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For Penelope, my companion in the field, and for Taylor.

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ABSTRACT

Law in Mae Sot, Law and Thailand is an ethnographic study of law in Mae Sot, Thailand, an industrializing town on the Thai-Burma borderlands. It approaches its object from the perspective of a legal aid clinic in the town, an organization that focused its efforts on the Burmese migrant communities who fuel the area's economic growth. Since a seminal case in 2003, in which 18 Burmese migrants were awarded 1.17 million baht ($1,625/person) in compensation for unpaid wages from Nut Knitting Factory in Mae Sot, thousands of Burmese workers have explored the possibility of legal remedies to address the systematic underpayment, overwork and exploitation they face. In a country not known for the progressivism of its courts, the appeal of the law as a promising site of redress for Burmese workers was striking. *Law in Mae Sot, Law and Thailand* reads the efflorescence of migrant legal claims as symptomatic of a broader suffusion of legal discourse into Mae Sot. It explores how law became a privileged site of social and political life, and how variously situated actors used and changed law to actualize some of its possibilities. The dissertation focuses on three nexuses – law and temporality, law and place, and law and its materialization(s) – in order to describe the ways in which law was and was not authoritative in Mae Sot.

The dissertation is built around an analysis of the ways in which legal actors managed the normativizing possibilities of law at different moments and sites of legal practice. It starts with the ethnographic observation that, in most contexts, lawyers and migrants, perhaps counter-intuitively given their choice of instrument, refrained from describing situations using legal categories -- even ones as seemingly simple as legal and illegal -- and from invoking legal standards and statute to address or solve conflict. They preferred instead to frame interaction through non-legal normative orders, from ones governing polite interaction to notions of "duty"

and desire. It was only in specific contexts that lawyers, legal aid workers, translators and other figures of law in Mae Sot evoked law as a normativizing discourse. The dissertation tracks what the suppression or invocation of categorical legal thinking implies for the possibilities for future oriented, transcendent projects -- capitalist transition, regionalization, and the creation of 'good' subjects -- to structure Mae Sot.

The productive tensions between, on the one hand, the formal, symbolic prominence of law in the town and the marginality of its logics is a thematic central to this dissertation. I theorize this tension as an entailment of what I call an 'anti-categorical' formation that pervaded the town. This concept describes a historically emergent assembly of projects and stances, which this dissertation describes, that come together in diverse instances to mediate the relationship between law, capital and effective action. The simultaneous importance of law, as one of the projects that met in interaction, and the avoidance, in the same interactions, of its normative categories is what led me to characterize such assemblies as "anti-categorical." The repetition of these moments -- the evident standardization of the techniques of management latent to their assembly -- is why I argue that the anti-categorical is a formation. It was both an emergent one-off, framed through inexorably unique conditions, *and* it was a constitutive pattern of practice. How best to theorize anti-categoricality and the ways in which it shaped Mae Sot? The dissertation is structured around five answers to this question, theorizing the connection of the anti-categorical to place, the history of cause lawyering in Thailand, translation, the materiality of legal forms, and the concept of "satisfaction."

Key words: Law, Borders, Thailand, Norms, Migrants, Legal Aid, Materiality

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Introduction

Mae Sot is a small town full of signs about the law. Along its two main roads, at major intersections and in front of government offices are billboards and banners announcing new work permit programs, warnings regarding upcoming worker registration deadlines, procedures to file for correct paperwork and other immigration and employment law updates. These signs joined the usual ads for hotels and restaurants, banners for the Tesco supermarket and land for sale, and glossy hoardings promoting Mae Sot's place in the Association of Southeast Asian Nations Economic Community (AEC) or depicting the future urban landscape of Mae Sot as a special economic zone organized on a grid, full of glass buildings and warehouses. Amidst the more typical tangle of foliage and electrical wires, these signs made Mae Sot's skyline distinctive. The prominence within this landscape of billboards about legal processes, at least those that pertain to foreign workers, also suggested that it was important that immigration and labor law be seen in particular ways -- as if it were a simple matter of procedure, as if it worked, and as if content-full. Yet, it was none of these, as my fieldwork soon established, and the tensions between, on the one hand, the formal, symbolic prominence of law and the marginality of its logics became a thematic central to my thinking.

This dissertation is an ethnographic study of law in Mae Sot, Thailand, an industrializing town on the Thai-Burma[1] borderlands. It approaches its object from the perspective of a legal aid clinic[2] in the town, a clinic that focused its efforts on the Burmese[3] migrant worker communities

[1] Burma was renamed Myanmar in 1989. I refer to the country as Burma in keeping with my interlocutors' usage.

[2] Although I am aware that those familiar with Mae Sot or with the cause lawyering scene in Thailand may be able to identify it, I keep the clinic unnamed. I do so not because anyone from

who fuel the area's economic growth. Since a seminal legal case in 2003, in which 18 Burmese migrants were awarded 1.17 million baht (approximately 1,625 USD/person) in compensation for insufficient wages from Nut Knitting Factory in Mae Sot, thousands of Burmese workers have explored the possibility of legal remedy to address the systematic underpayment, overwork and exploitation they face[4]. At the clinic with which I did my fieldwork, cases concerned labor, immigration and occasionally criminal law related to a wide variety of circumstances, including withheld or inadequate wages, dangerous working conditions, excessive overtime, sparse rations, workplace accidents, abusive bosses, broker fraud, police abuse and arbitrary arrest. In view of the prevailing belief in Thailand that the legal system favors the wealthy and connected (see, for example, Engel and Jaruwan 2010, 131, 151), the appeal of the law as a promising mode of redress for Burmese workers was striking. This dissertation explores how law became a privileged site of social and political life in Mae Sot, and how variously situated actors used and changed law to actualize some of its possibilities. The dissertation focuses on three nexuses – law and place, law and its materialization(s), and law and temporality – in order to describe the ways in which law was and was not authoritative in Mae Sot.

I. Faces of Law in Thailand, Faces of Law and Mae Sot

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the organization requested that I not mention the clinic's name, but because of an ambiguity that arose from my consent procedures. When I asked clinic workers whether they wanted to be anonymous in any written analysis that was to come from my observation of their work, some said they did while others did not. As a result I have either anonymized or pseudonymized all of my interlocutors as well as the clinic.

[3] In this dissertation, 'Burmese' refers to people of various ethnicities who have migrated from neighboring Myanmar to Thailand; it can too easily be confused with the ethnic category, Burman.

[4] By 2006, over 1,500 foreign workers from Burma had already settled legal claims (MAP Foundation, 2006).

I introduce this dissertation during very bleak times for Thailand. My scholarly engagement with the country began in 2006, as the situation was darkening. It was evident even then that currents of military, political and legal power were pulling the country towards the authoritarian morass in which it now finds itself[5]. A military junta conducted a coup d'etat in 2006 and again a mere eight years later in 2014. Baker calls these two coups "twins" (2016). In both events, the military seized power from popular, elected prime ministers – strangely perhaps, for those unfamiliar with Thai politics, siblings from the same wealthy and influential Chiang Mai based Shinawatra family. The 2006 coup provided the grist to coalesce an anti-establishment movement, the Red Shirts, partisans of the deposed prime minister, Thaksin Shinawatra. Among their number were critics, some more strident than others, of the royal/judicial/military nexus that had so brazenly displayed their machinations during the coup and its aftermath. As the endurance of this movement became clear to proponents of the 2006 coup, it also became clear to them that their putsch had failed to fundamentally disrupt the electoral momentum that had resulted in the election of Thaksin Shinawatra (Pavin 2014b; Baker 2016), who, they regarded as corrupt and a threat because of his populism[6] and mass popularity (Connors and Hewison 2008; Morris 2004). The same coalition of army brass, royalists and corporate elites resolved that the coup in 2014 would properly reform Thailand. They hoped to make it impossible for similarly populist leadership and electoral outcomes to recur and oppose their interests.

These "reforms" embraced and amplified the most conservative trends of the past decade of Thai politics. They have included: the declaration for ten months of martial law; the replacement of martial law with a so-called interim constitution, whose notorious clause 44

[5] Please see Connors and Hewison 2008; Baker 2016; Pasuk and Baker 2008; Pavin 2014a; Pavin 2014b; and Mérieau 2016 for analyses of this period.
[6] For an excellent discussion of Thaksin's populism, please see Pasuk and Baker 2008.

awarded the junta leader unchecked power; the establishment of an appointed legislative assembly which elevated the coup leader to prime minister; the ratification of a constitution, a replacement to the interim document, that a Thai political scientist, hardly a radical, characterized as a sign of a "spectacularly chilling militarization[7]" (Thitinan Pongsudhirak qtd. in *Bangkok Post* 1 April 2016); the detentions of hundreds of activists and thinkers with the explicit aim of "adjusting" their thinking on the coup; harassment, threats and intimidation, including aggressive interrogations and searches, of unknown others, particularly in the Red Shirt strongholds of the North and Northeast; the rabid enforcement of laws which forbid people from speaking critically about the King, the Queen, the Crown Prince and the Regent; the reinterpretation of those same laws to include the junta leaders in the hallowed ranks of the uncriticizable; the vilification of reporters and academics, including Somsak Jeamteerasakul, one of the most important Thai historians of the age, and Pavin Chachavalpongpun, a prolific critic, both of whom are in exile; and the revival of a virulent and occasionally violent nationalism that marks dissent as un-Thai. The coup makers became a "coup regime" (Baker 2016), their powers increasingly coded into Thailand's foreseeable future.

