly through exchanges and pooling of resources between distinct groups and organizations” (Porta & Diani, 2006, p.24). Thus, informal networks and social movements differ because the former lack a sense of belonging and a common course for the future, while the latter cultivates with collective identities. In addition, social movement’s “membership” consists of a “series of differentiated acts, which taken together reinforce the feeling of belonging and of identify,” because “social movements do not have members, but participants (Porta & Diani, 2006, p.26). Consequently, individuals, groups, and organizations contribute to social movements by participating on their own accord. It is important to remember that social movements endeavor to install specific values. “Social movements not only aim at specific policy changes or the replacement of specific political elites, but at broader transformations in societal priorities, in the basic mechanisms through which a society operates” (Porta & Diani, 2006, p.66). For that reason, CL’s social movement is necessary in transforming or shedding light on pharmaceutical companies’ profits over people priorities. Thailand’s issuance of CL succeeded in policy change, but social movements seek to broaden the scope of success. In effect, Thailand’s CL won a small battle, but the transnational social movement won the war against pharmaceutical companies.

2.3 Three stages of social movements

2.3.1 Diagnostic element

As part of a social movement, there are three stages of framing collective actions: diagnostic, prognostic, and motivational (Porta & Diani, 2006, p.74). Firstly, the diagnostic element entails recognition of a social problem. On the CL issue, heterogeneous actors are entitled to maintain an opinion due to the issue of global health’s all encompassing nature. Porta and Diani contend that “ various social actors

(state agencies, political parties, groups with hostile interests, media operators) try to affirm their own control of specific issues, imposing their own interpretation of these, to the detriment of representations proposed by social movements. In the case of mobilizations on global issues, interpretations of the conflict have stressed the extreme heterogeneity of the actors involved in such campaigns, implicitly suggesting their entitlements to speak on the behalf of human kind”(Porta & Diani, 2006, p.75). On the other hand, social construction of the conflict consists of identifying those responsible for the problems. In the CL case, pharmaceutical companies, lobbyists and United States are the apparent antagonists. By identifying the protagonists, antagonists, and the nature of the problem, it helps define the crucial dimension of collective action for mobilization. In CL, one can see the problems of access to treatment of the poor in Thailand transform into a global standoff against big pharmaceutical corporations. By identifying lack of access to medicine as a social problem and actors that are responsible, this classification provides an understanding that facilitates mobilization.

2.3.2 Prognostic element

Secondly, prognostic elements generate spaces for actors to conceive solutions to the problems established on the diagnostic level. Once an understanding of the problem's nature and stakeholders is interpreted, the second step involves devising practical strategic frameworks. Recognizing the multiplicity of the CL issue leads to creation of more approaches. Porta and Diani observe that, “it opens new spaces and new prospects for action, making it possible to think of aims and objectives which the dominant culture tends instead to exclude from the outset” (Porta & Diani, 2006, p.77). In many respects, social movements open up spaces, thus enabling collaboration for the planning of subsequent action. These spaces permit individuals or organizations to formulate alternatives and solutions to problems. For example, Lisa Conte devised a business model for pharmaceutical companies that do not undercut their profits, while addressing medicine needs. At times, the heterogeneous actors provide innovative and

crucial strategies to resolve problems. This second element opens up spaces for collaboration and inventions of alternatives to problems.

2.3.3 Motivational element

Thirdly, the motivational element provides the incentives for taking up action. Individuals must link the individual identity with that of the collective sphere. Porta and Diani suggest that social movements “must generalize a certain problem or controversy showing the connections with other events or with the condition of other social group; and also demonstrate the relevance of a given problem to individual life experiences” (Porta & Diani, 2006, p.79). Individual actors frame social problems with life experiences, thus providing incentives and motivations for activation of mobilization. In other words, people must be connected to the issue and convinced enough to take action. The student-led protests against Abbott Laboratories highlight this motivational factor.

Actors in the CL transnational social movements use organized protest as a way to apply pressure to pharmaceutical companies. Protests have the capacity to influence decision-makers and stakeholders, as seen in the Abbott’s Laboratories demonstration where protesters utilized an unorthodox method of protesting to gain media attention. Students and activists staged a global “die-in” in front of Abbott Laboratories in Worcester, Massachusetts. The “die-in” represents the people who died as a result of Abbott’s decision to withhold more developed medicines from Thailand. The “Worcester protest and its many counterparts served mainly as a backdrop to emphasize the theme of a globally-coordinated activist movement opposing this global company” (Wright, 9 May, 2007). This demonstration seeks to pressure decision makers, and at the same time, “produce positive stimuli, winning the sympathies of those who have more resources to invest in the arenas where decisions are taken” (Porta & Diani, 2006, p.167).

Anuja Singh of Student Global AIDS Campaign believes that AIDS and lack of access to treatment affects economically and socially marginalized people more than others. In addition, it also affects people in the Global South so much more than the North. Singh links these motivational factors with her life values. Therefore, social movements connect social problems to the individual sphere. The CL campaign broadens this connection from issues concerning providing costly antiretroviral medicines for AIDS patients in Thailand, to the larger agenda of global access to essential medicine. By framing this issue in a global context, it integrates Thai patients' woes into a worldwide issue that attracts collective social movements. Just as importantly, social movements utilize "frame bridging" as a means to "incorporate interpretations of reality produced by sectors of public opinion which might otherwise remain separated from each other" (Porta and Diani, 2006, p.82). The frame bridging links different aspects of a given problem. The CL transnational social movements employ this frame bridging framework to "identify some shared themes that sounded plausible enough to motivate people to act" (Porta & Diani, 2006, p.84).

2.4 Neo-liberal master frame

Globalization establishes universal standards, international laws, and global legitimacy. This emergence of common values and rigid international rules require nation-states to formulate policies that fit within a global framework. Additionally, non-state actors are paramount forces in globalized politics. Therefore, states must strike a balance between international regulations, influences of global citizens, and national sovereignty. Ngaire Woods believes that the United States plays both an enforcer and a creator role in establishing international regulations (Woods, 2000, p.9). Oddly enough, although Thailand coordinated its policies to comply with international law, universal standards, and global concerns, the United States still refuses to acknowledge their legitimacy. CL directly challenged the United States and its views on the legitimacy of Thai policies on three fronts. First, it challenged US pharmaceutical companies. The US

is a protector of intellectual property rights and their economic monopolies. Consequently, it establishes policies to adamantly protect these interests. Secondly, CL's legitimacy undermines US pharmaceutical companies' legitimation. US policies and pharmaceutical maneuvers to delegitimize CL ultimately failed. Lastly, Thailand and its transnational support challenge US hegemony by simply showing that developing countries can stand up to the most powerful nation in the world. Tussie and Woods argue that "for the United States a rule-based order has often meant the extension of American rules and procedures to the rest of the world" (Woods, 2000, p.65).

As part of the master frames, actors based their collective action against neoliberal globalization. McMurtry criticizes this neoliberal capitalism and the "Free Market." In his view:

There has sprung from the depths of the historical preconscious a neoliberal exultation in the demands of inevitable globalization to which all humanity must submit to stay alive in the brutal global market competition. The livelihoods of millions are discarded as uncompetitive. Life security for whole societies is abolished as unaffordable (McMurtry, 2002, p. 4).

This neoliberal market system determines rules, laws, and norms in order to control people's mindset and behaviors. McMurtry argues that the "world reengineered by the global apparatchiks has been a transformative principle of representation across phenomena and crisis: to invert social values and general facts into their contrary so that no bearings remain for intelligibility of resistance" (McMurtry, 2002, p.5). This statement is consistent with the current patent system that allows life-saving drugs to be priced at unaffordable levels. Even when countries use CL, pharmaceutical companies "invert values" and give misinformation to suppress resistance. Therefore, pharmaceutical companies, the United States, and the neo-liberalism all worked together to install a particular mindset for the world: saving lives is the result of innovation, but innovation is only protected by patents. Thus, it is patents that save lives.

On the contrary, however, patents create unaffordable medicine which leads to lost lives. The contradictions are accepted because people are programmed to accept this neo-liberalistic status quo. By dissecting the faults of neo-liberalism, social movements can mobilize on specific social concerns such as lack of access to essential medicines.

The ineluctable destiny of all peoples on earth to compete to succeed in serving transnational investors is the ultimate given of social value, and increasingly the regulating principle of life consciousness itself. As in previous dark ages, all must submit to the final value of servitude to the absolute to be intelligible, or safe: and from their depths of the unconsciousness, the universal insecurity is proclaimed as Freedom (McMurtry, 2002, p.8).

These international laws were established to regulate the free market creates insecurities, and are accepted as the only feasible system. Worst of all, flexibilities in TRIPS, which are allocated to provide a certain degree of security, are viewed as acts of “theft” or as obstacles to innovation. Nevertheless, globalization offers mechanisms and opportunities to confront the existing economic and social regime. The CL and its transnational social movements offer distinct challenges to US hegemony and its programmed mindset. They offer an alternative path to the established system.

There is no denying that pharmaceutical companies are symbols of US dominance. In some respects, pharmaceutical companies actually dictate the policies of the United States. McMurtry argues that “forces of global restructuring are without meaning or value in their direction, lawless, absolutist, and unaccountable” (McMurtry, 2002, p.19). In contrast, pharmaceutical companies are unaccountable to patients, driven by profits, and uninhibited by laws. Indeed, oftentimes, these companies are only held accountable by shareholders who are detached from the consequences of their actions. For example, although Abbott is aware of the effects of its decision to withhold drugs from Thailand, the shareholders are desensitized to the plight of the needy populace and choose to ignore any flexibility as provided in TRIPS. Abbott is an excellent example of how the system enables such negative behavior on the part of pharmaceutical companies.

McMurtry believes that this system embodies “the life-and death principles of regulating value systems which connects across and explain social orders” (McMurtry, 2002, p.xiv). Pharmaceutical companies can only claim legitimacy by controlling the means to newer medicine – producing the items that people rely on to heal or prolong their lives. In other words, pharmaceutical companies are able to dictate policies because of their firm control of the medicine market. Such dependency on these large conglomerates eliminates choices and establishes unaffordable prices for consumers. Yet, CL offers viable means to increase access to more affordable medicines. Transnational social movements, in turn, legitimize this method. Therefore, CL campaign and the transnational social movement present an alternative to pharmaceutical market order. Essentially, the CL campaign was a practical victory that increased access to medicine, while the transnational movement offered a challenge to pharmaceutical corporations’ ideologies.

In light of the Thai CL, the United States is determined to bypass world trade agreements in order to maintain its own interests. Tussie and Woods agree that “in the present, more globalized system, the US risks looking not so much like a leader (bearing the burden of providing collective goods to ensure that smaller players do not free-ride or defect) but as a heavy-rider on the system, eroding multilateralism through its own forceful rebellion against rules when they are not in its interests” (Tussie & Woods, 2000, p.65). CL is a common right granted by TRIPS flexibilities, but United States and US pharmaceutical companies continue to forget this fact. Therefore, transnational social movements bestow CL with global legitimacy by supporting its principles. By issuing CL, the Thai government provokes retribution from United States and their companies, but transnational social movements succeed in leveling the battlefield. “The global corporate system’s shock treatments assume various forms to compel compliance. Unwilling societies must adapt to the new requirements of the competitive international market system. The re-engineering of society may be catastrophic, but these are the necessary costs for the inevitable future of global market freedom” (McMurtry, 2002, p.45). This argument parallels those given by pharmaceutical companies. The future

development of life saving drugs rests on the uncompromising protection of patents even if it sacrifices lives. This value system dictates unaffordable medicine as the prerequisite to future innovation that saves lives; but there remains the sad fact that people are dying now because they lack access to medicine. Pharmaceutical companies are disconnected from the consequences of this value system because they transfer responsibilities to individual nations. It is irresponsible to sacrifice the lives of the poor who lack access to medicine to the interest of future innovation – the fruits of which would ultimately benefit those that could afford the new drugs. This perpetuating cycle of patents and monopolies undermines equality in the global health structure.

By confronting pharmaceutical companies, the transnational social movement is challenging the market dominated by multinational corporations. “These corporate bodies, accordingly demand correspondingly more surveillance, control, armies, police, and prisons to cage any person or society which puts itself into a state of war with their unlimited and growing property claims to all that exists-including the publicly owned resources of other societies, human knowledge discovered by others, and the gene structures of life forms themselves” (McMurtry, 2002, p.73). In many respects, pharmaceutical companies are in a state of war against those that undercut their profits. McMurtry proclaims:

For-profit services never work to protect and enable life. This is because that is not their regulating value system. The US private health system, for example, costs \$1000 more per capita than Canada’s public system, has far higher administration costs, fails to insure over 50 million people, and kills an estimated 100,000 people annually from corporately produced and marketed drugs and pharmaceuticals. These outcomes follow from its single ruling principle, which is to reduce costs and maximize profits for its shareholders, not provide health protection to citizens. The life destructive consequences are predictable, but the contradiction of value goals is concealed (McMurtry, 2002, p.75).

This value system creates insecurities in even the wealthiest nations because profits drive the market. In addition, middle and low-income countries must submit to this order, even though they possess limited resources. Therefore, the poorest and the disenfranchised people in every country suffer the most under this construct.

Transnational social movements perform checks and balances that increase the accountability of pharmaceutical corporations and the existing economic regime. McMurtry offers a bit of optimism when he recognizes that, “yet people do resist, all over the world, and the resistance succeeds when the programme is seen through and the evidence of the mind and senses is restored” (McMurtry, 2002, p.51). Thai CL and Thai civil society succeed in challenging the current economic order, but the transnational social movement succeeded in delegitimizing it. In this process, they raised global awareness on the issue. The transnational social movements moved more than one mountain. The movements prove that global citizens are readily and collectively unified against unfair practices in the name of neo-liberalistic economic order.

In globalization context, most countries seek global legitimacy or international approval while pursuing unilateral policies. In protecting national security, Biersteker argues that “major states appear to be less inclined to undertake unilateral actions without some form of international backing, whether from regional or global institutions” (Woods, 2000, p. 158). This argument extends to many other issues, including protecting health as a form of ensuring human security. Thailand was reluctant to issue CL as a unilateral measure without transnational support. In critique of NGOs, Biersteker believes that NGOs are only accountable to their members, comprised of upper middle classes from developed nations (Woods, 2000, p.162). He states that they are, “inclined to equate their own class with regional interests with those of the rest of the world” (Woods, 2000, p.162). Heterogeneous actors in the transnational social movements transgress all class interests because access to medicine is a global issue. Global civil society contributes to a more equal path of globalization by “securing material welfare, provide civic education,

giving voice, fueling debate, and increasing transparency and accountability, and promoting legitimation, and enhancing social cohesion” (Woods, 2000, p.190). The CL social movements produce these benefits. Although the CL movement does not directly secure material welfare, it supports Thailand’s CL issuance in protecting the health of its citizens. Global civil society succeeded in bringing the CL issue into the limelight. As a result, it increased the transparency and accountability of transborder corporations. For example, when Abbott withheld drugs from Thailand, world citizens held it accountable via widespread condemnation. Furthermore, global civil society promotes legitimation by acting as a global watchdog against unjust actions. In addition, since Thailand’s issuance is framed as a way to increase access to medicine, any resistance is deemed as opposing global health.