Central to this tumult were debates about the legal system. The debates took shape around three poles: the role of the judiciary in politics, the prosecution of lèse-majesté[8] cases, and the capacity of law to equally provide just outcomes for everybody. Since 1997, when a new

[7] The full sentence from which this quote was excerpted is worth noting, "Indeed, the Thai state is going through a spectacularly chilling militarisation that is supposed to usher in reforms that the Thai people ostensibly need because they are not informed enough to come up with their own and their elected representatives are too corrupt to do it for them" (Thitinan Pongsudhirak, *Bangkok Post* 1 April 2016)

[8] Lèse-majesté refers to insulting a monarch, a crime in Thailand.

constitution[9] inaugurated their jurisdiction, the Administrative and Constitutional Courts of Thailand[10] increasingly played a counter-majoritarian role in Thai politics (Mérieau 2016; Ginsburg 2009; Connors and Hewison 2008; Hewison 2010). What this meant was the courts issued a series of decisions that contradicted the will of electoral majorities in the name of "good governance[11]." In 2006, the Constitutional Court annulled the national election's outcomes, leading to the vacuum in which the 2006 coup because 'necessary.' In 2007, it dissolved Thaksin's party, Thai Rak Thai, which had held power before the coup. In 2008, the Constitutional Court found Samak Sundaravej, the elected sitting prime minister guilty of a conflict of interest on the grounds that he had hosted a cooking show while in office. Samak was forced to resign. Later in 2008, the court dissolved Samak's party, People Power Party, which had been the successor to the disbanded Thai Rak Thai party. In 2010, the court deemed the Red Shirt protests unconstitutional, yet refrained from finding fault with the practices of the other side. The country's majority found itself and its electoral voice persecuted by the courts, particularly as they saw their outnumbered opponents face little to no judicial scrutiny. Numerous scholars argued that Thai politics had become "judicialized," meaning that politics increasingly were conducted in courtrooms (Mérieau 2016; Ginsburg 2009; Hewison 2010; see Chapter 2 of this dissertation for an alternative perspective on this process). Establishment academics in Thailand soon embraced the term. They argued that the judicialization of politics was a welcome prospect, a framework for the supposedly neutral judiciary to exert its "unbiased"

[9] This was Thailand's 10th constitution since its transition to a constitutional monarchy in 1932. In that same period, there had also been 4 temporary charters, in addition to the aforementioned constitutions.

[10] The Administrative Court of Thailand hears cases between individuals and state organs, and the Constitutional Court concerns itself with constitutional matters.

[11] Please see Mérieau (2016, 450) and Connors (2008) for a discussion of how good governance discourse framed politicians as corruptible and self-interested as opposed to the unbiased and moral King and the courts.

oversight over the apparently corrupt processes that marred electoral and legislative outcomes (for example, Thirayuth 2006).

At the same time that the courts were politicized as a tool of mass disenfranchisement, another face of law aggressively asserted itself into the Thai imaginary. Article 112 of Thailand's criminal code, as well as its Computer Crime Act[12], protects the senior members of the royal family from defamation and insult, or lèse-majesté. Anyone can accuse a person of lèse-majesté, and the police must investigate all accusations. The rise in accusations since the early 2000s has been precipitous (*Economist*, July 23, 2016, accessed April 25, 2017), an index both of the anxiety around the royal succession[13] and of the successful mobilization of law to instill an aura of fear and taboo around public dissent[14]. In 2012, as I was wrapping up my fieldwork, Chiranuch Premchaiporn, journalist and webmaster of the respected news website Prachathai.com, was sentenced to a commuted eight month sentence in jail and a 20,000 THB fine. She was found guilty of failing to delete in a timely manner insulting statements about the royals -- made by anonymous commenters -- from the comments section of the *Prachathai* website. In 2013, Somyot Prueksakasemsuk, an editor and activist, was sentenced to ten years in prison for publishing two fictional articles that were allegedly critical of the monarch/y. He authored neither piece. In 2015, a man was arrested for posting to Facebook pictures, apparently

[12] The Computer Crime Act (CCA) was passed in 2007. As it pertains to the prohibition of lèse-majesté, the CCA banned any online activity that could be interpreted as insulting to the monarchy.

[13] King Bhumibhol Adulyadej died, after a 70-year reign, on October 13, 2016. His son, Maha Vajiralongkorn, ascended to the throne on December 1, 2016. King Vajiralongkorn has a reputation for debauchery, volatility and unscrupulousness, and seems to enjoy little of the respect among Thais that his father had garnered. The early days of his rule were marked by palace purges and a successful demand to change the constitution to expand his powers.

[14] The prohibition has been writ in law since Thailand's first criminal code in 1908. It was first mobilized in a concerted manner after a 1976 counterrevolution that saw the most conservative elements of Thai society returned to power, but its enforcement truly accelerated in the period described here.

mocking, of the King's highly propagandized dog, Tongdaeng[15]. Charges were brought against people who were acting in a student production of a play, against a taxi driver for allegedly speaking unguardedly about the monarchy, and against numerous others. The junta issued warnings to the public that liking Facebook posts considered defamatory to the royal family would be grounds for a lèse-majesté investigation. Where Thailand's highest courts emerged as protectors of the coup makers and their supporters, Thailand's criminal code emerged as a shield for the monarchy, and for those professedly working in the monarchy's name. When the three came together -- as was the case when the Constitutional court ruled in 2012 that Article 112 was constitutional -- it solidified the impression that the legal system, royalist factions and the coup regime were in coalition, against the majority of Thais.

The impression linked up to an existing sense, among Thais, that law was a tool for those with status and money (Engel and Jaruwan 2010, 151). In 2010, a young woman hit a van, killing eight of its passengers. She was 17 years old, younger than the minimum age required to obtain a driver's license. The young woman's surname, *na Ayudhya*, suggested her aristocratic background. Given the timing of the incident, just as Thais were decrying the impunity of the coup makers and their yellow shirt allies, there was a widespread perception that the young woman would not face any legal consequences. Outrage ensued, fueled by comments made by the young women's mother. A few weeks after the accident, the mother, trying to be reassuring, said, "We are not fleeing. But we'll wait for the public to calm down. One may want to escape prosecution, but we can't escape responsibility" (qtd. in *Bangkok Post*, December 31, 2010). The family would take responsibility for their daughter's actions, but they couldn't be blamed for wanting to help her avoid the courts. Even the Prime Minister attempted to quell the fury,

[15] Please see Reddy and Lowe (2012) for a discussion of the relationship between Tongdaeng and taboos against criticism in Thailand.

responding to rumors that the young woman's connected relatives were helping her to avoid jail time, "Nobody is above the law" (qtd. in *Bangkok Post*, December 30, 2010). The young woman's case was hardly unique. To take just one additional example, in 2012, the heir to the Red Bull fortune committed a hit and run that resulted in the death of a policeman. With a series of lame excuses, the driver, the police and the broader state apparatus have avoided pursuing the matter. In 2016, the current Prime Minister, the leader of the junta behind the 2014 coup, obliquely acknowledged the chagrin around the unresolved case, promising that he would see to it that "distressing cases" like this would be decided before the end of his tenure (*Bangkok* Post, April 1, 2016). To date, the energy drink scion remains at large.

The public discourse around these two cases was exemplary of business as usual in Thailand. Everyone said that they supported the enforcement of law and wished for a country in which all Thais were subject equally to its punishment. Hence, an editorial by one English-language daily, a publication that cheered on anti-majoritarian sentiments, that piously asserted, "Of far more concern to the average citizen…is the never-ending stream of criminal cases in which "people of influence," meaning the wealthy and the well connected, are clearly guilty of wrongdoing and yet not prosecuted" (*The Nation*, March 23, 2016). This was rhetoric endemic not only to discourses of law in Thailand. Unequivocal statements that straddled wish and assurance that everyone was subject to law, typically voiced with the utmost high-mindedness by the very people whose power resulted from a breach of law, were also endemic to the emergent discourse of authoritarianism in Thailand of the 2000s. This was liberalism customized to serve the authoritarian agenda of the day.

As rounds of protests occupied the arteries of Bangkok, Mae Sot was in some ways a world apart. Changing regimes were reflected in signs around town that featured the face of a

new prime minister or politician, but national politics, as described above, were not discussed in the work lives of my interlocutors. Only once in my two and a half years of ethnographic research did the broader political moment explicitly percolate into the clinic's work, a seepage that, as discussed in Chapter 1, was hastily managed and minimized.

Mae Sot is flanked on its east by a range of mountains and, on its west, less than ten kilometers from the town, by the Moei River, which at that stretch of its course, constitutes the Thai-Burma border. The official population of the town is 118,000, although this number is likely to be an underestimation of the true population of migrants, undocumented and documented, who live there (Saltsman, Jacobsen and Nichols 2011). Tufts University demographers interviewed town officials who implied that the actual population is closer to 250,000, with the majority of that number -- 200,000 -- being migrant workers (2011, 23). To get to Bangkok, almost 500 kilometers away, there is one highway that crosses the mountains and heads southeast towards the capital city. In 2012, there were 341 factories in Mae Sot, the majority of which produced garments (Interview, Representative of Union of Federated Industries, Tak Province). According to Arnold and Pickles, "a significant proportion" of these factories are sub-contractors, manufacturing items that would be labeled later in Bangkok (2011, 1617). The geographical position of Mae Sot – its proximity to an easily traversed river border with Burma and the relative difficulty of making road journeys to other parts of Thailand – have led scholars and some policymakers to refer to the town as an 'economic dam,' which allows for the country to have a "third world economy" and a "first world economy" in separate and discrete parts of the national body (Arnold and Pickles 2011). For many of these same reasons, Olson and Schjøtt have characterized Mae Sot as a 'labor camp' within Thailand (2014, 64).

Yet, Mae Sot was not as detached from the conflicts in which Thai politics were embroiled as its spatial remove might suggest, however. Many of the structuring features of the national conflicts were present -- and definitive -- in Mae Sot. For example, despite its failures, legal actors in Mae Sot and many of those thinking about law on a national level were gripped by an ever-full font of faith in law, a legal triumphalism. In Mae Sot, the triumphalist rhetoric was expressed in the numerous trainings that declared to migrant workers that, "You have rights!," despite what all involved knew were the scant legal protections that migrants in fact enjoyed. Traces of legal triumphalism also could be seen in the manuals that NGOs circulated among workers to exhort them to bring their workplace disputes to Thai authorities. Chapter titles in one such manual include "If we don't try, we'll never know," "The impossible proves to be possible," and "In the end, we **will** be paid." Expressive of the notion that law was available to improve, ameliorate and reform the social more broadly, legal triumphalism was an extreme, almost amnesiac form of legal liberalism, and was a feature of national discourse too. It was institutionalized in the 1997 constitution, which purposely elevated the role of the courts vis a vis elected politicians. The rationale was that the legal sphere would be a check on the venality of the electorate and their representatives. Law, from this position, could oversee and correct for the excesses of the corruptible masses, improving outcomes for all Thais[16].

[16] Of course, there are global resonances with the triumphalist position. J.L. Comaroff and J. Comaroff, for example, theorize the postcolonial and neoliberal obsession with legality since the late 1980s (2006). They write of the "almost salvific belief" in the capacity of constitutions to make ethical societies (2006, 23); of the infusion of "aura" into tools of legality (2006, 24); and of "self-imaginings and identities grounded in the jural" (2006, 26). Even when not in an emancipatory mode, 'cultures of legality' infuse everything -- the criminal, the ambiguous, the fraud -- recasting them in legal terms, all manifestations of the dialectic between law and disorder that entail a blurring of the distinction between the two (2006, 34). From this perspective, which I engage in more detail in the pages to come, what most foundationally links practices in Mae Sot with debates in Bangkok was their dialectical constitution, their emergence from the same broad logics of capital that constituted legal processes the globe over.

Another key similarity was that neither on the national level nor in Mae Sot could law be said to be hegemonic. It neither "saturat[ed]" "the whole process of living" nor "constitute[d] a sense of reality" (Williams 1977, 110). As a result, it was wrapped up, indeed subordinated, to other (hegemonic) ways of fostering conflict resolution and moral and ethical conduct (please refer to chapters 1 and 5 for more on this point). Consider, for example, the mother of the woman who killed eight van passengers. She distinguished "responsibility" from legal prosecution, trying to assure the public that her daughter and the family would take the former, even if they would resist the latter. Taking responsibility in Thailand, in a case like this, might entail a number of acts of contrition, including an apology, the public performance, perhaps in a press conference, of repentance, condoling with the victims' families, paying compensation, or undertaking a ceremony at a temple, but it was distinguished from subjecting oneself to the law. People were upset with the mother's statements because the bias inherent to the legal system had been politicized, not because they rejected these other reparative frameworks. Both Thais concerned with the state of law on the national stage as well Thais and Burmese migrants contending with labor and immigration law in Mae Sot understood law as relational and were constantly hierarchizing it, typically as a lesser framework, within a cosmos of other moral, ethical or political forces (see Comaroff and Roberts 1981; Gluckman 1965; Gottlieb 1983; on Thailand, Engel 1978 and Engel and Jaruwan 2010).

II. The Anti-Categorical

In Mae Sot, the momentum toward legal triumphalist logics as well as toward the maintenance of law as a set of subordinated ideas and practices linked up, in a series of "contingent articulations" (Tsing 2009, Hall 1986), with a complex and shifting borderscape. The result is what I call an anti-categorical formation. The description and analysis of this

concept is the central intervention of this dissertation. An equally important objective is to explain how the anti-categorical opened up and foreclosed possibilities in the interplay between law and capital, particularly for migrants in Mae Sot for whom such possibilities could mean less hazardous and less impoverishing conditions. Here, I outline the beginnings of a definition of the anti-categorical, while pausing to mention to the reader that each chapter of the dissertation unfolds it in greater specificity and ethnographic detail.

The anti-categorical is a historically emergent assembly in Mae Sot of distinct projects, agendas, and stances that come together in diverse, contingent moments to mediate the relationship between law, capital and effective action. These distinct projects, agendas and stances included the following: cross border mobility of people and things into and out of Burma, as a response, on the one hand, to Thailand's reliance on migrant labor and, on the other hand, to incredibly tangled and unstable ethnic conflicts, repression and privation that characterized Burma; the possibility of significant profits from exploiting cross border mobility, not just from importation and exportation (tidy sums in their own right) but from charging Burmese would-be workers and Thai employers hefty fees to bring workers to employers; the presence in Mae Sot of highly visible signs of law, from billboards to an immigration and customs infrastructure in the form of a customs house and a prominent bridge connecting the two countries, from the the police and border patrol to NGO actors, including my interlocutors, whose presence in the town elevated the profile of labor law; the highly visible failure of these signs to regulate social life in their image; a skepticism about law borne out of this failure; and, yet an optimism about the future of Mae Sot as a regional hub whose modernity was envisioned by capitalists in town as rationalized and ordered and by the activists in town as a time in which the legal rights of migrants would be known and enforced. The above came together, repeatedly, in heterogenous

encounters, as I show in my dissertation, in police stations, in the law clinic, in the courts, in the offices of government bureaucrats, in the workplace, in people's desires and dispositions -- in a manner reminiscent of Tsing's description of friction as the "awkward, unequal, unstable and creative qualities of interconnection across difference" (2005, 4).

As an ethnographer, what struck me was the way that legal actors -- clinic workers, bureaucrats, judges, migrants, police officers -- navigated the moments in which these projects, agendas and stances met in interaction. Informants largely refrained from describing situations using legal categories -- even ones as seemingly simple as legal and illegal -- and from invoking legal standards and statute to address or solve conflict. They preferred instead to frame interaction through other non-legal normative orders, from ones governing polite interaction (please see Chapter 1) to notions of "duty" (please refer to Chapter 2) and desire (my arguments on this point are in Chapter 5). These techniques worked, in ways that sometimes stymied the legal aid project, to be sure, but produced meaningful resolutions to cases. The simultaneous importance of law, as one of the projects that met in interaction, and the avoidance, in the same interactions, of its categorical logics is what led me to characterize such assemblies as "anti-categorical." Legal actors were managing the normative potential of law, containing its categorizing potential and subordinating it to the normative forces of custom, culture, discourse, and capital. The repetition of these moments, the evident standardization of the techniques of management latent to their assembly, is why I argue that the anti-categorical was a formation. It was both an emergent one-off, framed through inexorably unique conditions, from mood to misunderstandings and translation to weather, *and* it was a constitutive pattern of practice.

How best to analyze anti-categoricality and the ways in which it shaped Mae Sot?

The dissertation offers at least five answers to this question, theorizing the connection of the anti-categorical to place, the history of cause lawyering, translation, materiality and the concept of "satisfaction." All of these come together to produce, as I will argue, the impossibility of legal normativity in Mae Sot. At the same time, the dissertation maneuvers between the conceptual directions offered by dialectical and dialogical approaches. It is undeniable that the projects mentioned above were mediated by the logics of capital. Dialectics of law and disorder, closed and open borders, exclusion and inclusion, capital and labor ineluctably mediated the formation of anti-categoricality. It is the aim of this dissertation to "move beyond the surfaces" (J.L. Comaroff and J. Comaroff 2006, 21) of dialectics to observe the ways in which social life was construed in their wake. At the same time, I follow in the path of another of my teachers in suggesting that the dialogical orients the analyst to the observation of singularity, history and agency, "*without* prior commitment to ultimate causes" (i.e. the reproduction of capitalist relations, for example) (Kelly 2001, 7 emphasis added)[17]. A dialogical mode of analysis highlights structures, but not only a predetermined or limited set of them. It also figures agency differently. Where agency, from a dialectical perspective, ends where structure ends, agency, from a dialogical perspective, is informed by structure but also extends it, acknowledging that such extensions are significant and explanatory, even if they may or may not contribute to the totalization or reproduction of structure[18]. Not everything is capital, its origins or its effects, and it is for these uncontained, non-totalized, emergent, contingent forces that this dissertation looks in its accounts of anti-categoricality.

[17] Mazzarella (2003) offers an important critique of this type of argument and the analytic approach entailed therein. I thank Mary Robinson for pointing me to it. See also Laclau 1977.
[18] I am indebted to John Kelly for his insights on this distinction (personal communication, 5/17/2017).

III. Place, Space-Time and the Anti-Categorical

At stake in the concept of the anti-categorical is the relationship between law and its moorings in space, place and time. The issues are threefold. First, how are particular places, on the one hand, and laws, dispositions to laws and semiotics practices around law, on the other, sutured together? Second, how is place remade through law? Third, what kinds of space-time relations are made possible through this process[19]?

For anthropologists of law, it has long been clear that the legal comprises a set of ideas and practices with which subjects and collectives make claims about their location in time[20]. Povinelli, to take an exemplary account of a relationship between law and time, theorizes the work that jurisprudence does in assuring Australian liberal subjects that they can be optimistic about the prospect of redemption from their culpability in the violence of settler colonialism (2002). High court decisions allow Australians to imagine that this violence is safely sequestered in the past and that everyone is now conscious (and better for it) of the mistakes that the nation

[19] While I understand space as a general, abstract category and place as a particular, specific site, I do not take a position in this dissertation on which precedes the other. Following geographer John A. Agnew (2011), I consider place to imply three related dimensions: a type of place (a border, a country, a temple and so on); a token of a type of place (a particular border, one given country, the nearest temple); and the sense of place, a phenomenology of knowing and navigating a token and a type of place. Agnew (2011) and Casey (2013, 1996) both discuss the intellectual history of the space/place distinction, noting that in the 17th century, space started to become a philosophical object separate from and above (or before) place. Casey highlights the role of anthropology in both challenging and reaffirming this hierarchy (1996, 14-15). I also situate my work in relation to theories of place that have dominated anthropology since Gupta and Ferguson's widely cited articles (1997a and 1997b, see also Gupta 1997, Ferguson 1997). Their arguments joined other scholars (Rosaldo 1989, Appadurai 1996, Malkki 1995, 1997) in critiquing the presumption that there exists an isomorphism between culture and territory, identity and place, or community and locality. Among their more subtle interventions, these scholars shifted focus onto the making and claiming of place, locality and territory (Gupta and Ferguson 1997a, 6). "How are understandings of locality, community and region formed and lived," they ask (ibid)?

[20] Although by no means an exhaustive list, please refer to Greenhouse 1989, Kahn 1999, Pocock 1989 and Richland 2008 for more on law and temporality.

made on its road to the present. As they circulate in the public imaginary, these decisions invite "the nation to enter history anew in a refreshed cleansed version …" (2002, 163). The prospect of atonement through self-correction is a key fantasy, Povinelli shows, of the liberal tradition in Australia. It locates the subject in a complex temporality: in a present that promises to be revealed, from the future, to be the moment in which the subject will have been redeemed. This narrative helped to ensure the hegemony of multicultural liberalism in Australia of the 1990s.