According to Jan Aart Scholte, “civil society exists when people make concerted efforts through voluntary associations to mould rules: both official, formal, legal arrangements and informal social constructs” (Woods, 2000, p.175). While globalization creates opportunities for some, it also creates injustices for many. Therefore, global civil society addresses inequalities by shaping policies, norms, and social orders generated by globalization. It functions to exert pressure on powerful nations, institutions, and corporations when they commit injustices. Global civil society exists to tackle transborder issues as “people regard themselves as ‘global citizens’ rather than just citizens of particular nations because problems are transnational in nature. Common problems “advance the notion that people have global civic duties” (Woods, 2000, p.188). Environmental and human rights problems require collective global responses. Likewise, equitable access to medicine requires action from global citizens because this problem permeates every part of the world, including the wealthiest nations. The CL transnational social movement provides an illustration of transborder solidarity in the equitable access to medicine struggle. Scholte correctly argues that, “some global civic activity has grown largely out of a cosmopolitan inspiration to provide security, equity, and democracy for all persons regardless of their territorial position on the planet”

(Woods, 2000, p.182). Global civil society is a vital component of CL social movements because GCS strive to address transborder issues like access to essential medicine.



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CHAPTER III

TRANSNATIONAL “TRIANGLE THAT MOVES MOUNTAINS”

3.1 Introduction

The CL transnational social movements attract heterogeneous actors because the issue calls for a global response. Kannikar Kijtiwatchakul of Doctors Without Borders-Belgium believes that when peoples' lives are at stake, people see the urgency of the problem because access to medicine is a “matter of life or death” (Kannikar Kijtiwatchakul, personal interview, 29 July, 2008). The urgency of access to medicine compels heterogeneous actors to get involved in transnational social movements. The transnational social movement branches out into many sectors in response to multifaceted and fully funded opposition. The characteristics of this movement are defined by the networking of many loosely connected and informal taskforces that contribute to the best of their ability. There are various networking “taskforces” with coordinated responsibilities such as US Congressmen, student movements, Thai civil society, legal taskforce, media and communication division, medical taskforce, PLHWA, and anti-propaganda taskforces. In other words, heterogeneous actors and organizations play a vital yet diverse role in the movement. These diverse actors battle for CL legitimacy on many fronts because the pharmaceutical companies attack on many levels. Therefore, the networking of transnational social movement is a necessary CL legitimizing campaign to confront the delegitimizing opposition.

Bill Gates, a supporter of Thai CL, underlines the importance of creating market mechanisms to assist the world's poorest people. He states that:

Rich governments are not fighting some of the world's most deadly diseases because rich countries don't have them. The private sector is not developing vaccines and medicines for these diseases because

developing countries can't buy them. And many developing countries are not doing nearly enough to improve the health of their own people... In order to find new discoveries and deliver them, we need to make political market forces work better for the world's poorest people (Gates, World Health Assembly, 2005)

Ironically, when the private sector does develop medicines for the deadliest diseases, developing countries still cannot afford them. Although CL delivers affordable medicine to the poor, political market forces continue to deter its efforts. The Prince Mahidol Award Conference in 2007 offered an opportunity to address these problems by improving access to health technologies. The conference united over 200 world public health leaders and scientists to engage in a participatory approach in improving availability of health technologies, developing networks, capacity building, leadership development, and understanding TRIPS (Panich, 1 Feb, 2007). There was a diverse distribution of participants that included representatives from the World Bank, MFS, Clinton Foundation, Harvard School of Public Health, Roche Thailand, Intellectual Property Committee of JPMA, Japan, Abbott laboratories, UNICEF, PFIZER, WHO, UNAIDS, Merck & Co. Inc., TWN, Ministries of Health of numerous developing countries, and many other groups. In this conference, representatives from the world's biggest pharmaceutical companies listened to presentations on TRIPS flexibilities and its potentials of increasing access to medicine. Kijtiwatchakul noted that four world renowned individuals expressed their commitment to publicly support Thai Government's CL issuance (Kannikar Kijtiwatchakul, personal interview, July 29, 2008). Dr. Carlos Correa, Director of the Center for Interdisciplinary Studies of Industrial Property Law and Economics at the University of Buenos Aires, Martin Khor of Third World Network, James Love of Consumer Project for Technology, and Ellen T. Hoen of Medecins Sans Frontieres gave a press conference in support of Thai CL. It was the first time Thailand formally received international support (Kannikar Kijtiwatchakul, personal interview, July 29, 2008). Most importantly, this conference became a springboard for the networking of CL transnational social movements.

Support for generic medicines and CL invited vigorous opposition by large pharmaceutical companies. In the wake of Thailand's FTA negotiation with the United States, William Aldis, a WHO country representative to Thailand, was recalled after serving only 16 months out of a traditionally 4 year term (Williams, 17 June, 2006). Aldis's removal stemmed from his article, in which he argued that Thailand should consider carefully before relinquishing its right to use compulsory licenses in exchange for bilateral free-trade agreement (FTA) with the United States (Williams, 17 June, 2006). A US ambassador sent to talk with WHO director general Lee Jong-wook adamantly "impressed Washington's view of the importance of the WHO to remain 'neutral and objective' and requested that Lee personally remind senior WHO officials of those commitments"(Leonard, 27 June, 2006). These events indicate three major problems. First, WHO, an international organization committed to global health is to remain "neutral and objective," when addressing the problems of access to essential medicines. Secondly, challenges to the pharmaceutical companies often provoke swift and stoic retaliation. Lastly, Aldis's removal is indicative of the huge amount of pressure pharmaceutical companies bring to bear in forcing organizations to bend to their will. It is patently clear that when countries challenge pharmaceutical companies through CL, they face numerous obstacles. Leonard argues that "at every step of the way, their efforts are contested by well-funded delegations representing multinational corporations that fight a brutal war of attrition that aims to water down every resolution, delay every action, and co-opt every opponent"(Leonard, 27 June, 2006). The resultant conflict of interests continually undermines the poor's access to medicine.

Aldis's article contends that Thailand should maintain its sovereignty on the CL issue by rejecting Free Trade Agreements and its TRIPS-plus provisions in order to save lives. According to Aldis, a networking group existed to provide expertise and consultation on the trade-related issues. This networking consultation group comprised of "world-renowned experts" from Argentina, India, France, Malaysia, Philippines, Switzerland, Thailand, the US and Venezuela which was held by Thai Food and Drug

Administration, the Department of Disease Control of the Ministry of Public Health, Chulalongkorn University, UNAIDS, UNDP and World Health Organization (Aldis, 9 Jan, 2006). The experts urged the, “Thai government not to give up its sovereign right to use, to the fullest extent, all available flexibilities contained in the TRIPS Agreement of the World Trade Organization and reaffirmed by the Doha Declaration” (Aldis, 9 Jan, 2006). This networking group existed prior to Thailand’s decision to exercise CL. During that time, Thailand and their networking group averted FTA with the United States and laid the foundation for CL. Furthermore, this network expanded when Thailand issued CL. With the support of a diverse group of experts against US FTA and for CL, Thailand eventually increased access to essential medicines for hundreds of thousands of people by issuing CL.

Thailand’s CL issuance is a success in itself. However, the United States and big pharmaceutical attempted to thwart Thai CL. Detractors engaged in a campaign to discredit and stifle Thai CL while supporters network to maintain CL global legitimacy. The transnational social movement succeeds in enlightening the general public on the CL issue in Thailand and the injustices committed by big pharmaceutical companies. Thus, CL fights for legitimacy against big pharmaceutical companies. *Global Legitimacy Game: Civil Society, Globalization, and Protest* by Alison Van Rooy argues that contemporary issues define the new transnational social movements. Access to medicine is a vital issue that won global legitimacy because its importance and urgency. This global legitimacy manifested itself in the form of worldwide support. Thailand’s issuance invokes retaliatory actions by big pharmaceutical companies, but at the same time, it invites globalized support. In order to understand the nature of the transnational social movement, one must realize the level of resistance of big pharmaceutical corporations. The resisting parties attempt to dispute the legality of Thai CL, declare that CL had adverse impacts on trade, withhold medicines, question the quality of drugs, criticize the lack of negotiation, condemn the political legitimacy of military-installed government,

and argue that CL undermines innovation. While facing these opposing forces, the transnational social movements legitimize CL with global support.

Access to AIDS medicine is an issue of marginalized people. With a strong network of People Living with HIV/AIDS, activists, academics, and health advocates, this Thai civil society influenced national policies. Taking advantage of political opportunities, the Ministry of Public Health granted compulsory licenses. This policy challenges the pharmaceutical monopolies and the global order established by powerful nations. Although the fight began with an issue of marginalized people, it ended with global support that marginalized the “profit over people” policies of pharmaceutical companies. Theoretically, McIntyre-Mills argues that “we need to use social movements to publicize and promote transcultural thinking tools so that people can create their own webs of meaning that can help link private troubles and public issues; the personal domain and public domain, the local neighborhood with not merely the state public domain, but with international interest groups that span space and time/Social justice concerns are not limited to certain groups if they can utilize the potentials of transnational networks” (McIntyre-Mills, 2000, p.145). This framework justifies the CL campaign and its transnational social movement with three implications. First, the movement linked this matter of life or death to the existing flaws in the patent system, US hegemonic world order, and pharmaceutical interests. Secondly, international networks supply CL campaign with moral and informational support, to both challenge and defend against pharmaceutical companies. Lastly, equitable access to medicine is an ultimate goal that can be realized by transnational movements. Therefore, the networking of transnational social movement realizes its potentials by legitimizing issues of marginalized people, transforming them to global concerns, and attempting to increase access to medicines.

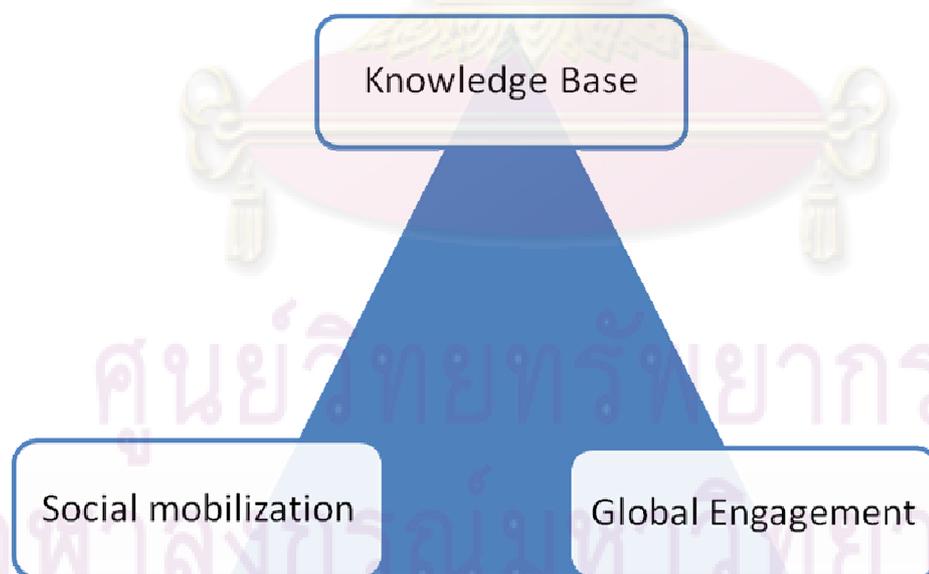
3.2 “Triangle that Moves the Mountain” framework

Civil Society and Health Systems Reform: Thailand's Experience by Komatra Chuengsatiansup analyzes the concepts, theoretical framework, and processes of the civil society and health systems reform. Chuengsatiansup argues that to achieve the goals of restructuring the health system and embedding a “health consciousness in Thai society”, theoretical framework must employ a “three-pronged strategy” (Figure 1) call the “Triangle that Moves the Mountain” (Chuengsatiansup, 2005, p.1). Professor Dr. Prawase Wasi, a leader of social reform, formulated this working “strategic triangulation of knowledge creation, social mobilization, and political engagement” (Chuengsatiansup, 2005, p.4). Kijtiwatchakul also dubs the CL campaign as a, “Globalized Triangle that Moves the Mountain” because of the collaboration of both local and international actors. Fundamentally, this theoretical model is applicable to many aspects of the CL campaign. It can be applied to the networking of transnational social movement to create a Transnational “Triangle that Moves the Mountains” to challenge the pharmaceutical dominance.

The initial step involves the creation of common understanding by sharing knowledge on CL, IP, international laws, national laws, oppositional actions, and strategies to promote Thai CL. Secondly, social mobilization ensures collaboration and cooperation between heterogeneous actors on the local, national, and global level to achieve similar goals. The third mechanism calls for engagement from the Thai Government, international governments, and international organizations to maintain legitimacy against pharmaceutical retaliations. For example, WHO, United States, and other developed countries must either support or not restrict CL. With these three components, the transnational social movements achieve several key victories. As supported by Chuengsatiansup, CL needs reforms on two levels as “changes in the institutional hardware needed an accompanying change in society's software to make the reform complete” (Chuengsatiansup, 2005, p.3). In this case, transnational social

movement offers an upgrade on global “society’s software” by providing facts and information on CL. With this understanding, the global society can support CL. On the second level, the transnational social movements help restructure the “society’s hardware” by ensuring global engagement from different governments and organizations. Although CL is legal, reformation of the “society’s hardware” means that developing countries can legitimately use CL as a means to increase access to medicine without retaliation by pharmaceutical companies. Therefore, the networking of transnational social movements forges the knowledge base for global public support, global commitment, and social mobilization. As a result, these triangular strategies shaped a novel consciousness in both Thai and global society that enables the use of CL. In summary, an upgrade “society software” enables global citizen’s to understand and support CL while a modification of the “society hardware” entails actual implementation of CL without repercussions.