Likewise, anti-categorical situations in Mae Sot articulated relations in and of time that rationalized maintaining, on the one hand, the hegemony of anti-categoricality and, on the other, the non-hegemony of law -- the subordination of its rules and categories. There were three temporal relations that were implicated in this project.

One, a temporality of immediacy. Particularly since the 1960s when Burma closed its borders to imports as part of its experiment with socialism, Mae Sot's frontier was an important channel for household necessities and consumer goods to enter Burma[21]. At the same time that Mae Sot became indispensible to Burmese consumer markets, Thailand's borders acquired a new prominence on the Thai national agenda. The perception that a Communist threat existed on its frontiers and that the state had never properly demarcated its borders[22] motivated various initiatives, some led by the Border Patrol Police and others by an expanding bureaucracy, to make the presence of the Thai state known in the country's hinterlands. Traders and exchange thrived in Mae Sot, skillfully navigating the shifting authorities who operated on the Burmese

[21] Please see Anurak 1998, Lieberman 1980, Sunait 1990, Terwiel 2002, and Wyatt 1984 for perspectives on the pre-national history of trade and exchange in the region

[22] Particularly in relation to Burma or Cambodia, border demarcation continues to be contentious. The border close to Mae Sot was an area of particular contention. Since the 1990s, Thailand and Burma have disputed each other's presence on small islets in the river that works as the territorial border. Burma also opposes the construction in Thailand of river embankments, arguing that they represent the expansion of Thai territories. These disputes have resulted in escalated rhetoric, the temporary closure of a border bridge in Mae Sot and even shots fired.

side of the border (the Burman army, the Karen National Union and, since 1995, the Democratic Karen Buddhist Army, all armed groups) and the developing regulatory infrastructure on the Thai side. Chapter one contains a detailed discussion of this period, but for my purposes here, it is important to note the momentum that was generated in this borderland to keep cross border exchange agile, tangential to and uncontained by regulation. This reflected one of the temporalities -- of immediacy and now-ness -- that was embodied in any given anti-categorical instance. For capitalists, traders, migrants and legal activists working in this borderland, law slowed things down, took too long to do its work and came at a price. For capitalists and traders, it obviously incentivized their avoidance of oversight. For migrants and legal activists, it encouraged people to push for immediate, less risky resolutions.

Two, a temporality of anticipation. A future orientation was also centrally articulated in instances of anti-categorical formation. As could be seen in trade shows pushing for Mae Sot's declaration as a special economic zone or in legal trainings hoping to increase legal consciousness, various parties -- legal aid workers, capitalists, bureaucrats, even migrants in the know -- were optimistic about the future. They anticipated a future in which legal regimes will work, the town will be newly integrated in a modernized regional economy, and migrant rights will be known and respected. Their anticipation, of course, marked the now as a time of limited promise, in which the dysfunctionality of law, guerilla trading techniques and ignorance around rights necessarily pervaded. It also exculpated the present from doing better for migrants.

Three, a temporality of ambiguity. It was not only the future and the now oriented temporalities that came together in moments of anti-categoricality, but also a more ambiguous and indeterminate understanding of time entailed by the workings of local understandings of causality. These understandings in part arose from a theory of karma, the notion that all actions

have consequences, some that are knowable and some that are not, some that might be experienced in the present or proximate future and others in a next life, and in part from a theory of the event as having similarly indeterminate etiologies and entailments. The present in this framework was sometimes hard to fathom, connected as it is in manifold ways (and not in a general sense) to past events and unknowable future effects. (Chapter 5 offers a reading of how the temporality referenced in this paragraph is highly particular and relates to the workings of anti-categoricality.) It rendered action in the now risky, as one doesn't know exactly what led one to the present and how exactly one's actions will determine the future. It also rendered people conservative and wary of being too attached to the projects of progress envisioned by legal activists and capitalists in Mae Sot. Although any overstatement here would be both exoticizing and essentializing, this temporal relation tempered the future optimism described above.

In juggling these three temporalities, there was also an "emplacing" (Malkki 1995), or place-making[23], dimension to anti-categorical situations. Richland (2011, 2013) charts a productive course to track and theorize the relationships among time, place and law. To do so, he reads the concept of jurisdiction, which in common usage, typically connotes a link between law and territory[24]. Richland analyzes it instead as "juris-diction," a theory of language and legal force (2013). The force of law, from this perspective, is constructed through instances of language use that speak legal authority into existence within a variety of legal settings. Richland explains, "the scope and force of law, as constituted through language that speaks its performative authority into existence…simultaneously presupposes its power generally…"

[23] For more on law and place, please see Ford 1999; Delaney, Ford and Blomley 2001; Peluso and Vandergeerst 1995; Sarat, Douglas and Umphrey 2003; and Dorsett and McVeigh 2012.
[24] Dorsett and McVeigh (2012) remind us that territorial jurisdiction the most modern conception of jurisdiction. The concept is connected to the nation-state form and to the idea that law applies to all within its boundaries (2012, 39-40). See also Ford 1999.

(2013, 213)[25]. For my purposes here, the play between juris-diction, understood as instances of language use that presuppose and create the domain of its power (see also Derrida 1988, 2002), and the commonsense definition of jurisdiction, understood as legal authority in a particular territory, suggest a way to think about how law comes to stick, through language use, to place.

Richland goes further, however. He argues that a precise space-time claim is made in legal speech, at least within Anglo-American contexts. When lawyers cite precedent, for example, they situate themselves in a long chain of interdiscursive links that extend into the past, while also anticipating a future in which the law will continue to adjudicate new circumstances. Their language practices presuppose and entail -- while hiding their interpretive work -- the law's "perpetuity" (2013, 219-220), its presumed continuity with the past and its durability and extension into an indefinite future. This for Richland is a chronotope of law, a narrative about its temporal reach and the social space it produces.

I agree that Bakhtinian concept of a chronotope is helpful to thinking about how law relates to place and, more broadly, to its "spatial and temporal expanses" (Bakhtin 1981,167). The chronotope is a frame -- the metaphor of an envelope is frequently used -- in which "spatial and temporal indicators are fused" (64). It encases events, situating them in space-time and enabling sense to be made of them. "The chronotope is the place where the knots of narrative are tied and untied," Bakhtin writes (250).

The 'space-time envelope' of anti-categorical encounters in Mae Sot materialized all three of the temporalities earlier discussed and did so within an imagined and changing regional

[25] Pertinent to, but not fully explored in my dissertation is Richland's suggestion that this approach to juris-diction provides a useful "corrective" to the political theological theories of sovereignty and exception (for example, Agamben 1998, 2005 and Schmitt 1996, 2005), in that it fractures the establishment of sovereignty into a "microsociological" components of interdiscursively linked language use (2013, 213).

geography. I provisionally characterize this chronotope as *a* chronotope of capitalist conjuring. This chronotope fashions a continuity between the changing here-and-now, and the here-and-future as both flourishing sites in which to invest capital. On the one hand, as the temporalities of 'immediacy' and 'ambiguity' were spatialized in moments of anti-categorical action, they framed Mae Sot as a desirable home for capital in the present, a town conducive to profit because, among other factors, its now-orientation enabled people to avoid legal oversight. The regional axis about which this spatio-temporal claim was structured was the Mae Sot/Myanmar borderlands. The marginality of law in the former and the political instability of the latter assured present and would-be investors that their supply chain capital was best located in Mae Sot, as opposed to the cheaper borderzones on the Myanmar side[26]. On the other hand, as the temporality of anticipation was spatialized in moments of anti-categorical action, it framed Mae Sot as a desirable home for capital in the future, a town whose development, to-be instantiated legal system, modernized infrastructure, and centrality in the ASEAN Economic Community would have redefined the terms of its attractiveness to capital. Whereas it was now attractive because of its low cost, low wage, low regulation ethos, its competitiveness in the future would arise from its strategic position within an integrated, single market. The regional imaginary along which this spatio-temporal claim was structured were two trade routes, which had Mae Sot at their point of intersection: one, along the 'Asia Highway,' connecting a major seaport in Myanmar to a major seaport in Vietnam and another connecting Thailand's southern border with

[26] Kida and Fujikara report that, as of 2014, some Thai factories were considering moving to the Burma side of the border in response to the increase in the minimum wage all over Thailand to 300 THB/day (a little less than 10 USD/day). The Myanmar government was promoting the Burma side of the Mae Sot borderlands as the 'Myawaddy Industrial Area' (MIA) as a place for garment and other low-tech industries. In contrast, the Burmese government was building three special economic zones (SEZ) on its coast, hoping to attract high tech manufacturers to those sites (Kida and Fujikura, 2015).

China. This vision of Mae Sot in the time of the 'Southeast Asian Future' was most clearly represented in billboards advertising the AEC. Mae Sot was always more orderly in those images, its skyline flattened by large warehouses on a grid and low-rise industrial campuses, suggesting an industrial modernity that looked nothing like the town. In any event, the space-time of anti-categoricality -- *a* chronotope of capitalist conjuring -- allowed future capitalists and investors to envision Mae Sot as successfully navigating a major capitalist transition, while not threatening the economic interests of the day.

How was the language of law, its juris-diction, "tied and untied" into this spatio-temporal imaginary? The dissertation devotes pages to this question (see especially Chapter 1, 3, 4 and 5), but for now let me theorize the starting point for analysis. From my perspective at the legal aid clinic, it was clear that informants occupying a wide variety of subject positions thought that the law could do something for them, for their businesses, and for the town. This was why Burmese migrants sought assistance from the legal aid clinic, why migrants brought labor disputes in front of the government department charged with resolving such conflicts, why activists in the migrant rights scene came so diligently to the clinic's legal trainings, why legalization programs for undocumented workers were so enthusiastically pushed by the government, why the oxygen of NGOs the town over was the claim that migrants have rights, and why even employers and industry groups went to overflowing town meetings about the labor and employment laws of their town. However, from my perspective at the legal aid clinic, it was also clear that informants occupying a wide variety of subject positions regularly averted, evaded, managed, avoided, circumvented and eschewed the capacity of law to classify their practices and to define social life in its terms. Silences, pauses and voicing but also various other semiotic processes, from translation (Chapter 3) to the materialization of law in paperwork and the dispositions to it

therein (Chapter 4), were ways these aversions were performed. In addition to the occasional declaration about what laws could be referred to what circumstances, or whether a court had the standing to make a decision, these aversions comprised the practices that enacted law, signifying its authority in the town. And what these practices signified was a theory of legal authority and legal semiotics quite distinct from the Anglo-American tradition, in which legal speech, the authority to speak the law, and perpetuity are central (Richland 2013). The authority of law in Mae Sot did not inhere in its ability to match norms to facts or in the fact that legal actors declared its authority or in its claims to past and future permanence, but in its symbolic visibility as an atmosphere for negotiation, a prop that suggested the presence of the state, a set piece that hinted at a modern, rationalized order. In people's practices, law as atmosphere, prop and set piece were tied together with the chronotope described above, suturing law to place, defining the particularity of the co-production of Mae Sot and its legal infrastructure.

IV. The Materialization of Law

I have stated that a key argument of this dissertation is that law in Mae Sot was emblematic but not normative, atmospheric but not regulatory. What allowed me to make this observation was an ethnographic and analytic focus on the materiality and materialization of law as underdetermined sites of social activity, not as givens. In part because the anthropology of law, borders and capitalism sits in the wake of two extremely powerful and influential theoretical lineages, one Durkheimian and the other Schmittian, that theorize order as emerging, with little erosion, resistance or chafing, through classification, questions of materialization, as they pertain to the anthropology of law, borders and capitalism, are often underestimated (cf. Tsing 2005, Vismann 2008, Hull 2012, Keane 1997, Latour 2010, Kelly 2006, Navaro-Yashin 2007).

An extensive discussion of these literatures is not possible here, but a brief outline should suffice. Consider Durkheim's assertion:

> It is society that has classified beings as superior and subordinate, as masters who command and subjects who obey; it is society that has conferred on the first that singular property that makes command efficacious and that constitutes *power* (1995 [1912], 370, original emphasis).

Order and power emerge from society's capacity to classify things, people, beliefs and practices. Very attentive to the problem of representation, Durkheim explains that totemic things positively represent these classifications, and the *corroboree* negatively represents them, in transgression. The movement between representation and reality, on the other hand, is hardly theorized on its own terms. The connection of classification to order, as well as the blind spot towards the ambiguities of representation-reality relations, recurs in structuralist anthropology, most obviously in the work of Mary Douglas (1966) and Lévi-Strauss (1966), for whom contrasts and classifications are the grounds of human social organization. For all of his respectful differences with Durkheim, Foucault can also be usefully located in this lineage in that he, too, focuses in a broad sense on the constitutive role of categories and classification. From the *Order of Things* (1994 [1966]) to *Discipline and Punish* (1995[1977]) and to his later theories of governmentality and biopolitics (2010), a recurrent theme is that categories proliferate in the various discursive formations about which he writes. They create knowledge, produce subjects and populations, mark bodies and arrange space -- all mechanisms of disciplinary and regulatory power. But, towards the space and slippages between objectifications of order and ordering effects, Foucault pays little theoretical heed.

Carl Schmitt's theory of politics relies also on the importance of classification -- the assertion and maintenance of a distinction of friend from enemy (1995). Likewise, his theory of sovereignty focuses on the place of classification in social life: the sovereign is the entity who

can suspend a classificatory system -- of norms, of law -- whose strictures categorize and corral human practice, and normalize this abridgement (2005). For Schmitt, suspension happens in a "decision," ensured, of course, by force. As Schmitt's theories have been taken up by Agamben (1995), who married them with a reading of biopolitics, the assertion that order is constructed through classifying decisions about who is included and excluded (who, in their exclusion, are included) and how space is systematized accordingly has become extremely influential, especially in border and migration studies **(**Agier 2016, Andersson 2014, Reeves 2014).

Understandable given the theoretical concerns of its key figures, the work that takes up these concerns, while producing numerous insights, rarely analyzes classifying decisions, declarations, systems or schemes in their full semiotic and material complexity (Amoore 2006, Ong 2000, 2006, Scott 1998, Scott et al., 2002, Trouillot 1997, Xiang Bao 2008, Walters 2002). A paradigmatic example is Ong's work on neoliberalism (2000, 2006). As states cede authority over parts of their territory to corporations that exercise power over populations of workers within that zone and as states increasingly recognize segments of the population differently, according to their respective insertions into the global economy, the exercise of sovereignty itself, Ong theorizes, is redefined (2000, 2006). Her model of 'graduated sovereignty' refers to these changes, and was a useful reference point for my research (2000). However, the state and corporate capital, in Ong's account, often resemble a manager that makes more or less concerted decisions about how to recognize parts of their workforce/population and how to make concessions to the forces of global capitalism (for example, 2000, 55, 58). The problem of how graduated sovereignty is signified in practice or how it is materialized is sidelined. Instead, its classifying moves have effects, or so we must conclude, that are extensions of its aims. Ends and

means, process and telos collapse, rendering classificatory decisions and schemes as inert media that passively enact, without substantive disruption, the envisioned order.

To avoid such pitfalls in my own analysis in this dissertation, I rely as a foundation on scholars who have been attentive to legal semiotics (Richland 2008, 2013; Mertz 2007; Mertz and Rajah 2014; Matoesian 2001, 2013). I also draw from Keane (2003) and Nakassis (2013b). Both scholars are excellent starting points from which to restore materiality and materialization as generative (if undertheorized) sites of social life in analyses like the ones described above. For Nakassis, materiality refers to the qualities of a thing, whereas materialization describes the ways in which those qualities are articulated in the world. Materiality both exists outside of and as a necessary condition of semiosis (2013, 402). Nakassis writes, "in short, no semiosis without materiality and no (experiencable [sic] or intelligible) materiality without semiosis" (401). It is the 'constitutive outside' of semiotics: "materiality is not in anything at all, even if we often experience it as such; rather it is a relationship across semiosis, a property of a whole social arrangement" (402). As will be discussed in the dissertation, a focus on materiality and materialization, as partner and constraint to semiosis, leads me to discern cross border infrastructure as signifying and embodying the fate of normative legal order in the town (chapter 1); the anti-categorical disposition that people took toward law; the artifacts that objectify translation, like white boards, power point presentations and billboards (chapter 3); the specificity of paper in paperwork (chapter 4); and the aura of the King of Thailand in law in Mae Sot (chapter 2 and 5). All of these conditions gave shape -- material qualities -- to law in Mae Sot. They were what law "*is* -- its materialized qualities --" in town (Nakassis 2013, 403). Law here was neither an inert servant of neoliberal or biopolitical regulation nor an impassive instrument for any other pre-existing agenda.

V. Fieldwork in Retrospect, or Methods and Setting

This dissertation is based on fieldwork that I conducted in Mae Sot and Bangkok between June 2010 and January 2013. During this time, I worked for a legal aid clinic, helping them to construct a database of past cases; conducted participant observation with that same legal aid clinic, observing intake procedures, negotiations, trials, and mediations; attended trainings hosted by the legal aid clinic; observed administrative meetings in Bangkok, in which the Mae Sot based legal aid officers reported on their activities to the organization's administrator and other members more senior in its hierarchy; attended workshops, in Bangkok, designed for law graduates and recently minted lawyers who were interested in translating their education into human rights activism and litigation; observed meetings in Mae Sot of the Migrant Rights Program Working Group, a forum that brought together the various organizations working on behalf of migrant workers in Mae Sot; and in-depth interviews with legal aid officers, lawyers affiliated with the clinic, former clinic employees, a labor protection officer, a representative from an industry group in Mae Sot, brokers who recruited migrant workers to come to Thailand and migrant workers or other claimants. I tried during this time to follow as many cases as possible from intake procedure to resolution. My research methods were varied and often improvised, only retrospectively cohering as a fieldworker's attempts to explore as many avenues as possible to gain insight about law, the border and Mae Sot.

Readers will notice that, in the pages of this dissertation, there is little mention of trials or litigation. This is because the bulk of the clinic's work was focused on negotiations between claimants and employers, or on accompanying clients to the government bureaucracies from whom they might find assistance.

There were two organizations in town that provided legal advice to migrants, one started by a charismatic foreign aid worker and researcher with its headquarters in Chiang Mai and another started by a charismatic Thai lawyer and activist with its headquarters in Bangkok. When I conceived of my research, I had hoped to be based with the former, not knowing about the latter, but I never succeeded in making inroads with that organization. It already had a highly capable foreign researcher affiliated with it, and I heard from various people that its founder was skeptical of ethnographers who wanted to use her organization as a perch to study Burmese migrants. This turned out to be a productive obstacle. I sought the advice of Decha Tangseefa, a professor at Thammasat University in Bangkok, who has written extensively on Mae Sot. He arranged an introduction with the legal aid clinic with which I did my fieldwork. His introduction gave me the footing, despite the researcher fatigue that plagued NGOs in this heavily studied place, to ask whether I could observe the clinic's activities. In retrospect, my affiliation with the clinic was fortuitous. Because of the background and concurrent commitments in other legal forums of the clinic's founder and some of its senior administrators and because of its exclusively Thai staff, it was uniquely embedded, compared to other NGOs in Mae Sot whose staff and orientation were international, within the history and landscape of Thai law. This shaped one pillar of my dissertation, requiring that I account for the ways in which that history and landscape impacted the clinic's work (please see Chapter 2 and 5).

Participant observation at the clinic was a passive exercise. The office had hosted interns before, but never an anthropologist whose objective was to watch, follow, shadow and note. By and large, I became office fauna, inert but poised on the office's loveseat, waiting for something to happen. Within this context of waiting for others to include me in what was going on, the vicissitudes of the clinic's office life impacted my ability to observe interactions and to ask

questions of the clinic staff in two ways. First, being endorsed by a well-regarded professor had its pros and cons. On the one hand, the two legal aid workers at the clinic at the time I started my fieldwork were both graduates of Thammasat University and knew of *Ajarn* (Professor) Decha's reputation. The younger of the two legal aid workers repeatedly told me that he was happy to help me because he held Decha in such high regard. On the other hand, my affiliation with an academic as well as my own position as an academic did little to connect me to the translator at the clinic, a figure I discuss in Chapter 4. The translator held me at courteous arms length. I initially regarded this as a shame, but soon came to see that his expertise at managing relationships -- not just with me -- was key to his work in the clinic. Second, employee turnaround seemed to be a constant issue for the clinic. Only the translator -- and, oddly, I -- remained with the organization during the full duration of my fieldwork. Within half a year of my first introduction, the two legal aid workers announced that they were moving on, taking positions with other organizations in Mae Sot. Their replacement, also a Thammasat graduate who knew Ajarn Decha, worked at the clinic for less than 1 year, to be replaced by two new legal aid workers and a new office manager. With each new employee, I had to forge anew a rapport and to explain my project, introductions that were variously successful depending on the person and that had implications for the access I was granted.