Figure 1. Transnational “Triangle that Moves Mountain”



3.3 Knowledge Base

3.3.1 IP-health group

In order to effectively defend the legitimacy of CL, Thai CL and its networks must have information, facts, and strategies to combat attacks from pharmaceutical companies and their lobbyists. IP- Health is a network of activists that deals with Intellectual Property and Health issues. It works on issues related to IP and health such as access to treatments, CL, trade, laws, TRIPS flexibilities, economics, politics, political economy, alternate development and many other relevant matters. This networking group* was established on 4 May 2004, and continues to operate. As of 22 June, 2008, there are over 4,700 electronic messages fulfilling many functions in the system. Clearly, this list serves to share knowledge, increase expertise, garner support, and allows all parties to remain informed. This is a “network of activists on intellectual property and health that supports all flexibilities of TRIPS (Jon Ungpakorn, personal interview, 24 July, 2008). The members of the group are comprised of heterogeneous groups of actors such as the AIDS ACCESS Foundation, OXFAM, WHO, CP Tech, European Affairs Consumer Project on Technology (London), James Love, director of Knowledge Ecology International (KEI), Joana Ramos of Cancer Resources & Advocacy, Kannikar Kijtiwatchakul of Medecins Sans Frontieres-Belgium, Sangeeta Shashikant of the Third World Network, Robert Weissman, co-director of Essential Action, Jon Ungpakorn, a former Thai senator, Amy Nunn of Brown University Medical School, Sara Crager of University Allied for Essential Medicines, Health Action International, Indian Society for Sustainable Agriculture and Rural Development. Although highly abbreviated, this list reflects a diverse coalition. Just as important, this IP-Health group serves as an important networking tool to help each other fulfill collective goals.

* Networking Group Email- Intellectual Property- Health Group.

This IP-health group works to provide communication, moral and informational support, and strategies to the Thai CL networking and overall campaign to increase access to medicine goals. In addition, group members serve as watchdogs as they inform each other on any positive or negative movements (Sangsiri Teemanka, personal interview, July 23, 2008). Social activist, Jon Ungpakorn reveals that this “network consists of many people and many organizations” with an equal “distribution between the “North and the South” (Jon Ungpakorn, personal interview, July 24, 2008). However, these diverse organizations continue networking in order to maintain their own respective causes. During the transnational social movement, 20 organization helped fund Jon Ungpakorn and other activists to give talks to US policy makers and the general US public (Jon Ungpakorn, personal interview, July 24, 2008). While Essential Action helped facilitate Thai CL campaign, Thailand also helped fulfill Essential Actions goals of “ facilitating developing country use of TRIPS flexibilities; addressing the challenges posed by TRIPS-plus trade agreements; addressing the TRIPS compulsory licensing for export problem; as well as particular dispute on IP and access to medicines issues that arise” (Essential Action, 2006). Therefore, these organizations mutually benefitted from each other, while pursuing common interests. More importantly, working with Essential Action enabled Thailand to feel that” it is not alone” while fighting together for common goals (Kannikar Kijtiwatchakul, personal interview, 29 July, 2008). Without a doubt, IP Health is a phenomenal tool in the networking of transnational social movement that facilitates the sharing of information in order to increase access to medicine.

Due to the complexity of WTO trade regulations and TRIPS, CL campaign demands a strong networking base to provide comprehensive knowledge. Student’s movement, mass media, and legal experts inform the general public as to comprehensive knowledge on IP, international statures, and all relevant CL aspects. Consequently, the general public can base their opinions and support on facts rather than on opposing propaganda. Just like the access to treatment for AIDS disease itself, CL campaign is a continuing struggle. Pharmaceutical companies continue their efforts to prevent, delegitimize, and rid Thailand of CL. The smear campaign is demonstrated in the

aftermath of Thailand's issuance of CL. For example, USA for Innovation, a lobbyist group, undermined Thailand's CL initiatives by labeling it as intellectual property "theft" and a "threat to innovation" (Wetzler, 2006). This delegitimizing war necessitated a counter legitimizing movement as manifested in a transnational social movement. Although this networking of different actors existed prior to the CL issuance, it evolved into a powerful force to submerge the delegitimizing campaign.

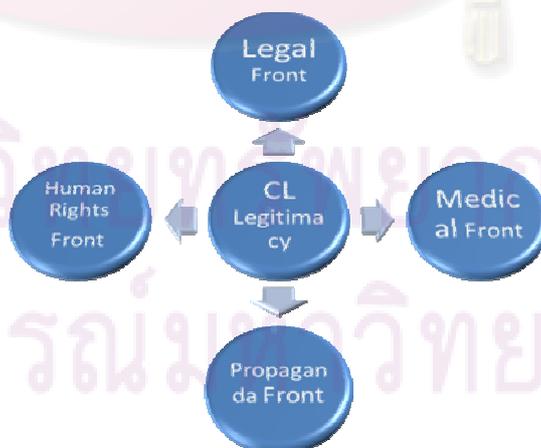
Heterogeneous actors play instrumental roles in the movement, as well. Influential actors like former US president Bill Clinton, James Love of Knowledge Ecology, Brook Baker of Health Gap, and Ellen T. Hoen of Medicins Sans Frontieres are all prominent actors in the global health arena who have openly supported Thai CL. The support of "powerful allies" also enables the success of social movements. Moreover, well-known organizations such as Medicins Sans Frontieres, Knowledge Ecology, Health Gap, and Clinton Foundation play vital roles in the social movements because "movement organizations have become more skilled in influencing the media, developing a specific savior-faire as well as a reputation as reliable sources" (Porta & Diani, 2006, p.220). Besides giving support, these organizations function as an information center that provides knowledge on IP, health, and international laws. In addition, these organizations provides "counterinformation" to contradict claims of opposing pharmaceutical companies. With these heterogeneous actors and organizations, the social movement expands their knowledge base to more effectively counter information by pharmaceutical companies and their lobbyists. McMurtry argues that the "mass media are a crucial case to bring under a rule of public accountability and law because all other corporate enterprises depend upon them for their dissemination of corporate messages, and the public depends upon them for understanding their shared condition and possibilities" (McMurtry, 2002, p.196). This relationship enables the pharmaceutical corporations to dictate ideas, messages, and propaganda to the general public. As seen in the CL case, pharmaceutical companies manipulate information according to their interests. The

transnational social movements function as a filtering device to provide facts, information, and a strong knowledge base.

3.4 Social mobilization (division of labor)

The social movement after the CL issuance progressed on several levels. When attempts to discredit Thai CL manifested, experts and activists countered with information and mobilization. Teemanka of AIDS ACCESS Foundation observed that these social movements responded to pharmaceutical companies, lobbyists, and the United States. The CL opposition provided the social movement “opportunities” to share knowledge and publicize the issues (Sangsiri Teemanka, personal interview, July 23, 2008). For all their efforts, CL opponents actually oiled the wheels of the social movement with their delegitimizing campaign. The heterogeneous actors shared information and expertise to offset the delegitimizing campaign undertaken by the pharmaceutical companies. In other words, the smear campaign was self-defeating because the networking of the transnational social movement responded to every attack with the force of facts.

Figure 2 Different Tasks of Networks



After Thailand's announced its intentions to employ CL, Merck* criticized the lack of warning. It claimed that there had "been no process in terms of Thai law or international law, where the company has been consulted or where the company has been asked what they could do to assist" (Baker, 3 Dec, 2006). In defense of Thailand, Brook Baker of Health Gap, among others, defends the legality of CL. He states that "neither Thai law nor international law requires prior negotiation for a voluntary license or for price discounts before issuing a compulsory license for government, non-commercial use (commonly called government or crown use) or for a health emergency such as that presented by HIV/AIDS" (Baker, 3 Dec, 2006). The smear campaign "consisted of a lot of misinformation, and false propaganda, but it did not influence the general public because the press provided space to reply" to the accusations (Jon Ungpakorn, personal interview, July 24, 2008). In some sense, every propagandistic article, each release of misinformation, and every criticism invoked effective responses in support of the Thai CL campaign.

As a continuation of the CL campaigns, activists must fight against trade negotiations that undermine CL. Tratoud recognizes that many countries are "under [the] pressure from industrialized wealthy countries, and the United States in particular, have been using bilateral and regional trade agreements to negotiate provisions which go beyond the WTO's TRIPS Agreement (TRIPS-plus), which undermine the Doha Declaration and which restrict, if not eliminate, the flexibilities and safeguards it reaffirmed" (Tratoud, 17 July, 2005). In the case of Thailand, FTA will relinquish all the accomplishments of the CL campaign and prevent future achievements. Consequently, Thai activists and transnational networks must rally against FTA with the United States as part of the ongoing CL campaign. In addition, Tratoud contends that US civil society can play a role in FTA with other countries. "If US citizens were informed of the practice

* On November 29, 2006, Thailand's Ministry of Public Health announced its intention to issue CL for Merck's Efavirenz. However, Merck reduced the drug's price by half, but it also criticized the lack of negotiation on prior to the announcement (Wetzler, Timeline for Thailand's Compulsory Licenses, 15, June 2006).

of the FTA negotiators and of the consequences of these agreements, that go far beyond Thailand and have an impact back home, Thai negotiators may have more leverage in the forthcoming negotiations and be better equipped to resist an agreement that will seriously impact people's access to medicine, prevent the scaling up of HIV/AIDS programmes, undoubtedly increase disease-related death rates and create a huge burden for the national health budget" (Tratoud, 17 July, 2005). As part of the continuing efforts of the transnational social movements, these networks inform US citizens of US actions that hinder access to medicine for the poor. Similarly, the networking of transnational social movement inspires US citizens to mobilize against unscrupulous US pharmaceutical companies. This example embodies the continual efforts of the social movement in supporting global health by mobilizing actors against US pharmaceutical corporations.

3.4.1 Legal taskforce

Due to the complexities of international law, CL social movement requires a network of legal experts to share expertise and knowledge. Sean Flynn, associate director of the Program on Information and Intellectual Property from American University, is an active advocator of Thai CL. When critics attacked Thai CL's legality, Flynn defended it. When Abbott refused to register new medicines to Thailand, Flynn sprang into action to provide legal consultations to counter the move. While Abbott's unprecedented decision evoked many criticisms from activists all over the world including student movements, Abbott shareholders, and law experts, Flynn provided leverage against Abbot by challenging the legality of its actions based on Thai Laws. As a legal expert, Flynn pointed out that "Section 25(3) of Thailand's competition law prohibits a dominant firm from suspending, reducing, or restricting services, production, purchase, distribution, deliveries, or importation without justifiable reasons" (Flynn, 23 March, 2008). In addition, Flynn suggested that Thailand should lodge competition complaints against Abbott in order to pressure Abbott, draw worldwide media attention to Abbott's offense, make evidence and records from the investigation become public

information, and use the case to permit unlimited exports and lower royalty fees as a penalty (Flynn, 23 March, 2007). Moreover, Flynn provided comprehensive research on the competition case against Abbott. With support from transnational legal experts, Thai law experts can create a strong legal case against companies like Abbott.

3.4.2 Medical taskforce

The medical team provides facts behind the dire need for affordable medicine. In a presentation by Dr. Buddhima Lokuge, a U.S. Manager of the Campaign for Access to Essential Medicines at MFS, he relays the necessity of compulsory to ensure cheap medicines. When patients develop resistance to first-line AIDS treatment, they must use more expensive second-line medicine. Dr. Lokuge argues that “by withdrawing registration in Thailand in a tit-for-tat retaliation for the country utilizing legally recognized compulsory licenses, patients will ultimately pay the price (Lokuge, 2007). Large pharmaceutical companies demand that patients pay high prices for their products either with money or with their very lives. The medical arena stresses the importance of patients’ lives over the interests of economics or politics involved with CL. He also states that “as a doctor, I am even more disturbed because this crisis (Thailand) comes at a time when millions around the world still have no access to first-line medicines (Lokuge, 2007). The medicine taskforce provides a humane perspective on the CL issue even though it involves many other aspects.

Thai CL met unexpected opposition from key organizations in the public health field. When Thailand first announced its decision to pursue CL, the WHO expressed disapproval. Margaret Chan, WHO Director-General, declared her position on CL by stating that Thailand:

Should negotiate the price of Kaletra with Abbott before issuing a compulsory license and encouraged the nation’s public health ministry to improve its relationship with drug companies/ I’d like to underline that

we have to find a right balance for compulsory licensing/ We can't be naïve about this/ There is no perfect solution for accessing drugs in both quality and quantity (Medical News Today, 07 Feb 2007).

As a promoter of global health, the WHO inexplicably sided with large pharmaceutical companies. If anything, WHO's position on CL is a testament to the high level of influence of pharmaceutical corporations. Therefore, Thai CL campaign necessitates an equally influential transnational social movement to counter opposing pharmaceutical companies. In attempts to disguise their intentions, pharmaceutical lobbyists portray the roles of concerned citizens. In *License to Steal*, Susan Finston claims that the "GPO's low quality drug copies (already in use) have led to a higher prevalence of viral strain resistance to the most readily available HIV/AIDS therapies" because the drugs fail to meet WHO antiretroviral standards (Finston, 16 July, 2008). In response, many medical experts and organizations countered this misinformation with statements indicating the contrary. For example, Baker of Health Gap revealed that Efavirenz received the pre-qualification status at the WHO, U.S. Food and Drug Administration (FDA) approved numerous anti-retroviral products from India that are produced in 70 FDA/GMP (Good Manufacturing Practice)-approved pharmaceutical factories in India (Baker, 1 April, 2007).

3.4.3 Human rights

In the era of globalization, countries must defend human rights while in pursuit of development. First and foremost, every nation must protect the right to life, the most basic human right. In achieving this goal, the right to medicine is compulsory. The term compulsory signifies the necessity to pursue a certain action to achieve a particular goal. In providing equitable access to medicine, nations are safeguarding the most natural and fundamental right. On the other hand, big pharmaceutical companies necessitate profit as a prerequisite to research and development of new drugs. Monopolies and lucrative profits bestowed by patents offer incentives for research and development. Saving lives is

only a by-product of the pursuit of innovation, rather than its real objective. This harsh reality is supported by Abbott's decision to withhold new medicines from Thailand. Abbott's actions indicated that saving lives is a means to higher profits. Elizabeth Williams, director of the Asia Society's Initiative on HIV/AIDS and Global Health, questions the human rights aspects of access to medicine. She says that "but economic issues aside, isn't equitable drug access a human right?" (Williams, 3 June, 2007). Many human rights activists support CL because it enables greater access to medicine, which is undeniably a basic human right. When big pharmaceutical companies value profits over people, they continue to violate human rights of people in dire need of medicines. Ford argues that in "Thailand, civil society groups have been key to establishing the human right to health by challenging the practices of the multinational pharmaceutical industry and governments of industrialized countries. However, there are few developing countries where civil society is strong in advocating for greater access to medicines" (Ford, 2004, p.562). In order to ensure sustainability for future CL movements, social movements must continue to rely on a strong civil society committed to access to treatment, a basic human right. Furthermore, transnational social movements can assist developing countries without a strong civil society to issue and support CL.

3.4.4 Research and development argument

Pharmaceutical lobbyists frequently exploit the research and development argument as a case against Thai CL. These companies contend that patents provide the incentive for research, development, innovation, and ultimately, greater global health. This claim fails on three levels. First, expensive and unaffordable drugs weaken global health because patients, who cannot afford high prices, tragically go without them. Therefore, if the objective of research and development is to improve global health, then it fails with regards to the number of people who lack access to such vital medicine. It only improves the health of a minority that have access to medicine, but not total overall global health. From a greater perspective, this line of reasoning feeds a tragic cycle of

injustices. Big pharmaceutical companies research and develop new medicine and provide limited access to limited number of people in order to develop new medicines.

Secondly, if recovering investment and desire for profits offer incentives to innovate new medicine, then big pharmaceutical companies should maximize gains “sustainably.” Lisa Conte, founder of Napo Pharmaceuticals, specializes in enhancing financial profits by addressing global health issues. She offers a solution to Abbott Laboratories for its troubles - revamp its business model. Conte argues that, “these companies understand that there is an immense volume of patient need in the many developing and emerging economies whose scale, at a lower profit margin, provide the financial return needed to keep these therapies accessible on a sustainable basis to those who need them most--sustainable, because the companies are making a profit” (Conte, 28 Mar, 2007). This business model is consistent with Conte’s suggestion for Novartis. In that case, Novartis challenged India’s patent law that allows India to produce generic medicine to treat leukemia at one tenth of the price because the drug is patented by Novartis (Conte, 7 Mar, 2007). Conte reasons that “about 80% of the world’s population including India’s 1.3 billion people live in non-western territories. The math is simple: one-tenth the price sold to eight times the population - provides the basis for a healthy return on investment” (Conte, 7 Mar, 2007). Although Novartis would profit more by maintaining a high price, it can provide greater access to medicine while enduring a fractional loss in its incredibly high profits. In the end, a new equation can be realized: lower prices → greater access to medicine → high profits (fractional loss) → research and development.

Lastly, there are many different ways to maintain a high level of innovation. Medecins Sans Frontieres, NGOs and some pharmaceutical companies offer suggestions of different strategies for research and development. They propose prize establishment, funds for neglected diseases, patent pools, and non-profit research and development organizations (Hone, 3 June, 2008). The current research and development mechanism

that bestows monopolistic patents to large pharmaceutical corporations undermine global health issues. It creates an unscrupulous cycle that values returns on investments above everything else. In this era of globalization, pharmaceutical companies must balance profits and people for equitable development. These propositions enable a balance between access to medicine and innovation.

On the other hand, networks in the United States contradict lobbyist's argument on research and development. It reveals that United States is a frequent user of compulsory licenses. Kijtiwatchakul observed that the US networks found information and facts on United State's numerous uses of compulsory licensing, so "why are there still incentives for innovation in the United States?" (Kannikar Kijtiwatchakul, personal interview, 29 July, 2008). James Love presents numerous examples of United States compulsory licenses:

- 2001-The Department of Health and Human Services used its authority to exercise March-In rights for patents on stem cell lines held by Wisconsin Alumni Foundation as leverage to secure an open license on those patents
- 2002-the US FTC ordered a compulsory cross-license of the Immunex tumor necrosis factor ("TNF") patent, to Serono, including the "freedom to practice in the research, development, manufacture, use, import, export, distribution and sale of TNFbp-I Products and certain glycosylated and nonglycosylated fragments, derivatives and analogs thereof in the United States."
- 2002-The US Department of Justice required Microsoft to license on reasonable and non-discriminatory terms intellectual property rights in a number of different protocols needed to create products that were interoperable with Microsoft Windows.
- 2005- The FTC ordered a compulsory license of Guidant's intellectual property surrounding the RX delivery system for Drug Eluting Stents.
- 2005-The US Department of Justice cited its right to use patents in 28 USC 1498 when it opposed injunctive relief for infringement of

the patents relating to the Blackberry email services supplied to both the government and private firms that used the Blackberry device to communicate with the government.

- 2005- In a Congressional hearing, DHHS Secretary Michael Levitt testified before the House of Representatives that he had threatened to override the patents on treatments of Avian Flu if companies had not expanded US production facilities.
- 2006- A court granted Microsoft a compulsory license to use two patents owned by z4 Technologies that relate to digital rights management systems use by Microsoft for its Windows and MS Office software programs.
- 2006- A court granted DirectTV a compulsory license to use the Finisar patent on integrated receiver decoders (satellite set top boxes), for a royalty of \$1.60 per device.
- 2006- A court granted Toyota a compulsory license on three Paice patents for hybrid transmissions, for a royalty of \$25 per automobile.
- 2006- A court granted Johnson and Johnson a compulsory license to use three of Jan Voda's patents on guiding-catheters for performing angioplasty.

(Source: James Love, CPTEch, 12 December, 2006)

This list of US compulsory licenses evidences that Thailand received instrumental assistance from transnational partners. In this case, James Love of CPTEch provided examples of the United States recent compulsory licenses to proclaim Thailand's CL legitimacy. Simply put, if the United States can regularly use CL, then Thailand can also use it to increase access to life-saving medicines, develop its own capacity to develop AIDS medicine, and increase the competition for the generic industry. More importantly, this transaction epitomizes the instrumental nature of networking between Thailand and its transnational counterparts. Without this networking, the Thai CL campaign would have encountered much more opposition than without such support.

3.4.5 Anti-propaganda/ informational taskforce

In part of a smear campaign, pharmaceutical companies and lobbyists used misinformation to discredit Thai CL. As part of pharmaceutical propaganda, USA for Innovation launched a website called Thaimyths.com to undermine the Thai CL campaign. Although the website lasted only from 7 May 2007 to 18 May 2007, the site allegedly cites many “myths” about Thai CL including that, “Thailand’s recent use of compulsory licenses is legal, U.S. action against Thailand threatens Thailand’s sovereignty, Thailand’s Government Pharmaceutical Organization (GPO) needs to deliver generic medicines to people who can’t afford expensive medicines, Thailand is poor country and cannot afford Western medicines, Thailand is just doing everything it can to address its AIDS problem, Thailand is in the middle of an AIDS crisis, Thailand is just trying to lower the cost of Western medicines, and the drug companies started this fight” (www.2Bangkok.com). In addition, USA for Innovation also published articles in “The Nation” newspaper accusing Thailand of “stealing American assets for military benefit, at the expense of the poor and the sick,” stating that Thailand’s compulsory licensing is illegal, and depicting similarities between the Thai CL and the Burmese military regime (Welzter, 2006, p. 10). This short-lived propagandistic campaign proved itself illegitimate when it was self-terminated. Although facts to counter Thaimyths.com and USA for Innovations’ accusations are readily available, the underlying argument emphasizes the response from social movements to counter these US pharmaceutical companies and their lobbyists. Internet watchdog site, www.2Bangkok.com^{*}, reveals all the activities and misinformation of USA for Innovation. It concludes that it is “time to accept USA for Innovation for what it is (was)” (www.2Bangkok.com). The watchdog site discloses that: (a) USA for Innovation is “an organization with no history before April 2007 (despite a huge directory of press releases, none of these were released to the net on the alleged dates they were created); (b) it is an organization whose web attacks

^{*} Internet Watchdog Website(<http://www.2bangkok.com>)

have no precedent in lobbying--except for the lobbying group Edelman which is well-known for creating fake lobbying efforts and planting articles and opinion pieces in the press; and (c) is an organization that could afford an expensive hired gun like Kenneth Adelman (www.2Bangkok.com). USA for Innovation and Thaimyths.com both ceased to operate in May 2007, disappearing along with their credibility.

USA for Innovation lobbied for the American government, American businesses, and general public support against Thailand's CL issuance. In a strategic approach, Adelman denounced CL in Thailand on a popular website, www.youtube.com and sent a letter to Susan Schwab accusing Thailand of "theft" of American property. In addition, Adelman published an article in the Washington Times and sent a letter urging President Bush to protect American jobs. In the Washington Times article, Adelman argued that the Thai government's "assault on intellectual property rights puts Thailand in the same camp with what I've called the axis of IP evil" (Washington Times, 2007, April 26). More importantly, this article was published shortly before the trade relations Special 301 Report release. The article directly urged the United States Trade Representative (USTR) to downgrade Thailand's trade status to Priority Watch List by stating that "numerous organizations, including USA For Innovation, believe Thailand should be elevated to the Priority Watch List, a special section reserved for the worst offenders" (Washington Times, 2007, April 26). Eventually, USTR downgraded Thailand's trade status to Priority Watch-List as the US cited concerns over, "Thailand's lack of progress on intellectual-property rights protection, as well as the impending amendment of the Foreign Business Act, the impending introduction of the Retail Business Act, the capital control measures (to limit speculation on the baht) and the compulsory licensing of US pharmaceutical products" (The Nation, 11 May, 2000). Therefore, it is obvious that USTR demoted trade relations factored upon Thailand's CL issuance. As for USA for Innovation, it won a key battle against CL regardless of its influence on USTR decisions.

As a response to accusations against Thai CL, Brook Baker of Health Gap wrote *Pharma's Seven Deadly Lies about Thai Compulsory Licenses* to disclaim the opposing arguments such as the low quality of generics, CL's legality, 'theft of American property,' and reduction in incentives for innovations. In direct response to the attacks by USA for Innovation, numerous NGOs signed a collective statement on 10 May, 2007 demanding pharmaceutical companies and lobbyists to stop obstructing efforts to increase access to essential medicine in Thailand and Brazil (Wetzler, 2006, p.10). This joint effort included: Thai Network of People Living With HIV/AIDS (TNP+), Thai NGO Coalition on AIDS, AIDS Access Foundation Drug Study Group, Rural Pharmacist Foundation, Confederation of Consumer Organization, Foundation for Consumers, Biodiversity and Community Rights Action Thailand, Alternative Agriculture Network, FTA Watch, Corporate Watch Thailand, Focus on the Global South (Thailand), The Strategic Policy on Natural Resources Base Project, National Human Right Commission, The Rural Reconstruction Alumni and Friends Association, and Medecins Sans Frontieres–Belgium (Wetzler, 2006, p.10). The collective networking effort was strengthened both by the sheer number of organizations and by their diversity. Unfortunately, the networking efforts failed to deter USTR's demotion of Thailand to Priority Watch List. On the other hand, this joint exercise of networking allowed organizations to exhibit strong solidarity in the face of adversity. Ultimately, Thailand must maintain its CL legitimacy with the assistance of networking of transnational social movements.

Admittedly, pharmaceutical companies and lobbyists play both positive and negative roles. On one level, anti-CL campaigns exert significant influence over people who lack information on the issue, business stakeholders, and patients who depend on new medicine. By linking CL to trade relations, lobbyists pressure business stakeholders to fight CL. In labeling CL as "theft", the negative connotations of this portrayal adversely affects people's opinions. By withholding more developed drugs from Thailand, patients live in fear of their dwindling or nonexistent access to better medicine. In addition, NGOs and the Thai government use scarce resources in defending from

attacks by pharmaceutical corporations, lobbyists, and USTR. Consequently, the Thai government succumbed to pressure as former Health Minister Chaiya Sasomsab, ordered a review of CL, citing its adverse trade relations. On the other hand, aggressive anti-CL campaigns compelled the media to put a spotlight on the issue of CL. Kijtiwatchakul observed that when USTR downgraded Thailand to Priority Watch List, worldwide news agencies paid greater attention to CL (Kannikar Kijtiwatchakul, personal interview, July 29, 2008). Thus, the actions of the opposing parties played a vital role in attracting attention to the issue of CL.

In terms of other forces of opposition, many lobbyists and individuals got involved in the anti-CL campaign, displaying their resistance in many forms. For example, Peerapan Tungsuwan of Baker and McKenzie, published an article in Bangkok Post declaring the global law firm's oppositional position to Thai CL on 23 April, 2007 (Wetzler, 2006, p.9). Two days later, Professor Brook Baker of Northeastern University School of Law and Health Gap, Professor Sean Flynn of American University, and Judit Rius Sanjuan from KEI issued a rebuttal to Tungsuwan's article, citing its misrepresentation of international law (Wetzler, 2006, p. 9) In addition, Tom Giovanetti posted an article in Health Care and Intellectual Property Trade criticizing Thailand's CL, in which he goes as far as integrating Thailand's King into his argument. He provided a quote from His Majesty the King that states "It is necessary to embark a new approach to development, that is to development, that is to develop the registration/ With the Intellectual Property, Thai people will prosper" (Giovanetti, 30 Jan, 2007). This quote was misused because His Majesty the King's support of intellectual property did not entail patents that create unaffordable drug prices. Giovanetti took His Majesty the King's words out of context and distorted it to fit his argument. This gross display of deliberate manipulation illustrates how relentless anti-CL campaigns are in their efforts to delegitimize CL in Thailand.

3.5 Global engagement

A strong knowledge base and social mobilization facilitates global engagement. Thailand's issuance of CL needs sustainable global commitment. Its imposition is only an initial step because it requires paralleling transformative consciousness and global legitimacy. Global engagement also requires political and social commitment. CL's sustainability is threatened if it lacks a corresponding change in consciousness and challenge to existing order. In other words, the Thai populace and myriad of global actors must be committed to legitimately using CL as a right, even though it challenges US and pharmaceutical hegemony. In the face of pressure by pharmaceutical companies, Thai and global civil society must fully realize the potentials of collective action. While transnational social movements succeed on several significant levels on the global stage, CL's sustainability in Thailand is the true test for its success.

With reference to TRIPS, Joseph E. Stiglitz argues that “most of those who signed the agreement did not fully understand what they were doing. If they had, would they have willingly condemned thousands of AIDS sufferers to death because they might no longer be able to get affordable generic drugs? Had the question been posed in this way to parliaments around the world, I believe that TRIP's would have been soundly rejected” (Stiglitz, 17 Aug, 2005). Eventually, the WTO allowed flexibilities in TRIPs to enable individual countries to pursue CL at their discretion. As has been described previously, when Thailand exercised CL, pharmaceutical companies and the United States adamantly protested. The US government and pharmaceutical companies have displayed a desire to continue “condemning thousands of AIDS sufferers to death” by their opposition to CL. Most governments of middle-income countries and low income countries are also guilty of failing to provide greater access to medicine via implementation of CL. For example, Brazil only threatened to use CL, but failed to follow through with their words. Baker suggests that, “rather than set a leading-developed-country example that could catalyze more widespread compulsory licensing throughout the Global South, Brazil set a negative

example of caving into U.S. pressure” (Baker, 3 Dec, 2006). In comparison, however, the Thai CL campaign presents a positive example for future compulsory licensing. It is important to remember, however, that while the CL transnational social campaign won political engagement from Thailand’s government and support from other governments, it requires continuing global engagement to ensure CL sustainability and CL possibility for other developing countries.