Most of the clinic staff was under the age of 35. Four of the five legal aid workers who I met over the duration of my fieldwork were women. None were Mae Sot natives. All hailed from different parts of the country. The legal aid workers had bachelor's degrees, but none had licenses to practice law. At the time, none of them regarded licensure as a necessary achievement in their planned career trajectories -- in fact, only two of the five stated that they intended to pursue it -- because they saw other jobs, in the NGO sector in Mae Sot and elsewhere in the

country, that called only for undergraduate degrees and experience. Indeed, there were prospects in Mae Sot for career development, irrespective of other credentials, because of the presence of large multinational NGOs, as well as intergovernmental organizations. Predictably, these entities offered higher paying positions than did the Thai organizations. Because English was seen as a necessity for these jobs, some of the clinic workers attended tutorials to improve the rudimentary English they had learned in school. None were proficient, except for the first legal aid worker I met. He joined an international organization within months of my starting fieldwork. Both of the clinic's translators had finished their schooling in Mae Sot, but neither had attended university. Although all that he would say was that he was "old already," the senior translator had young children and appeared to be in his late thirties. The junior translator was very young, only 20, and had sundry previous job experiences as a driver for a large multinational refugee relief organization, as a translator and as clerical worker. The youth of clinic staff contrasted with the age of most of the lawyers who were affiliated with the clinic. None of them were from Mae Sot nor lived in Mae Sot, travelling instead from Bangkok to lead trainings, occasionally observe daily office procedure and to infrequently try cases.

My research was conducted in Thai, which opened certain opportunities while closing others[27]. My proficiency in Thai but in neither Burmese nor in the Karen dialects[28] determined my orientation to my interlocutors. When in the office, I was implicitly allied with clinic staff,

[27] When I first started research, I had just finished a one-year course of Thai in Bangkok, Thailand, as well as the summer Advanced Study of Thai program at Chiang Mai University. I also studied Thai for two summers at the Southeast Asian Studies Summer Institute at the University of Wisconsin, Madison. In all of these courses, I had trained in Central Thai dialect. While this did not pose a problem as clinic staff spoke central Thai in the office, there nevertheless was the issue of my competence in the language. The first many months of fieldwork were marked by gaps in my understanding. Almost four months in, and I had yet to learn, my notes reveal, the difference between mediation and negotiation, for example. This situation improved over time, as might be expected.

[28] There are three main Karen dialects, Pa'o Karen, Pwo Karen and Sgaw Karen.

not only because of my familiarity with them but because they spoke Thai. One of the legal aid officers told me that many clients assumed I worked for the clinic until I explained to them who I was and requested their consent to participate in my research. This did not happen with every interaction I observed in the office. If I had any follow-up questions for claimants who came to the office, I relied on the office translators to help me. This was often not possible. As a result, the claimants with whom I spoke most in depth tended to be Thai speakers, which suggested that they had been in Thailand much longer than those claimants who did not speak Thai. In my last few months of research, I hired a translator to help me conduct interviews with claimants who had earlier expressed, through office translators, their willingness to speak with me, but with whom I would have been unable to speak directly. On two occasions, a friend and fellow PhD student who was fluent in Burmese, kindly translated for me. For Thai interlocutors with whom I had minimal (but necessary) contact -- for example, government bureaucrats and industry representatives -- my Thai was seen as a winning parlor trick, a way to ease interview requests and an affirmation of my commitment (many foreign researchers worked with translators).

I did not spend every day in the clinic. For nearly seven months, I worked with an assistant to create a database of the clinic's past cases. Much of this work was done in my apartment but some was done in a meeting space on the second story of the clinic's rented shophouse space. This period was alienated from the daily casework of the clinic, yet was essential for me to learn about the organization of cases within the office, how this had changed over time and the typical life-course of a case. Between 2010 and 2011, I went weekly to a refugee camp located 60 kilometers from Mae Sot to teach at a college there. I rode in public taxis – on benches on the flat bed of a pick-up truck – and gained indispensible data along the way. Traveling with Burmese people who lived in the camp but worked or shopped in Mae Sot, I

observed countless identification encounters at the numerous checkpoints on the route. I became friendly with the taxi drivers and informally interviewed them about checkpoints and documents. These experiences formed the basis of my thinking on identification documents and my consideration of law and materiality therein (please see chapter 4 of the dissertation). I also interspersed interviews and observational visits to the court, the Thai Labor Protection Office, the Employment Office and brokers' offices with my participant observation of the clinic's work processes.

VI. Chapter Outline

This dissertation is built around an analysis of the ways in which legal actors manage the normativizing possibilities of law -- what I call its categorical promise -- at different moments and sites of legal practice. It starts with the ethnographic observation that, in most contexts, lawyers and migrants, perhaps counter-intuitively given their choice of instrument, regarded the normative dimension of law, its capacity to assert standards of behavior and practice, as counterproductive to conflict resolution. It was only in specific contexts that lawyers, legal aid workers, translators and other figures of law in Mae Sot evoked law as a normative discourse. This dissertation then tracks what the suppression or invocation of categorical legal thinking implies for the possibilities for future oriented, transcendent projects -- global capitalism, regionalization, and the creation of 'good' subjects -- to structure Mae Sot.

Chapter one, 'The Anti-categorical Impulse in Mae Sot,' compares the successful resolution of an extortion case with the infrastructure of border crossing in the town. It defines in greater detail anti-categoricality, analyzing the case and the infrastructure as two expressions of its logics. Both were instances in which actors minimized their use of legal categories to regulate social life, allowing other normative orders and imperatives to unfold with minimal disruption.

The chapter then tests out two explanatory lenses to understand anti-categoricality. One is the illicit/licit dialectic (Abraham and van Shendel 2005) and the other is the diagram, a Deleuzian theory of power (Deleuze 1988 [1986]). It suggests that both frameworks are illuminating, but only partially. The chapter also explores the historical argument that legal practice in Mae Sot was preceded, and indeed structured, by a longstanding and systematic hesitation, which the chapter delineates, to identify practices concerning migrant workers and cross border activity as illegal or legal. This is where the boats and the bridges are especially important to the story as a terrain in which definitional impulses have been invoked and contained for the past four decades. Anti-categoricality was a historical formation, one that, I argue, had two interrelated sets of entailments: one, on the ways in which law could be mobilized on behalf of foreign workers in Mae Sot and two, on the way in which Mae Sot positioned itself within the changing regional arrangements envisioned by the AEC.

Where Chapter one historicizes Mae Sot and outlines a way to think about the relationship between law and place, Chapter two, 'From Rule of Law to Roles in Law,' situates the clinic's legal work within a forty-year history of cause lawyering in Thailand. The chapter tracks the tensions and possibilities, which shifted as global, Thai, and Mae Sot politics themselves changed over the past four decades, in contests over the meaning and effectiveness of law as a tool for bettering society. I show that, in Mae Sot, the conception of law as a medium for commensurating social life with statute and for egalitarian outcomes, which a generation of Thai lawyers made imaginable during the 1970s, persisted only in the material presence of institutions like the clinic and the image of law reflected in their foundational principles. In practice, however, legal aid workers were concerned less with the coordination of social life and

legal statute than with the execution of duty and roles within powerful social networks dismissive of, if not agnostic to, legal categories.

Chapters three and four are concerned with the semiotic processes of law, focusing on the ways in which law and anti-categoricality are materialized through translation practices and on paper, in documents.

Chapter three, 'Projecting Universals and the Problem of Translation in Legal Aid,' opens with an analysis of the limited contexts in which lawyers, legal aid staff and other NGO workers did evoke law as a normative framework that could addresses the inequalities to which Burmese people in Mae Sot were subject. These evocations -- speech acts that I theorize as 'projected universals' -- occurred only in workshops and trainings. Embedded within these acts were various assumptions and approaches, howsoever unacknowledged, to translation. It is the first task of this chapter to describe what these approaches were and to demonstrate how they gave shape to the concepts that legal aid workers were projecting into Mae Sot. The second task is to compare the translation practices of the trainings and workshops with the ways in which translators worked in the daily life of the clinic. The comparison reveals that translators were agents, in trainings, of legal universalism and, in the clinic, of cultural particularity, using their knowledge of Mae Sot or of past cases to help clients strategically, if often extra-legally. I argue that this double figure of the translator was another formation of anti-categoricality in Mae Sot.

The fourth chapter of the dissertation, 'Identity Paper/Work/s and the Unmaking of Legal Status in Mae Sot,' looks at how law was mediated via identity documents. It underscores Hull's methodological point: analyses of documents need to pay attention not only to referential content but also to 'documentary practice' or the patterns of filling in, wielding, relating to, explaining and referencing a variety of print matter (2012). My analysis finds that people in Mae Sot

enacted two distinct modes of documentary practice vis a vis identity papers, and that the contradictions that existed between the two had the effect of ultimately undermining the capacity of documents to testify to legal status.

The chapter highlights two important arguments that were staged, but subordinated, in previous chapters. While law in some contexts can be understood as an epistemological project, one that produces knowledge through the generative tensions among the spirit, letter and enactment of the law, legal discourse in Mae Sot was engaged so thoroughly in a dialectic of making and unmaking, asserting and undoing that it failed to produce knowledge about itself or the world. The anti-categorical impulse was one that pushed back against the normativization of law and therein suppressed the capacity of law to be a schema through which people could definitively know things about the world they inhabit. The second argument, a ramification of the first, is that legal discourse in Mae Sot was a source of tremendous uncertainty. Its assertion in the world seemed to be very consequential, yet it was marginalized and unmade, leaving people, including legal aid workers, unsure how it works and how best it can be used.