ศูนย์วิทยทรัพยากร
จุฬาลงกรณ์มหาวิทยาลัย

CHAPTER IV

ACCOMPLISHMENTS AND SUSTAINABILITY OF THE TRANSNATIONAL SOCIAL MOVEMENTS

4.1 Definition of Success

First of all, there is a need to define the successes of the transnational social movement in the Thai CL case. As mentioned above, the success of the transnational social movement indicates that Thailand's CL is a legitimate means to increase access to medicine. CL entails both the restructuring of the society's "hardware" and "software." Initially, global citizens must understand and accept CL as a viable means to global health. International institutions and governments must then allow other developing countries to use CL without retaliation. Perhaps most importantly, however, is that transnational social movements must be involved in the CL campaign as a legitimizing force. Indeed, future CL issuance can be facilitated by these transnational social movements. Kijtiwatchakul suggests that success depends on the sustainability of CL, and whether the transnational social movements can assist other countries with CL (Kannikar Kijtiwatchakul, personal interview 29 July, 2008). Moreover, she contends success would depend on whether the movement can help countries use CL where the civil society is not as strong as Thailand's civil society (Kannikar Kijtiwatchakul, personal interview, 29 July, 2008). Surat Horachaikul proclaims that the CL campaign is a "flagship" phenomenon (Surat Horachaikul, personal interview, 7 Aug, 2008). He reasons that the transnational social movement is novel in the sense that it achieves a "tangible byproduct," which is CL (Surat Horachaikul, personal interview, 7 Aug, 2008). Therefore, the transnational social movements realize a tangible objective.

In practical terms, increased access to medicine is a clear affirmation of the CL transnational social movements' success in Thailand. In fact, the first shipment of generic

heart medicine under CL arrived in June 2008 from India, after more than one year (Treerutkuarkul, 19 June, 2008). It was distributed to state hospitals and covered under the universal healthcare scheme. Before its arrival, Sanofi-Aventis, the patent holder of the drug, threatened legal actions against Indian-based manufacturer, Cadilla Health Care. Although these threats caused the long delays, the drugs ultimately arrived in this country, exemplifying the long and tumultuous struggle for access to cheap medicine in post-CL Thailand.

Former US President Clinton launched Clinton HIV/AIDS Initiatives (CHAI) in 2002, in order to lessen the access to AIDS treatment gap between developed and developing countries, by negotiating price reductions for antiretroviral (ARV) treatment and improving national health care systems (<http://www.clintonfoundation.org>). In a 2007 speech announcing CHAI price reductions, Clinton supported Thailand's CL issuance. He believed that prices continued to bar access to AIDS treatment because the:

The prices are simply exorbitant in middle-income countries like Brazil and Thailand. These countries are home to fully half of the two million people on treatment. I've seen this with my own eyes in visiting these countries, and I don't see middle-income patients, but patients without means and in dire need. I see men, women, and children whose daily struggles are no different from those living with HIV in the poorest corners of the world (Clinton, 8 May, 2007).

Although many critiques of CL claim that Thailand can afford high prices because it is a middle-income country, Clinton testified that most patients in need of AIDS treatments in Thailand are not middle-income people. Clinton also stated that as of a few years ago, there more than 500,000 children inflicted with AIDS and the Clinton Foundation helped provide access to treatment for 20,000 children (Clinton, 8 May, 2008). When applause followed this assertion, Clinton asked the audience:

Why are you clapping? We are at 20,000 people with 500,000 dying--I don't think it's a close question. It's not just Brazil and Thailand. It's the

effort to get these prices down and make them widely available so that huge numbers of children beyond their borders can live. It is truly, as the minister said, a life-or-death issue (Clinton, 8 May, 2007).

In support of Thailand's CL, Clinton underlined the need for lower medicine prices for the rest of the world. It is patently clear that CL in Thailand and lower drug prices negotiated by Clinton Foundation are merely steps to achieve the common goals of greater access to medicine.

Retaliatory actions from multi-national pharmaceutical company warranted responses from transnational social movements. Case in point is the refusal of Abbott to introduce more developed drugs into the country on the grounds of Thailand's government's policy on CL. These drugs included medicines to treat HIV infection, osteoarthritis, rheumatoid, thrombosis, thrombo-embolism, anti platelet aggregation, idiopathic hypertension, hyperparathyroidism in chronic renal disorders, fever and pain, and upper and lower respiratory tract infections, acute otitis media, cellulitis, and folliculitis (Tantivess, Kessomboon, Laongbua, 2008, p.103). The withdrawal of such vital medicines provoked a worldwide movement against Abbott Laboratories. When Abbott pressured Thailand with strong arm tactics, world citizens helped Thailand pressure Abbott right back (Kannikar Kijtiwatchakul, personal interview, 29 July, 2008). Most importantly, Abbott's threat to withhold new medicines from Thailand clearly shows the company's desire for profits (Sangsiri Teemanka, personal interview, 23 July, 2008). This decision to withhold more developed medicine tarnished the company's reputation. Abbott's actions warranted an aggressive counter movement although some of the damage was self-inflicting. It was a mistake on the part of Abbott's public relations because the move forced the world to respond (Kannikar Kijtiwatchakul, personal interview, 29 July, 2008). Furthermore, the "move not only questions Abbott's priorities, but rather the interests of the whole pharmaceutical industry...it clearly indicates that the pharmaceutical companies see people as customers and hostages-the slogan 'Promise for Life' is a lie" (Kannikar Kijtiwatchakul, personal interview, 29 July, 2008).

Buoyed by worldwide support, protesters demonstrated against Abbott outside its annual shareholders' meeting. Student activists and global AIDS activists convened in Chicago, Illinois, to demonstrate against Abbott's unprecedented decision to withhold live-saving medicines. The protest utilized many strategies to get its message across. AIDS Coalition to Unleash Power-Paris (ACT UP) used a "netstrike*" tactic that eventually led to the crash of Abbott's online website. The general public was also urged to boycott Abbotts' products. A televised interview between Jon Ungpakorn, an HIV/AIDS activist and former Thai senator, Dr. Joia Mukherjee, medical director of Partners in Health and assistant professor at Harvard Medical School, and Anuja Singh, a student at Columbia University and member of the Student Global AIDS Campaign (SGAC) revealed the conflict that led to the protest (www.Democracynow.org). Jon Ungpakorn began by stating his goals, "we are here to campaign for support for the compulsory licensing by Thailand, which gives access to people living with HIV/AIDS in Thailand there--half a million people---to the most important drugs that can save their lives" (www.Democracynow.org). Furthermore, the former Thai Senator argued that Abbott used "blackmail" against patients who need life saving drugs, Thailand, and developing countries (www.Democracynow.org). He stated that, "it's using patients who need important drugs as hostages, and Abbott is trying to make countries of the developing world afraid to use the legal measures that they can use to bring the prices of the drugs that are needed down so that the patients can get the drugs, because Abbott wants to protect its interests and keep the prices of its drugs at a high level, which means that most people in the developing world won't be able to afford those drugs" (www.Democracynow.com). This protest forces the world to recognize the conflict between Thai patients and pharmaceutical companies.

* "Netstrike" is a form of electronic mass protest that ACT UP-Paris used against Abbott's withdrawal of new developed medicine. ACT UP-Paris along with thousands of people from India, Thailand, Canada, and US repeatedly visited Abbott's website in order to crash its server. In response, Abbott filed a lawsuit against ACT Up-Paris(Tamara, Abbot Laboratories Sues ACT Up- Paris, and 30 April 2008).

There are many motivational factors behind participants' involvement. In terms of the student movement, Anuja Singh of SGAC revealed the motivation behind her own involvement in the protest. Besides that fact that pharmaceutical companies chose profits over people, she said that, "I think also the idea that AIDS affects people who are the most disempowered--It affects people in the Global South, who are politically disempowered, economically disempowered, socially disempowered, and affects women so much more than men--all of these come together in AIDS and really works on the vulnerabilities that people feel" (www.Democracynow.org). Singh observed that the issue "appeals to students all across the United States that, to a large degree, aren't directly affected by the disease and because the disease so largely affects people in the Global South, may not even know that many people who are directly affect by the disease, but the issues of a common humanity, of solidarity with people around the world, are so strong that it really does compel people to act" (www.Democracynow.org). Essentially, this issue commanded so much attention because it directly affected marginalized groups of people. The Student of Global AIDS Campaign exhibited the strengths and success of the social movement because the movement attracted participants that are not directly affected by the issue.

The Abbott demonstration involved students from all across the United States, American Medical Students Association, the Student Global Aids Campaign, people living with AIDS, Thai activists, and many other countries (www.Democracynow.org). The movement engaged in specific tactical approaches in its efforts. For example, SGAC embarked on a larger access to treatment campaign that began with "faxes, with emails, with online petitions, with really those grassroots mobilizing tools that have been very successful in getting the attention of Abbott and showing them that there is a constituency, internationally and in the United States, that does care about their policies and is willing to act" (www.Democracynow.org). Moreover, SGAC influenced the investment of Columbia University in the movement. It persuaded the university into a more "socially responsible "mindset that directly targets pharmaceutical investments. Along with Columbia University, students urged for accountability of the administration

in other universities (Jon Ungpakorn, personal interview, 24 July, 2008). On top of the protest, student movements committed their efforts against pharmaceutical companies in strategic ways. Without a doubt, the Student of Global AIDS Campaign exhibited the strengths and success of the social movement. It functioned as one means of exerting pressure on the American government and USTR to support Thai CL.

The highly coordinated Abbott protest exhibited many characteristics of the new social movements. Porta and Diani observes that, “global justice activists have been particularly good at staging events or disrupting opponents’ events , with a strong emotional impact on public opinion and participants alike” and they engage in. “highly visible, very well-attended demonstrations trying to both disrupt the specific gatherings and draw people’s attention to alternative agendas” (Porta & Diani, 2006, pp.3-4). According to these characterizations, protests against Abbott Laboratories demanded widespread attention from the media and the public. Secondly, the protest generated collective support against Abbott’s policies and principles, as well as instigated a global boycott of Abbott’s products. The boycott served as a mechanism of “naming and shaming which--- aims at making public opinions aware of especially glaring cases of ignoring human rights by spreading detailed information about them, and other asking people to punish the companies involved by boycott their products” (Porta & Diani, 2006, p.175). Lastly, the protest against Abbott helped Thailand and other developing nations gain support from the world community and from people in the United States. Delegitimizing US Pharmaceutical companies with their own citizens were of strategic and symbolic importance. More importantly, the protest at Abbott Laboratories i

n Chicago was a significant publicity victory. The objectives of the demonstration were not simply the reinstatement of medicine or legitimacy of CL, but the protest targeted pharmaceutical companies’ principles, monopolies, and the neo-liberal market that create the foundation for unaffordable medicines.

The networking of the transnational social movements addressed the specific requirements of the CL campaign. When the CL campaign needed legal expertise, many renowned law experts immediately offered their support and advice. When the CL campaign needed condemnation of Abbott's actions, worldwide networks joined together in protest. When Thai CL needed support against pharmaceutical lobbyists, many actors gave their moral and informational support. Clearly, the social movement exhibited social mobilizations on many fronts. By reviewing the arguments of the anti-CL campaign and their responses, we are able to shed some light onto the success of social movements. The pro and anti-CL movement both provide greater access to information on CL. These movements dispersed information, allowing the general public to generate informed opinions on the subject. According to Teemanka, the pressure exerted by the US and pharmaceutical companies played a positive role in the CL campaign because it allowed the general public to weigh the rights and wrongs (Sangsiri Teemanka, personal interview, 23 July, 2008). Global citizens could judge for themselves and take action against the policies of the most powerful nation in the world.

The battle for Thai CL garnered support from diverse people and organizations. This diversity increased the chances of success because each network played a vital, strategic, and at times, different roles while working towards a common goal. The University Coalition for Global Health's (UCGH) strategies provides a perfect example of how effective a networking of heterogeneous actors was in the fight for CL. The network uses a veiled influence that can dictate or change policies of big pharmaceutical companies. For example, UCGH demanded that their respective university boards address the global access to medicine crisis. According to UCGH, universities greatly contribute to drug development. The United States Senate reported that "approximately 25% of all drugs classified as drugs used in the treatment of HIV infections by the United States FDA include a university or hospital-held patent (35.7% for 2001-2006) (University Coalition for Global Health, 2008). This contribution to drug development affords universities their control over the process. UCGH observed that "by virtue of their

upstream contribution to the drug development pipeline universities have considerable untapped influence” (UCGH, 2008). Therefore, university students demand that their university use this as leverage to tackle global health and increase the accountability of pharmaceutical companies. To address the crisis, it is essential that “when a university licenses a promising new drug element to a pharmaceutical company. The university would require the pharmaceutical company to allow the drug to be made available in countries with public health emergencies at the lowest cost” (UCGH, 2008). Two conflicts that are, or were, ripe for involvement of universities center on Abbott Laboratories, which we have discussed previously, and Merck, which has come under fire for failing to increase access to its cervical cancer vaccine. These two struggles are linked to a certain degree because universities actually developed the medicine at the center of each conflict. Specifically, UCGH reports that one of the drugs Abbot withdrew is Zemplar which contains a patent issued from the University of Wisconsin, Madison while Merck’s cervical cancer vaccine has patents owned by Georgetown, University of Rochester, and the University of Queensland in Australian (UCGH, 2008).

There is a discernible pattern in that when CL oppositions publicized their argument, pro-CL actors then quickly disputed their claim. For instance, Sally Pipes, the president and CEO of Pacific Institute, a nonprofit and nonpartisan think-tank that promotes free market policies, claimed that, “Thai patients have not seen the benefits” of compulsory licensing” (Pipes, 24 March, 2008). Weissman quickly issued his counter-argument, disclosing that the Thai government increased access to generic version of Kaletra to triple the number of patients (Weissman, 4 April, 2008). Weissman also pointed out that not only does the pharmaceutical industry actually fund her company, but several board members actually have investments in them (Weissman, 4 April, 2008). Pipe’s argument were unfounded and clearly, motivated by personal interests. These recent transactions between Pipes and Weissman underlined the continuing efforts of both the pharmaceutical lobbyists and access to medicine networks to discredit each other.