Chapter five, ' "Satisfaction" in the Time of Legal Uncertainty, or, the King in Mae Sot,' theorizes this uncertainty as an opportunity for narrativization and extra-legal explanation. 'Satisfaction' was one such discourse that occupied the space created by the contingency, uncertainty and unknowing that is characteristic of legal practice in Mae Sot. The chapter situates 'satisfaction' historically, asserting that the concept was meaningful in post-colonial Southeast Asia in the context of a discursive formation around 'enoughness.' I stage two additional arguments about satisfaction: one, that it was a motivation for anti-categoricality and two, that it was a mechanism through which the form of capitalism that predominated in Mae Sot

-- the supply chain (Tsing 2009) -- was “articulated,” its particular forms of exploitation naturalized, with the post-war history and religious surround of Thailand and Myanmar.

Chapter 1:
The Anti-Categorical Impulse in Mae Sot

At least once a week, I travelled eight kilometers from Mae Sot to sit by the Moei River. From a bench on a path next to the water, I watched the goings-on of the riparian borderland: the muddy earth and shrubbery that emerged during the dry season only to be inundated during the rains, the plastic flotsam that pooled in the shallows, laundry hanging from the rear facades of buildings in Myawaddy in Burma on the other side of the river, a massive rain-tree on a dirt clearing on the opposite bank that hosted the occasional soccer match. The path was poorly used and trash-strewn, but its wide concrete span and ornamented metal railings were a meaningful infrastructural commitment, especially in contrast to the Burmese side of the river which had no riverwalk, concrete or otherwise, along its bank.

Most conspicuous in this landscape was the Thai-Myanmar Friendship Bridge, prominent for its size and symbolism. The 430 meter long, two-lane concrete beam bridge was one of only five legal overland border crossings between Thailand and Burma, and the only one near Mae Sot[1]. Less than one hundred meters from the Thai-Myanmar Friendship Bridge, longtail boats with noisy outboard motors transported passengers to and from Thailand. The boats, fifteen meters in length, could carry up to thirty people, seated facing each other on the gunwales of the boat. The boat traffic was not inconspicuous, particularly to those who administered or crossed the Friendship Bridge. Unlike their counterparts who used the bridge, however, boat passengers did not undergo immigration checks. Their cross-border movement was completed by disembarking from a boat and climbing twenty or so concrete steps into the respective countries. Boat passengers did not legally enter Thailand.

[1] Ground was broken on a second Mae Sot-Myawaddy Friendship Bridge on June 10, 2015.

In this chapter, I relate the conspicuous proximity of the boats and the bridge to the successful resolution of an extortion case that occurred in July 2012. In this case, a police officer at a checkpoint in Mae Sot stole 23,000 Thai baht (approximately $745) from a father and daughter, both Burmese. The pair, who had entered the country on a day pass, came to Mae Sot to buy goods for a group of people from their village. Legal aid workers from the clinic mediated between the police and the father and daughter, ultimately brokering the return of 25,000 baht (approximately $811).

The chapter weaves an analysis of the resolution of this case with the history of border crossings to Mae Sot in order to make the following observations. First, the case and the question of the boats and the bridge are reflective of a widespread tendency for legal actors to hold categorical distinctions between the legal and the illegal in suspense, imminent to but nevertheless ambiguously differentiated in practice. This work of holding categories in abeyance is productive on multiple scales, from ensuring that negotiation remains interpersonal rather than systemic to allowing cross border movement of goods and people to occur during wildly shifting economic and political moments.

Second, this fact lays the groundwork for Chapter 3 and Chapter 4's theses. Chapter 3 discusses how the translation practices of clinic workers related to the suspension of categorical thinking described in this chapter. Chapter 4 demonstrates that the documentary practices around identification had a counterintuitive epistemological entailment: the hollowing out of the categorizing premise (and promise) of legal status. In this chapter, I assert that legal practice in Mae Sot turned on a related and more widespread eschewal of its capacity, either in mundane interactions in the legal aid office or the more theatrical encounters in police stations, to invoke and categorize action as legal or illegal. Interventions and activism of the sort practiced by the

clinic whose work I most closely observed was standardized, therefore, around the bracketing of questions of legality and illegality, a move that granted, as I shall explain, legal aid workers the ability to negotiate one-off circumstances, while undermining the capacity of their work to classify, categorize, and mark social practice in anything but a stochastic manner. The epistemological work described in this chapter and Chapters 3 and 4 are similar: all three involve an undercutting of the potential of knowledge making processes to create lasting, predictable classificatory schemes.

Third, although legal practice was a privileged agent, as I demonstrate in Chapter 4, in the formalization of legal uncertainty for the Burmese population of Mae Sot, this chapter shows that legal aid was itself structured by a longstanding and systemic hesitation, which this chapter delineates, to identify practices concerning migrant workers and cross border activity as illegal or legal. This is where the boats and the bridges across the River Moei become especially important to the story as a terrain in which definitional impulses have been invoked and contained for the past four decades. The historicity of place and law are inextricably linked here through an ongoing process of co-production in which the proximity, overlap and ongoing blurring of official and other modes of entry into Mae Sot is a key precondition of the legal order that persists in the town today.

I. Boats and the Bridge over the River Moei

Popular accounts of Mae Sot's border development align the formalization of trade relations between Thailand and Burma with the completion of the Friendship Bridge in August, 1997 (*Southeast Asia Globe* 8/27/15; *The Nation* 8/24/2012; *Thai PBS* 5/24/2014). Yet, for at least 40 years before the groundbreaking of the bridge, Mae Sot had been an important nexus for

the cross border exchange of goods either beyond or against the interests of state actors[2]. Shortly after assuming power in 1962, a junta instituted the "Burmese Way to Socialism," a policy based on its leaders' aspiration toward communitarian autarky. They sealed its borders (at least those under their control) against imported goods, nationalized an estimated 15,000 firms, and established State Economic Enterprises. Foreign commodities, nevertheless, continued to flow into the country. By the 1970s, the trade that sustained this flow was estimated to comprise 80% of Burma's economy (Aung-Thwin and Myint-U, 1992). Myawaddy, in no small part because of its location across the river from Mae Sot, became an important node for the import of banned goods that would then be sold throughout Burma.

Concomitant with the closure of the country's borders, the junta began its decades-long violent suppression of ethnic minority groups. Chief among these groups was the Karen National Union (KNU), which was founded in 1947. In the immediate aftermath of independence in 1949, the KNU posed a serious threat to the domination of the Burman army, but were expelled soon thereafter from Rangoon and the wider Irrawaddy delta region. They were driven toward the mountainous borderlands along the Moei River, where they asserted and sustained an independent Karen state until the mid 1990s. While foreign goods and services were prohibited in junta-controlled Burma, they were not only admissible in the Karen state, but the sustained demand for the contraband goods attainable in Thailand positioned the Karen as influential purveyors of banned commodities along the Thai, Karen and Burmese borderlands. According to

[2] Since the mid 12th century Mae Sot had been part of a pre-national commercial geography of mainland Southeast Asia. During the colonial era, the town was a minor trading point connecting Lanna, a kingdom in what is now northern Thailand, with Moulmein, on the sea, in British Burma. Even though the then-Siamese state implemented in the 1840s an administrative structure that brought Mae Sot more formally under its purview, the town continued to be oriented more towards Burma until the 1960s, when Burma new socialist experiments kicked off. Lee writes, "Burma continued to be [Mae Sot's] source of business activities and modern ways of life until the 1960s" (2007, 53).

Sang Kook Lee, under the KNU "the borderland remained a non-state space in which unofficial movement of people and goods prevailed" (Lee 2015, 775). The KNU offered Burmese traders protection, and in so doing brokered substantial international trade through the 1980s, much of which passed through the growing market town of Mae Sot. Researchers estimate that exchange facilitated through a network of similar markets along the Moei River, of which the Mae Sot – Myawaddy artery was the largest, accounted for 50% of Burma's trade (Khin Maung Nyunt 1988)[3].

By the 1980s, with the Burmese economy contracting, it was clear that the Burmese Way to Socialism had failed. The junta ended its closed door trading policy and, in an attempt to stimulate economic growth, fostered trade relations with its neighbors. In order to bring the economically productive borderlands under its purview, the junta directed military efforts towards the Thai-Burma border. Once it expelled the KNU, it established official trading ports along the border, including in Myawaddy. The KNU was not fully displaced, however, controlling a patchwork of territory and trading routes outside Myawaddy. Existing traders who had been thriving in Mae Sot remained, brokering newly 'official' trade with Bangkok businesses interested in working through the legalized trading corridor. For almost a decade, until the completion of the Friendship Bridge in late 1997, all trade of both banned and sanctioned goods and workers passed between the two countries either in boats or on foot across the Moei river border.

Despite the considerable financial, political and material investment in the erection and management of the Friendship Bridge, the boat traffic between the countries continued unabated. Indeed, the structural conditions of the bridge entailed the continuation of boat traffic. The bridge

[3] The Muse, Shan State - Ruili, Yunnan State channel has since exceeded Mae Sot in terms of the volume of cross border exchange.

was built for a maximum per vehicle load capacity of 25 tons, yet most Thai trucks, particularly those carrying large payloads of the telecommunications equipment, manufacturing machinery, used cars, and farming equipment that comprise some of Thailand's exports to Burma individually weigh in excess of 30 tons, and were therefore prohibited entry onto the bridge. Even in the face of smaller scale trade and tourist vehicles, the bridge's meager two-lane width guaranteed a consistent bottleneck at both border checkpoints.