US CL networks played a key role in lobbying the legislative branch of United States to not interfere with Thailand's decision to issue CL. In a letter dated as recently as 26 June, 2008, Susan C. Schwab, the U.S. Trade Ambassador, urged the United States to "strike a balance between patent and public health in trade negotiations" (Rangel, Levin, Emanuel, Hollen, 2008). According to her letter, a recent United Nations report revealed that 15 percent of the world's population uses 90 percent of the world's medicine (Rangel, Levin, Emanuel, Hollen, 2008). The authors of the study advocated for the formation of an advisory committee specializing in public health issues, in order to create a better balance between global public health and trade and development. In addition, the letter specifically supported Thailand's CL issuance. Schwab's also criticized the 2008 Special 301 Report, which contended that Thailand's "issuance of compulsory license--a right under the TRIPS Agreement --is, per se, inconsistent with the 'adequate and effective' protection of intellectual property rights," despite the fact that Thailand's CL did comply with WTO rules (Rangel, Levin, Emanuel, Hollen, 2008). By using Thailand as a reference, the letter went as far as to suggest that the United States' actions toward Thailand contradicted WTO rules, and constrained public health in developing countries. Therefore, she concluded that trade negotiations with developing countries must not limit access to essential medicine. Furthermore, real progress will be reflected in the establishment of a public health advisory committee to balance trade policies with universal public health. This enduring struggle is a continuation of Thailand's transnational movement that pushes for greater access to medicine via networking.

In terms of the success of transnational social movements, Fuller observed that Thailand "may be winning" the war with the drug industry because of strong backing by international health organizations like Medecins Sans Frontieres, the Clinton Foundation, and UNAIDS. Bolstering support comes from other quarters, as well. For example, the withdrawal of essential medicines from Thailand drew protests from Abbott's shareholders. The Christian Brothers Investment Services and associates of the Interfaith Center on Corporate Responsibility, who own \$35 million in Abbott investments,

condemned Abbott's move. The shareholders said that "to our knowledge, no pharmaceutical company has before withdrawn AIDS drugs in response to a pricing or licensing dispute. By keeping life-saving medicines like Kaletra off the shelves in Thailand, Abbott Labs is threatening the health of Thais who need access to these drugs for survival" (Fuller, 11 April, 2007). The shareholders also targeted the core of Abbott's interests, stating that Abbott's move could damage the company's image, sales, shareholder value, and ultimately, the company's profits. While the argument of saving lives may have had little effect, the need to protect its profits may have influenced Abbott. Regardless of the source, each battle, each sponsor, and each ounce of approval illustrated the success of the transnational social movement to protect patients' right to medicine.

4.2 Sustainability for future CL campaigns

Global health advocates hope that Thai CL serves as a model or impetus for other countries to implement their own CL. Pharmaceutical companies, on the other hand, fear this domino effect. In reality, however, other countries have not used Thailand as an example, other than Brazil, which further "underlines the difficulty carrying out a legal measure" to increase access to medicine (Jon Ungpakorn, personal interview, July 24, 2008) There are many factors that propitiously came together to enable CL in Thailand. In a more general context, the transnational social movement fulfills a necessary role in the fight for access to medicine under the flexibilities of TRIPS. The social movements provide support and solidarity from key actors in United States, European Union, and India. The student movements also played a vital role in the social movement. To this point, we have not seen such a strong solidarity of actors or confluence of movements in other countries that desperately need CL, as we have witnessed in Thailand.

According to Chee Yoke Ling of Third World Network, Malaysia was the first country to exercise CL after its affirmation in the Doha Declaration on the TRIPS Agreement and Public Health by the 2001 Ministerial Conference of the World Trade

Organization (Ling, 2006, p 5). After failed negotiation with patent holders to lower ARV prices to a satisfactory level, Malaysia imported zidovudine (AZT), didanosine (DDL) and Combivir to treat HIV/AIDS beginning on 1 November 2004 (Ling, 2006, p.13). The Ministry of Health initially experienced objections from other government agencies, including the Ministry of Domestic Trade and Consumer Affairs, all of whom argued that CL would deter foreign investment. Their fears had some weight, as notable pharmaceutical companies such as GlaxoSmithKline and Bristol-Myers Squibb retaliated as, “both companies used the threat of reduced foreign investment in the country, and one of them also expressed concerns that Malaysia’s actions would create a precedent internationally” (Ling, 2006, p.14). Considering Malaysia’s actions, pharmaceutical companies feared that other countries would follow suit in exercising CL. Therefore, they directly threatened Malaysia, and more indirectly, other countries hoping to use CL, with possible reductions in foreign direct investment. Despite these threats, by 5 October, 2004, Indonesia issued CL in light of, “the urgent need of community in the effort to control HIV/AIDS epidemic” (Ling, 2006, p.20). Although Malaysia was the first country to use CL after Doha, it did not receive the amount of worldwide attention and publicity manifested in the Thai CL campaign. Oddly enough, Malaysia’s CL campaign did not need global networking and social movements because the pharmaceutical companies did not employ repercussion tactics that warranted such movements. In other words, the CL web of transnational networking that we developed in Thailand was a reflexive and pragmatic response to the escalated level of US threats and retaliation.

Developing countries like Thailand have taken proactive steps to achieve transnational cooperation. In an International Conference on Compulsory Licensing in Bangkok on 23 November, 2007, participating parties established clearly defined objectives: “to share experiences and lessons learned on using compulsory licensing and other means under TRIPs flexibilities, with the purpose of enhancing the use of these means to ensure access to medicines for all, to build cooperation and network in the international level among those who are interested in exercising TRIPs flexibilities, to

foster discussion on border uses of compulsory licensing beyond AIDS drugs to other essential medicines for both communicable and non communicable diseases, and to identify feasible alternative policies, which will effectively counter the obstacles and difficulties derived from the current intellectual property system, in order that developing countries can ensure access to medicines for the poor” (Health Consumer Protection Program, 2007). The main objective of the conference was to facilitate any further use of CL in order to increase access to medicines for developing countries. In this conference, local organizations received transborder support from international organizations such as the World Health Organization (WHO), Medecins Sans Frontieres (MSF), Oxfam, and Third World Network (TWN). Although the CL issue received support from many large international organizations, it remains that transnational networking between local organizations is necessary to make a real difference in global politics.

In keeping with this idea of continued transnational networking, Health Consumer Protection Programme(HCP), Chulalongkorn University, Pharmacy Network for Health Promotion(PNHP), Social Pharmacy Research Unit(SPR)-Chulalongkorn University, Faculty of Pharmaceutical Sciences- Chulalongkorn University, Health and Development Foundation(H &DF), AIDS ACCESS Foundation, Foundation for Consumers Protection, Drug Study Group (DSG), and Thai Network of People Living with HIV/AIDS (TNP+) organized a forum to develop “Strategies for ACCESS to Medicine”. This collaborative effort resulted in the formation of Strategies for Access to Medicine which aims to provide equal access to medicine for the public, help people maintain good health, and increase capacity of the health care system (HCP, CU, PNHP, SPR, H& DF, Faculty of Pharmaceutical Sciences-CU, AIDS ACCESS Foundation, FFC, DSG, TNP+, 2007). This network developed 7 strategies that include “development of networking for access to health care, coalition of patients of the same diseases, bringing medicine prices down to match the cost of living of the people in the country, capacity building of domestic drug manufactures, patent-related strategy, promotion of rational drug use, and new drug

research and development” (HCP, CU, PNHP, SPR, H& DF, Faculty of Pharmaceutical Sciences-CU,AIDS ACCESS Foundation, FFC, DSG, TNP+, 2007).

This action was formulated almost a year after Thailand issued CL. Given the persistent problem of accessibility to medicine, there is a need to sustain and boost the networking to address access to pharmaceuticals. The “development of networking for access to health care” strategy encourages CL as part of its approach. However, CL is only a part of the means to achieve greater access to medicine because on a domestic level, Thailand needs to develop internal production capacity, research and develop new medicines, and formulate health or patent policies to increase access to pharmaceuticals.

In summary, the transnational social movement is a continuing mechanism to increase access to medicine. It is a sustainable model given its effectiveness in legitimizing CL with information provided by heterogeneous networks. Therefore, future CL issuance by other countries can be facilitated by the networking of transnational social movements.

4.3 Continuation of CL campaign and transnational social movements

The AIDS ACCESS Foundation is a Thai NGO that fights for greater access to AIDS treatment, tries to limit the spread of HIV/AIDS, empowers people living with the disease, and offers support social services that address the needs of people with HIV/AIDS and their families. This organization was at the forefront of the CL campaign and was a key organization in the transnational social movement. The researcher participated in an Access Regional Working Group held on 25-26 February 2008, and an Information Education and Communication(IEC) Conference held from 20-23 May 2008, that comprised of international members from Nepal, China, Cambodia, Myanmar, Laos, Vietnam, and Thailand. The themes of this Working Group include access to treatment, intellectual property rights, and networking.

This Working Group experience can be applied to some theories on social movements. In the access to treatment case, the main “conflictual relations” pertains to big pharmaceutical companies and their monopoly on AIDS treatment drugs. This monopoly allows them to raise the price of drugs to a level unaffordable to most middle and low-income countries. Tragically, this situation defeats the purpose of life-prolonging medicines when many people do not have access to them. The agenda of this Working Group seek to understand and hope to influence the national policies to make use of compulsory licensing. Thailand’s expertise on the subject enables it to lead regional countries in the possibility of CL issuance.

The experiences of the ACCESS Regional Working Group contradict Porta and Diani’s characterization of informal networks of collective action. Porta and Diani suggest that “actors instrumentally share resources in order to achieve specific goals, yet do not develop any particular sense of belonging and of a common future during the process. Once a specific battle has been fought, there need not be any longer-term legacy in terms of identity and solidarity, nor attempts to connect the specific campaign in a broader framework” (Porta & Diani, 2006, p.24). Resources and knowledge sharing to fulfill an objective are important motivations behind the working group, but there are other benefits to networking, such as: the formation of a collective identity; knowledge sharing (best practices, lessons); power through partnerships for advocacy; capacity building; and networks of staff with different skills for different roles. Moreover, the networks provide a sense of collectiveness and interconnectedness that continues to connect participants after a mission is completed. In Thailand, the “battle has been fought” already, but long-term networks have developed to share knowledge, in order to improve overall access to treatment in regional countries. This common agenda creates a sense of solidarity among various actors working towards the same goal. A “longer-term legacy in terms of identity and solidarity” is required to achieve full access to treatment.

This sense of belonging enables participants to establish a collective identity that effectively distinguishes social movements from informal networks of collective action.

Conceptually, the theories of McIntyre-Mills accurately represent the experience from the Working Group and IEC conference. McIntyre-Mills argues that:

We need to use social movements to publicize and promote transcultural thinking tools so that people can create their own webs of meaning that can help link private troubles and public issues; the personal domain and public domain, the local neighborhood with not merely the state public domain, but with international interest groups that span space and time. Social justice concerns are not limited to certain groups if they can utilize the potentials of transnational networks (McIntyre-Mills, 2000, p.145).

According to this theory, groups from regional countries must “create their own webs of meaning” that can connect their personal problems with external conflicts to arrive at an international, collective, and thus, more effective responses. On the practical level, the working groups have different access to treatment problems, but all those problems can be alleviated by transnational networks that can negotiate and lower the price of antiretroviral drugs. As a result, this lowered price means that governments can provide greater access to treatment for people living with HIV/AIDS as exemplified by the Thai CL case.

In the Working Group, the members collaborated through Paradigm Dialogue (PD) or discussion that allows participants to share their knowledge and information and self reflect on the dialogues. This workshop can create a “web of meaning through PD” by sharing the knowledge of different actors (McIntyre-Mills, 2000, p.71). Essentially, “PD is about the mechanics and ethics of having a democratic conversation that enables all participants to express their points of view and be listened to with respect” (McIntyre-Mills, 2000, p.7). This dialogue leads to greater understanding of oneself and of the issues others face through a communicative process. With its application to networking, paradigm dialogue is a pivotal tool to increase mutual understanding and achieve success.

Specifically, it allows each member country to understand the obstacles, problems, and needs of other countries. Paradigm Dialogue is an effective device to help the Working Group achieve mutual understanding via open communication.

Despite the differences among the various members of the Working Group, all maintained one clear goal, which was to increase greater access to treatment for people living with HIV/AIDS. Key findings exhibited in a previous networking group meetings include that, “participants expressed that as these issues deal with international policy it is seen as somewhat difficult at the country level to work towards change, AIDS ACCESS Foundation expressed that this was due to it being their first experience of training on these issues and therefore it was difficult to translate a lived experience into a curriculum, and participants recognized that government members should have been present at the training in order to advocate for policy changes” (Billings, 28 April, 2008). The goal of this workshop was to: focus on achievable access to medicines; raise understanding about these issues; and improve developing countries’ perspectives on the flexibilities of TRIPS. The outcome reported was that “ participants achieved a greater understanding of the issues, which were largely new to them, participants expressed that the international forum gave insight into a broader perspective and participants learnt from examples in the US and Brazil, participants expressed that confusion still exists surrounding these issues, most participants passed on the lesson learned when they returned to their country, participants expressed positivity towards the spirit involved in fighting for better access and learning how to encourage people to stand up towards these issues” (Billings, 28 April, 2008).

Along with several other topics, the Working Group workshop focused on networking as a tool to achieve its goals. In order to work together, the needs of each country or group must be identified. These needs includes background information, problem analysis, common goals, priorities (local and national), to get agreement, how to work together (formal/ informal), process and procedures, obstacles to overcome,

solutions to obstacles and the bigger problems, and find potential partners. Next, there are invaluable benefits in networking. As part of the group task, we developed a vision statement for the regional network. After deliberation and collaboration with each group, the group arrived at “networking to improve access to treatment, care and support, hence, to improve people’s quality of life” (Billings, 28 April, 2008). Although these goals and objectives may be general, each group must participate in achieving them through networking.

As mentioned previously, “participants expressed that as these issues deal with international policy is seen as somewhat difficult at the country level to work towards change.” Every country has a thorough understanding of the situation in their own country, but they have different capacities and capabilities for solving problems. By working together, however, they can benefit from the collective efforts to overcome any issues. In addition, each member stands to gain from their dialogue, participation, networking, shared resources, and expertise. Ultimately, this networking increases the bargaining power and strengthened the collective voice against pharmaceutical companies. Moreover, collective empowerment can be applied to solve other access to treatment obstacles on every level. Eventually, the efforts of such shared networking could well lead to: better living and working conditions (regional), knowledge, health, skills to have a good life, improved quality of life (Policy advocacy, reducing obstacles), improving access to treatment, care and support everyday (practical and participatory), holistic development, strengthen IDU network, and transform communities (Billings, 28 April, 2008).

Participation in the network provides an understanding on why many people got involved in the CL movement. As a general matter, networking is an ongoing process that works for proactive changes in the future as well as the present. The Working Group embodies the continual efforts to provide greater access to medicine that manifested before, during, and after CL issuance in Thailand. As discussed in the literature review,

Aner observed that “there are limited possibilities” in the issuance of CL, although there are millions of people who lack access to essential medicine (Aner, 2008). From the Working Group, however, it is clear that Nepal, Cambodia, Myanmar, Vietnam, China, and Laos could all benefit from the Thai CL, transnational networking phenomenon, and support of the AIDS ACCESS Foundation.

4.4 Access to treatment in the United States

Given that the United States is the richest country in the world, its citizens’ access to HIV/AIDS treatment should also reflect its lofty status. However, domestic access to antiretroviral treatment is only available to those with good health insurance, and many people still lack access to treatment. Averting AIDS & HIV (AVERT) states that, “for those without insurance, or who are underinsured for their condition, there are a number of options available to help them fund treatment, including Medicaid, Medicare, and funding provided by the Ryan White Comprehensive AIDS Resource Emergency (CARE) act” (AVERT, 2008). On the other hand, funding is insufficient to support the growing number of HIV positive people which further underscores the fact that expensive drugs are universal problems. For example, “the US AIDS Drug Assistance Programme (ADAP), which aims to provide treatment for the very poorest through Ryan White CARE act funding, is frequently oversubscribed and in some states, there have been considerable waiting lists for access to drugs in the past/Those with advanced HIV infection who need newer, more expensive AIDS drugs to keep their condition under control may also face problems with obtaining funding from their insurance company” (AVERT, 2008). Funding for antiretroviral treatment remains a problem if one lacks health insurance and if one cannot get sufficient insurance coverage.

By analyzing the situation in the United States, we are able to shed light on the American mindset regarding CL, pharmaceuticals, and access to medicine. Although the United States is the world’s wealthiest nation, it has to spend an enormous amount of its

budget for prescription drugs. In addition, United States is the only major industrialized nation to not provide universal health care coverage. Organization for Economic Cooperation and Development (OECD) revealed that United States spends more on pharmaceuticals than any other country in the world (OECD, 2007). Due to US law, Medicare, one of the largest healthcare providers, cannot legally negotiate for a lower price because the United States government is a protector of pharmaceuticals. Lubinski states that “here is an explicit statutory prohibition against the federal government negotiating drug prices on behalf of 40 million Medicare beneficiaries” (Lubinski, 6 April, 2004). According to Lubinski, Medicaid spent US \$617 million dollars on antiretroviral drugs in 1999, but it paid 33% more than other programs for the same drugs (Lubinski, 6 April, 2004). The overall drug market for antiretroviral drug is worth US \$4 billion per year (Cross, 6 April, 2004). This is unfortunate because lower prices can increase general access or provide a more comprehensive access to treatment for AIDS patients. In addition, US citizen must pay more to get quality access to treatment for HIV/AIDS while at the same time, the government must also pay more. As a result, the overall situation worsens access to treatment for AIDS and other healthcare coverage because the budget is spent on expensive drugs, rather than allocated to providing other healthcare services. In response to the AIDS problem, the United States government committed \$23.3 billion in federal funding which consist of “50% for care and treatment, 12% for research, 10% for cash and housing assistance, 4% for prevention, and 25 % for combating the international epidemic” (Henry Kaiser Family Foundation, 2008). From this information, it is obvious that the United States has spent an extraordinary amount of money to combat the crisis, yet only 55% of infected people have comprehensive access to ART (HKFF, 2008). HIV/AIDS treatment is highly expensive and often the treatment exceeds coverage limits. When this occurs, many people have to spend money out of their own pocket. It is obvious that the price of pharmaceuticals is a universal problem, and not just a problem for middle and low income countries. For this reason, Aids Activists and promoters of health from the United States deem Thailand’s CL as a legitimate way to provide greater access to medicine.

In a report by Intellectual Property Watch, US Presidential Candidates state their positions on intellectual property. If elected, their positions will dictate future foreign policies concerning trade and CL. The key players include John McCain, Barack Obama, and Hilary Clinton. First, Clinton published a paper laying out a “plan to eliminate loopholes in federal law that allow drug companies to use the courts to prevent generic competitors from coming to market, increase funding for the Office of Generic Drugs at FDA to eliminate the backlog of generic drug applications, (...) give the FDA the authority to approve safe and effective biogeneric drugs--- ending the monopoly currently enjoyed by large biopharmaceutical companies (Mara, 28 Jan, 2008). In light of this essay, Clinton criticizes the monopoly of big pharmaceutical companies that set high prices for drugs. However, these same monopolies continue to profit off those who cannot afford high prices in most areas of the world. Secondly, McCain supports generic medicine as he would “foster the development of routes for safe, cheaper generic versions of drugs and biologic pharmaceuticals (and) develop safety protocols that permit re-importation to keep competition vigorous” (Mara, 28 Jan, 2008). Similarly, Obama wants to increase access to inexpensive drugs by prohibiting “big name drug companies from keeping generics out of markets and allow Americans to buy pharmaceuticals abroad if the prices are cheaper and the drugs safe” (Mara, 28 Jan, 2008). The positions of potential candidates emphasize the need for access to cheaper medicines in the richest country in the world. With the ongoing battle between big pharmaceutical companies and generic usage, these key candidates will play a vital role in the future to increase access to cheaper medicine for the US and for developing countries. It would be paradoxical if these presidential candidates support generics in the US while reprimanding developing and underdeveloped countries for using CL.

CHAPTER V

CONCLUSION

5.1 Introduction

Transnational social movements have seen numerous successes in their endeavors to address the problem presented by the lack of access to essential medicine. The transnational social movement is a vital and necessary mechanism that puts the lack of access to medicine problem into a global context. The movement brought pharmaceutical companies' 'profit over people' principle and the legality of CL into the limelight as global citizens realized the importance of this issue. From Tarrow's perspective, "after gaining national attention and state response, they reached peaks of conflicts that were marked by the presence of movement organizers who tried to diffuse the insurgencies to a broader public. As participation was channeled into organizations, the movements or part of them, took a more political logic" (Porta & Diani, 2006, p.189). The transnational social movement successfully uses Thailand's CL issuance, and the resulting opposition to such action, as an opportunity to challenge the pre-existing norms. Therefore, the transnational social movement has proven to be invaluable and essential in the Thai CL campaign and, by extension, in the fight to improve global access to medicine.

In summary, CL is only a part of the means to achieve greater access to medicine. Since it is not the only possible answer, there needs to be a sustainable way to increase access to medicine (Jon Ungpakorn, personal interview, 23 July, 2008; Kannikar Kijtiwatchakul, personal interview, 29 July, 2008). The Bill Gates Foundation is one organization that offers an alternative path to help the poor without restrictions by transnational corporations. Leonard states that, "and maybe, just maybe, if the Gates Foundation is successful in making a dent in the horrific conditions that keep billions of

people locked in abject suffering, the example so set will provide a countervailing force to corporate influence on organizations like the WHO/By showing what's possible, it could reinvigorate government, instead of making it irrelevant (Leonard, 27 June, 2006). He laments the faint possibility of governments and international organizations being freed of influences from transnational corporations, despite that this freedom would mean that governing bodies or international organizations could address world atrocities, like the lack of access to medicine, without roadblocks at every step. Nevertheless, social movements offer some hope as they can lift those roadblocks to offer alternatives to the existing order. Furthermore, the transnational social movements aim to legitimize CL, but not as the only possible course to greater access to treatment. In other words, CL is one path rather than the only path.

5.2 Confirmation of the validity of conceptual framework

Transnational social movements often employ the Transnational “Triangle that Moves Mountains,” which involve: formation of a knowledge base; social mobilization; and global engagement. The research shows an application of such strategic framework to the networking of the transnational social movements, thereby verifying the validity of the “Triangle that Moves Mountain” framework.

5.3 Nature of transnational social movements

Transnational social movements are key mechanisms that transfer the fight for CL onto a global level. In Thailand, while pharmaceutical companies and their lobbyists unilaterally condemned CL, the social movement responded on a multilateral level facilitated by heterogeneous actors and organizations.

On the theoretical level, research findings indicate that this movement displays three major characteristics of a social movement: targeting pharmaceutical corporations,

comprising of dense informal networks, and fostering collective identities. The most important feature of the social movement is its connection to the boarder Neo-liberal Master Frame. In the Thai CL case, the transnational social movements challenge neo-liberalism, US hegemony, and pharmaceutical corporations' 'profits over people' priorities. As reaffirmed by Horachaikul, CL and the transnational social movements "definitely" challenge US hegemony, 100% (Surat Horachaikul, personal interview, 7 August, 2008).

5.4 Successes and failures

Transnational social movements defied the pharmaceutical market order while legitimizing CL on the global arena. Transnational networks, particularly US networks, provided instrumental support by supplying information, knowledge, expertise, strategies. In addition, other parties, such as student movements, offered help in the form of protest and by lobbying their universities in get involved in the cause. Many other taskforces also addressed the pharmaceutical corporations' "misinformation" and highly resourceful lobbying campaigns. Therefore, the networking of transnational social movements verifies the instrumental value of information to counter "misinformation" from the pharmaceutical companies. These movements demonstrate that dissemination of facts successfully counters exploitations of propaganda. Therefore, the networks in the transnational social movements provided this vital information. The networking of transnational social movements legitimized CL with information, facts, reasons, and global support.

On the other hand, however, transnational social movements have failed to open the door to more CL issuances in the world. Although Brazil followed suit shortly after Thailand made inroads into CL, other countries remained reluctant to issue CL as they feared economic retributions by developed countries. Current circumstances only confirm the fact that the transnational social movement must continue to fight pharmaceutical corporations' principles protected by the existing neo-liberal market order. Access to medicine is a global issue that necessitates collective action.

5.5 Sustainable model

The analysis of research findings indicates that if other CL transnational social movements attract heterogeneous actors ready to respond with instrumental informational support and other diverse strategies, then their respective efforts achieve the level of global legitimacy that we have seen in the Thai CL case. Given the effectiveness of the transnational social movements, it is clear that can be a sustainable model for future developments of CL social movements.

5.6 Implications for further research

There are many areas in which we could advance the research on the networking of transnational social movements. Firstly, transnational social movements are ongoing battles, so they must continue to play a role in sustaining legitimacy of Thai CL, promoting greater CL possibilities, and challenging pharmaceutical ideologies protected by the neo-liberal market. In order to truly test the success of the networking of transnational social movements, there is a need for further study on their effectiveness in a country without a strong civil society as seen in Thailand. For example, as Columbia begins initiatives to use CL, the situation in that country presents ample opportunities to conduct further research. Secondly, this research can be expanded by directly linking the networking of transnational social movements to the framework of an Informational Society, in which information has instrumental value. Information gathered by heterogeneous networks prove crucial in legitimizing Thai CL, therefore, information is a necessary component in challenging neo-liberal globalization. As seen in this study, further studies can provide insights into the value of information and its importance as a tool. Lastly, further research can answer whether or not and to what extent the distribution of information and global awareness of such information, may justify and generate effective mechanisms to address different social, political, or economic problems.

REFERENCES

- Abbot, Frederick M., and Van Puymbroeck, Rudolf V. (2005). *Compulsory licensing for public health: A guide and model documents for implementation of the Doha Declaration*. Washington, D.C: World Bank.
- Adelman, Ken. (2007). *Troubles from Thailand*.
Washington Times, 26 April 2007. Retrieved 20 June from
<http://washtimes.com/news/2007/apr/26/20070426-082753-6067r/>
- Aldis, William. (2006, 9 Jan). *It could be a matter of life or death*.
Bangkok Post: 9 January 2006.
Retrieved on 6 July 2008 from http://www.bilaterals.org/article.php3?id_article=5072
- Aner, Emilie. (2008). *The WTO decision on compulsory licensing*.
Stockholm: National Board of Trip.
- Averting HIV and AIDS. (2008). West Sussex. AVERT.org. Retrieve 2 May 2008 from
<http://www.avert.org/america.htm>
- Baker, B. (2007, 1 April). *Pharma's seven deadly lies about Thai compulsory licenses*. Available from: <http://www.cptech.org/blogs/ipdisputesinmedicine/2007/02/pharmas-seven-deadly-lies-about-thai.html>
- Billings, Jane. (2008) Summary and feedback on 2008 activities.
Bangkok: Aids Access Foundation. 28 April, 2008
- Blanpain, Roger., Flodgre, Boel., and Ahmad, Manzoor.,...et al. (2006). *Corporate and Employment Perspectives in a Global Business Environment*. Alphen Ann Den Rijn: Kluwer Law International.
- Castells, Manuel. (2004). *Network society: A cross-cultural perspective*.
Cheltenham: Edward Elgar Publishing Limited.
- Castells, Manuel. (1996). *The rise of the network society*.
Cambridge: Blackwell Publishers Inc.
- Chotesungnoen, Kamolrat. (2008). *Politics and bureaucracy behind Thai Government's issuance of compulsory licensing (CL)*. Bangkok: Chulalongkorn University
- Conte, Lisa. (2007). *Big pharma--innovation in business models to address global health needs*.
Huffington Post. March 7, 2007. Retrieved on 28 July 2008 from
http://www.huffingtonpost.com/lisa-conte/big-pharmainnovation-in_b_44486.html
- Conte, Lisa. (2007). *Pharma industry, be happy--somebody cares*.
Huffington Post. March 7, 2007. Retrieved on 28 July, 2008 from
http://www.huffingtonpost.com/lisa-conte/pharma-industry-be-happy_b_42827.html

- Cook, Daniel. (2007). *India's cheap drugs under patent threat*. BBC News. Retrieved on 16 Aug 2008 from http://news.bbc.co.uk/2/hi/south_asia/6358721.stm
- Cotropia, Christopher A. (2006). *Compulsory licensing under TRIPS and the supreme court of the United States*. Intellectual Property Institute. Retrieved 4 March, 2008 from <http://www.cotropia.com/bio/Chapter26--Cotropia--PatentLawHandbook.pdf>
- Cross, Lanny. (2004, 6 April). *Defining the impacts of AIDS drug pricing on the public sector*. Retrieved 1 June, 2008 from <http://www.thebodypro.com/content/policy/art12273.html>
- Davis, Gerald...et al. (2005). *Social movements and organization theory*. Cambridge: Cambridge University Press.
- Dommen, Caroline. (2002). *Raising human rights concerns in the World Trade Organization actors, processes and possible strategies*. Johns Hopkins University Press: Human Rights Quarterly - Volume 24, Number 1, February 2002, pp. 1-50.
- Elvira Del Pozo, Avino. (2006). *Social movements in a globalized world: Globalization and after*. First Edition: Sage, 2006
- Finston, Susan. (2008). *License to steal*. Health and Medicine: The American. Retrieved on 28 July, 2008 from <http://www.american.com/archive/2008/july-07-08/license-to-steal>
- Ford, Nathan. (2004). *The role of civil society in protecting public health over commercial interests: Lessons from Thailand*. Bangkok: Medecins Sans Frontieres. 14 February, 2004 the Lancet (560-563).
- Fuller, Thomas. (2007). *Thailand takes on drug industry, and may be winning*. International Herald Tribune-Asia Pacific. Retrieved on 26 July, 2008 from <http://www.iht.com/articles/2007/04/11/news/pharma.php?page=2>
- Gates, Bill. (2005). Prince Mahidol Award Conference 2007. Bangkok: Prince Mahidol Award Foundation.
- Giovanetti, Tom. (2007). *Thailand: Regressing on innovation and betraying their king's legacy*. Texas: Health Care and Intellectual Property Trade.
- Glasius, Marlies., Kaldor, Mary., Anheier., and Holland, Fiona. (2006). *Global civil society 2005/2006* London: Sage Publications. 1st Edition
- Health Consumer Protection Programme. (2007). *Access to medicines for all: Civil society's strategies*.
- Henry J. Kaiser Family Foundation. (2008). *The HIV/AIDS epidemic in the United States*.

- Hoen, Ellen't. (2008). *Drugs for developing countries*. International Herald Tribune. Retrieved on 28 July 2008 from <http://www.iht.com/articles/2008/06/03/opinion/edlet.php>
- International Consultation on HIV/AIDS and Human Rights. (2002) *HIV/AIDS and human rights; international guidelines*. Geneva: Joint United Nations Programme on HIV/AIDS.
- Kessomboon, Nusaraporn., Laongbua, Chotiros., and Tantivess, Sripen. (2008). Introducing government use of patents on essential medicines in Thailand, 2006-7. Nonthaburi: International Health Policy Program.
- Kijtiwatchakul, Kannikar. (2008). *The right to life*. Bangkok: Medecins Sans Frontieres-Belgium.
- Khanthong, Thanong. (2007, 11 May). *Adelman spin the latest attack in the war from outside*. The Nation. Retrieved on 20 June 2008 from http://nationmultimedia.com/2007/05/11/opinion/opinion_30033921.php
- Ling, Chee Yoke. (2006). *Malaysia's Experience in Increasing Access to Antiretroviral Drugs: Exercising the Government Use Option*. Penang: Jutaprint
- Lokuge, Buddhima. (2007). *Thailand's compulsory licenses on drugs: Good step for public health or bad precedent for intellectual property?* Medecins Sans Frontieres: USA Inc.
- Leonard, Andrew. (2006, 27 June). *Bill Gates vs. the WHO*. How the World Works. Retrieved 6 July 2008 from http://www.salon.com/tech/htww/2006/06/27/gates_buffett/index.html
- Love, James. (2001). *Compulsory licensing: Models for state practice in developing countries, access to medicine and compliance with the WTO Trips accord*. Washington: Consumer Project on Technology. Retrieved March 8, 2008 from <http://www.cptech.org/ip/health/cl/recommendedstatepractice.html>
- Love James (2006). Letter to ambassador Susan C. Schwab. Washington: Consumer Project on Technology. Retrieved on 23 July 2008 from http://www.cptech.org/ip/health/c/thailand/ustr12dec2006_thailand.pdf
- Love, James. (2001). *Overview of the benefits of the Doha Agreement on TRIPS and public health*. Washington: Consumer Project on Technology. Retrieved March 4, 2008 from <http://www.cptech.org/ip/wto/doha/overview.html>
- Lubinski, Christine. (2004, 6 April). *Examining the pharmacoeconomic of US AIDS drug access* The BODY PRO. Retrieved 1 June 2008 from <http://www.thebodypro.com/content/policy/art12271.html>

- Mara, Kaitlin. (2008, 28 Jan). *US presidential candidates reveal positions on some IP issues*. Intellectual Property Watch.
- Medical News Today. (2007). *WHO cautions Thailand against issuing compulsory license for Abbott's antiretroviral Kaletra*. MediLexicon International Ltd (2008) Retrieved on 31 July, 2008 from <http://www.medicalnewstoday.com/articles/62396.php>
- McIntyre-Mills, Janet J. (2000). *Global citizenship and social movements*. Amsterdam: Overseas Publisher Association.
- Nash, June. (2005). *Social movements*. Malden: Blackwell Publishing Ltd.
- OECD Health Data. (2007). *How does the United States compare*. Organization for Economic Co-operation and Development. Retrieved on 1 June 2008.
- Pipes, Sally. (2008, 24 Mar). *Thailand's misuse of compulsory licensing allowed corrupt officials to steal millions*. McClatchy-Tribune News Service.
- Porta, Donatella Dell., & Diani, Mario. (2006). *Social movements: An introduction*. Oxford: Blackwell Publishing Ltd.
- Raghavan, Chakravarthi. (2001). *Differential pricing for drugs to help people or corporations*. Third World Network. SUNS. Retrieved Feb 16, 2008 from <http://www.twinside.org.sg/title/pricing.htm>
- Ronit, Karsten. (2007) *Global public policy: Business and the countervailing powers of civil society*. New York: Routledge.
- Rooy, Alison Van. (2004). *The global legitimacy game: Civil society, globalization, and protest*. New York: Palgrave MacMillan.
- Sakboon, Mukdawan. (2007). *The impact of TRIPs on Thailand's HIV/AIDS drug policies*. Bangkok: Office of Human Rights Studies and Social Development, Mahidol University.
- Schuettler, Darren. (2008, 31 Jan). *Thai health minister defends drug patent*. IP Health Interview. <http://www.reuters.com/articles.latestCrisis.idUSBKK304388>
- Shiva, Vandana. (2001). *The way forward in protect or plunder? Understanding intellectual property rights*, First Edition. Penguin.
- Stiglitz, Joseph E. (2005). *Intellectual-property rights and wrongs*. Daily Times Pakistan. 17 August, 2005. http://www.dailytimes.com.pk/default.asp?page=story_16-8-2005-pg5_12

- Tamara, Richards. (2008, 20 April). Abbot Laboratories sues ACT Up- Paris. World AIDS Campaign. Retrieved on 16 Aug, 2008 from <http://www.worldaidscampaign.org/en/In-country-campaigns/Asia/Abbott-Laboratories-Sues-Act-Up-Paris>
- Tratoud, Roger. (2006). *Wealth versus health-the Thai frontier*. Open Democracy 17 July 2005.
- Treerutkuarkul, Apiradee. (2008). *Cheap heart drug arrives from India*. Bangkok Post. (19 June 2008) IP- Heath Thailand
- University Coalition for Global Health. (2008). *Access to medicines and the role of universities*. March 18, 2008.
- Weissman, Robert. (2008, 4 April). *Thailand's ill see benefits from compulsory licensing*. McClatchy/Tribune News Service. 4 April, 2008.
- Weissman, Robert .(2006). *Essential action*. Retrieved on 17 June 2008 from <http://www.essentialaction.org/access/index.php?/categories/2-About-Us>
- Wetzler, Jenryn. (2006). *Timeline for Thailand's compulsory licenses*. Program on Information Justice and Intellectual Property: Washington College of Law.
- Williams, Dylan C. (2006). *World health: A lethal dose of US politics*. Asia Times: 17 June 2006. Retrieved on 6 July 2008 from http://www.atimes.com/atimes/Southeast_Asia/HF17Ae01.html
- Wisartsakul, Weeraboon. (2004). *Civil society movement: To revoke the Thai patent on ddl*. Bangkok: Medicins Sans Frontieres-Belgium.
- Wright, Joe. (2007). *Abbott protest follow-up: In a word, yes.* Hemodynamic: Retrieved on 23 July, 2008 from <http://hemodynamics.blogspot.com/2007/05/abbott-protest-follow-up-in-word-yes.html>
- www.clintonfoundation.org. (2008). Clinton HIV/AIDS Initiatives. New York: Clinton Foundation.
- www.democracynow.org . (2007) AIDS activists call for global boycott of Abbot for withholding drug sales in Thailand. Retrieved on 16 July 2008 from http://www.democracynow.org/2007/4/26/aids_activists_call_for_global_boycott
- www.2Bangkok.com. (2007). *Time to accept USA for Innovation for what it is (was)*. Jelsoft Enterprises Ltd: The Rest Retrieved on 15 July 2008 from <http://www.2bangkok.com/07/news07apr.shtml#myth>



APPENDICES

ศูนย์วิทยทรัพยากร
จุฬาลงกรณ์มหาวิทยาลัย

**APPENDIX A****INTERVIEWS****NGOs**

- 1) Jon Ungpakorn (23 July, 2008)**
AIDS ACCESS Foundation Board Committee, Former Thai Senator
IP-Health Group Member
Recipient of 2005 Ramon Magsaysay Award for Governmental Service
- 2) Sangsiri Teemanka (22 July, 2008)**
AIDS ACCESS Foundation, Head of Advocacy Team
Member of CL Campaign, IP-Health Group Member
- 3) Kannikar Kijtiwatchakul (29 July, 2008)**
Access to Essential Medicines Campaigner, Medecins Sans Frontieres-Belgium(MSF)
Author of The Right to Life, IP-Health Group Member

Academic

- 4) Surat Horachaikul (7 August, 2008)**
Assistant Professor in the Department of International Relations, Faculty of Political Science, Chulalongkorn University

ศูนย์วิทยทรัพยากร
จุฬาลงกรณ์มหาวิทยาลัย

APPENDIX B
SAMPLE INTERVIEW QUESTIONS

Characteristics of Networking and Social Movements

- 1.1 What are the characteristics of the transnational social movements both before and after Thai CL issuance? (Student movement, legal taskforces, human rights, anti-propaganda)
- 1.2 What are the reasons that compelled the heterogeneous actors to get involved?
- 1.3 In your opinion, did Abbott's decision to withhold drugs from Thailand strengthen the global networks?
- 1.4 What are the effects of pharmaceutical lobbyist's propaganda against Thailand?
- 1.5 Is there any direct collaboration between you (your organization) with other networks? (Please describe)
- 1.6 As you are a member of the IP-Health network, what are the goals and functions of this group email?
- 1.7 With regards to the networking of transnational actors with Thailand, what are the differences between support from American networks and other global networks?

- 1.8 In light of the accomplishments of the transnational social movements, did the transnational social movements give the Thai CL legitimacy against pharmaceutical corporations?

Theoretical framework of a social movement

- 2.1 Do you feel any special connection to this transnational social movement?
- 2.2 In your opinion, did the transnational social movements foster collective identity?
- 2.3 Do you believe the transnational social movements were able to challenge US hegemony?

Success of transnational social movements

- 3.1 Would you consider the networking of transnational social movements after Thailand's CL issuance in 2006 a success?
- 3.1.2 If yes, please describe some of the accomplishments of the social movements?
- 3.1.3 Please provide your definition of "success."
- 3.2 What did the social movements not achieve?

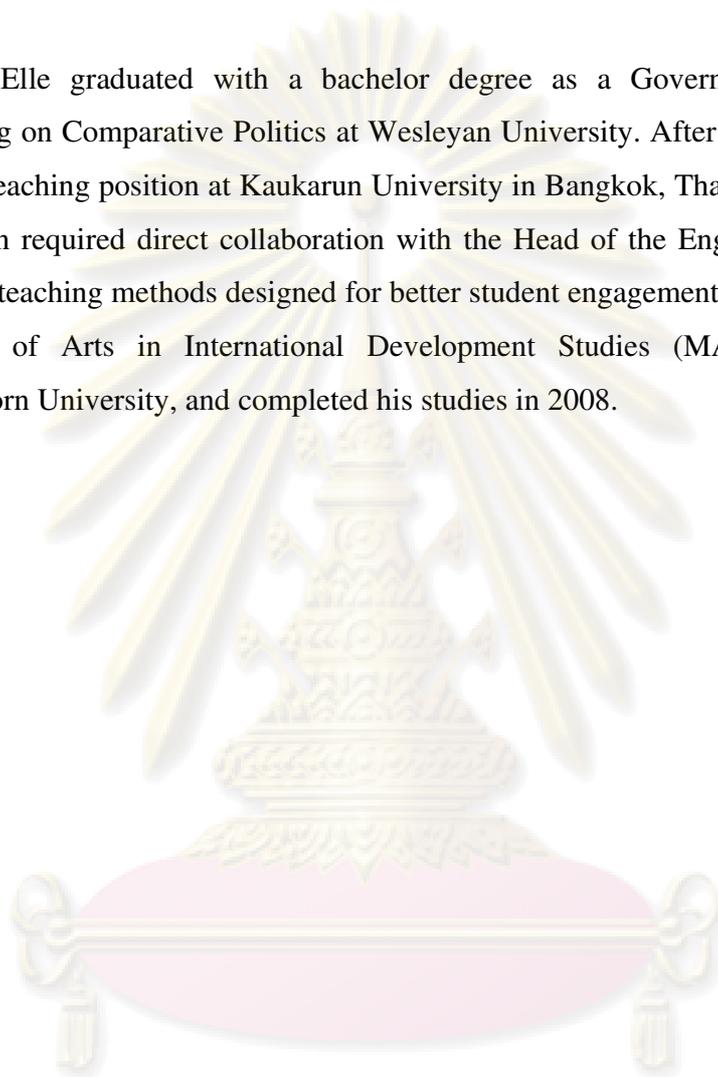
Sustainable model

- 4.1 The networking of transnational actors existed before Thai CL's issuance. Therefore, what has changed after Thailand issued CL in terms of the roles, dynamics, and characteristics this networking?
- 4.2 Do you think the networking of transnational social movements is a sustainable model for future CL cases?
- 4.3 Do you feel that the transnational social movements will continue to work on the CL issue?
- 4.3 How would future movements on CL differ? Would other countries use Thailand as a precedent?

ศูนย์วิทยทรัพยากร
จุฬาลงกรณ์มหาวิทยาลัย

BIOGRAPHY

Kal Elle graduated with a bachelor degree as a Government major while concentrating on Comparative Politics at Wesleyan University. After his studies, he held an English teaching position at Kaukarun University in Bangkok, Thailand for two years. This position required direct collaboration with the Head of the English Department to devise need teaching methods designed for better student engagement. In 2007, he started the Master of Arts in International Development Studies (MAIDS) program at Chulalongkorn University, and completed his studies in 2008.



ศูนย์วิทยทรัพยากร
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