Why would Thailand, which paid the entirety of the 80 million baht construction expenses, erect a bridge that was functionally inadequate for the level of trade it hoped to sustain? One explanation could be that Thailand anticipated that its neighbor's immigration and customs policies would continue to be erratic, so the sustained codependency of the bridge on the boat crossings would ensure uninterrupted commerce and migration regardless of Burma's official policy. A second explanation can be inferred from Burma's political economy. Between the completion of the bridge in 1997 and 2015, Burma was the target of international sanctions due to its infamous human rights abuses. Because the US and most European countries banned the export of their goods into Burma, the Friendship Bridge could not host the passing of western consumer products into Burma. The only means by which Thai traders could export these goods was to sustain and expand the network of boat crossings lacing the Moei -- themselves established by the KNU against the junta's ban on foreign imports years prior -- and condensing around the Friendship Bridge. A third explanation, mentioned in the introduction of this dissertation, is related to Mae Sot's changing regional position. Much like the town started to pivot from its westward orientation towards Thailand in the 1960s, it was being re-envisioned, at the time of my fieldwork, within a pan Southeast Asian multilateralism. Government agents and industry actors in town were invested in promoting Mae Sot's role in the new ASEAN Economic

Community, a supposedly 'connected' and 'integrated' economic unit which promises to be the seventh largest economy in the world. Much publicity, in the form of advertisements and trade shows, was also being directed towards highlighting Mae Sot's fortunate position on two economic corridors within the Greater Mekong subregion, one that connected Da Nang port in Vietnam with Moulemein port in Burma and another that connected Kunming, China with Narathiwat, all the way on Thailand's southern border with Malaysia. Facing this imagined future, the bridge acted as a model connection, not yet to scale, but a symbol of the sort of formal infrastructure that would be increasingly needed to ensure Mae Sot's position in an emergent Southeast Asian regional formation. It was an anticipatory monument to regularization and cross border 'connectivity,' even as it was functionally inadequate to the present.

II. Legal Assertion in the Time of Red Shirt Politics

May, the newest and youngest legal aid worker in the office, filled me in as I rode pillion on her scooter to the police station. Pong, a Thai Karen man, had brought to the clinic Hser Teh and Nu Poe, a father and his adult daughter, both Karen from Burma. Pong, who was a relation of the father and daughter, had, a day earlier, bailed the pair out of jail. Before being imprisoned, the pair had been detained by a policeman at a checkpoint on the road from the river to town. Hser Teh and Nu Poe had come to Thailand with a large sum of money – 23,000 Baht – to purchase goods, or so they reported to May, on behalf of people from their village. Entering Thailand on day passes for which they paid 35 Baht apiece (approximately $1) at the immigration checkpoint on the Thai side of the Friendship Bridge, they were authorized to be in Thailand until 6pm when the bridge closed. In addition to stealing their money, the police officer, whose features Nu Poe reported that she recalled, also destroyed their day passes and took them to jail pending deportation.

Figure 1: Map depicting the route along the A1 from downtown Mae Sot to the border. (Image adapted from google maps by author. Map data: Google, DigitalGlobe)

The police station was an improvised cluster of air-conditioned trailers in the parking lot of the permanent police station building that was then being renovated. A row of low office dividers separated the space between the desks at which the police officers worked and a narrow corridor lined with connected plastic seats that served as a waiting area. Floor to ceiling partition panels cordoned off a small area of the office no larger than two desks. Inside this space, the officer in charge (ร้อยเวน) intermittently worked on a laptop, his activities visible through the half transparent fiberglass, half aluminum room divider. A television playing Thai soaps was playing in the corner of the portable, a welcome distraction both to those waiting and to the working officers. As we waited for the duty officer to summon us to his desk, Oy, the senior legal aid worker at the clinic, explained to me that people came to this office to report crimes and accidents, mostly the latter. These reports were necessary to start an investigation, file an insurance claim or lodge a legal complaint.

Oy returned to the office soon thereafter, leaving May, Htoo Lay, a Thai Karen man who was employed by the clinic as a translator and low-level administrative worker, and me, to wait with the father, daughter and their relative in the police station. After a brief wait, May was called into the duty officer's improvised office. I accompanied her, introducing myself as a researcher from the University of Chicago in the US. May related the broad details of the case, prompting the officer to summon Nu Poe, her father and Htoo Lay, acting in the capacity of a translator. As Htoo Lay, May and I stood around the desk in the cramped space, the policeman and the father and daughter sat across from each other, the policeman especially erect in a leather swivel desk chair. An open laptop and piles of paperwork lay between them. Poised to take notes on his laptop, the officer began his questioning.

Htoo Lay, translating both the police officer's statements as well as the father and daughter's, and Pong, who dipped in and out of the meeting, spoke the most, the former for obvious reasons and the latter because he was fired up about the case. Htoo Lay was frequently enmeshed in conversation in Thai with the cop or in a Karen dialect[4] with Nu Poe, extending the exchanges such that the other interlocutor was unaware of what was being said. When I asked about the episode later, Htoo Lay said that it unfolded too rapidly for him to convey all but the necessary details. An analysis of Htoo Lay's work in the clinic is the object of the next chapter, but suffice to say now that Htoo Lay was the arbiter of the information that flowed to the parties. May, despite her legal expertise, remained inert, sidelined on the edges of the room, next to me, an observer of the interaction.

[4] The Karen language has three main dialects: Pa'o Karen, Pwo Karen and Sgaw Karen. I do not know which dialect Htoo Lay spoke with Hser Teh and Nu Poe. In the clinic, all three dialects were glossed as Karen language (ภาษากะเหรี่ยง or phaasa kariang).

If Htoo Lay was the most frequent participant, Pong was the most obstreperous. He spiritedly – aggressively even – announced, over and over, that Hser Teh and Nu Poe were part of his family. He instructed and then reiterated that May note the number of the police report. He stressed many times that this case was a big deal (เรื่องใหญ่), not only because of the large amount of money that had been stolen from his relatives, but because the theft was a flagrant instance of the pervasive problem of police corruption. He protested again and again that the father and daughter were allowed to be in Thailand, insisting that they should not be taken advantage of (เอาเปรียบ). He stated over and over that he had been a civil servant (ข้าราชการ) and that officials must follow a system of rules (กฎระเบียบ). He defended Nu Poe, with unveiled irritation at the questioning cop, when she could not remember the details of the extorting police officer's face. He said, "she doesn't understand what's going on (ไม่รู้เรื่อง)," meaning that Nu Poe was innocent in the whole affair and could not be expected to recall details in this unfamiliar context. He invoked his Bangkok and Mae Sot based contacts in the ruling party, Pheu Thai. He even telephoned someone in what he said was Prime Minister Yingluck Shinawatra's office. When neither the police officer nor one of the clinic workers would take his cellphone to speak with his ministerial connection, Pong handed his mobile phone to me. The absurd, fumbling conversation that I had with his ostensible contact did little to authenticate Pong's pull with the party in power. Undeterred, Pong reported that this Pheu Thai contact, as well as others, had advised him to pursue the case in court. Pong justified his vehemence by repeatedly maintaining that it was the police officer's duty (หน้าที่) to investigate the case. An equally common refrain was that he was simply speaking directly (พูดตรงๆ).

"*Who* is that?" the police officer at one point asked May, nodding at Pong. It was an obvious signal of the police officer's incredulity at Pong's conduct, a sentiment that was clearly

shared by Htoo Lay and May. Besides averting her eyes, May at one point politely told him, a man many years her senior, to cool it (ใจเย็นนะคะ), a directive that forced May to defy the age and gender hierarchies that might typically prevent a younger woman from commanding an older man.

Pong's insistence on telling it like it is (phuut trong or พูดตรง) was a hedge against the rudeness of his tone and claim making, and must be understood in contrast to the pragmatics of politeness (ความสุภาพ or มารยาท) in Thai interaction. Lexical selection, including pronouns to index the differential status of speaker and listener; polite participles such as khráp/khá-khâ/ and /já-*jâ*; and diction that favors *khamratchasap* (คำราชาศัพท์) or "royal vocabulary" in lieu of words that are marked as vernacular, is important to the achievement of polite speech in Thailand (Angkab 1975; Bilmes 1976; Bilmes 2001; Howard 2008). Ways of speaking are equally central, with clipped pronunciation, louder tones and brief sentences being marked as crude or impolite (Bilmes 2001; Wilaiwan 1988; Ukosakul 2005). Wilaiwan points to modes of address as significant, writing that, "attitudes and feelings of politeness in Bangkok Thai are in effect attitudes honoring and elevating the listener and self-effacing the speaker[5]" (1988). Ukosakul, offering an analysis that recalls Pong's impropriety, argues, "being direct and assertive are to be avoided because it could be interpreted as a threat to the self-esteem of the addressee" (2005, 120). Asserting, claim making, demanding threaten both the speaker and the hearer by imposing expectations and obligations that, if unmet, might embarrass or shame the parties and, if met, might make them indebted to each other. To be polite, therefore, is to convey oneself as humble and accommodating and to locate oneself correctly within rigid age and class hierarchies. By

[5] The title of Wilaiwan's article, "Some Observations on Expressing Politeness in Thai" suggests that she extrapolates from her analysis of Bangkok Thai to more general conclusions. I follow her in this generalization.

using colloquial phrases instead of their more elevated counterparts, by interrupting, by leaving and returning abruptly to the conversation, by speaking loudly, by asserting that the case was a big deal, by declaring that the police broke the law, by demanding that the shift officer investigate the case, by averring that he was going to pursue the matter in the courts, Pong was flouting the conventions of mannerly discourse.

The antonym of phuut trong is phuut aum, to speak circuitously (พูดอ้อม). Depending on the context, phuut aum carries the connotation of gentleness or duplicitousness, just as the claim of phuut trong can be aggressive *or* can confer a conspiratorial aura of openness to an interaction. Linking his words to the metapragmatic poles implied by the two concepts, Pong tried to frame his frankness as honest as opposed to embarrassing, upstanding as opposed to alienating.

Pong's impetus to file a report, to trigger an investigation and to pursue a resolution to Hser Teh and Nu Poe's case via formal legal process (ต่อสู้คดี) was fueled by his frustration with a history of police impunity and corruption, especially against Burmese in Mae Sot. At the same time, Pong's invocation of his Pheu Thai connections linked his comments to the rhetoric that had brought that party into power. Charges of judicial activism and bias in the Thai legal system were at the center of this rhetoric. Pheu Thai supporters (also known as Red Shirts), noting that the Supreme Court had in the previous six years invalidated an election that their party won with a substantial majority, found Thaksin Shinawatra, their favored political leader, guilty of corruption, banned or dissolved earlier versions of their party, while refraining from pursuing charges or cases against their opponents, argued that the Thai courts were doing politics by other means. Around this time, the term, double standard (สองมาตรฐาน), became ubiquitous in the pro Pheu Thai lexicon, as *Chang Noi* (little elephant), a columnist for the *Nation* newspaper,

observed in a February 2010 editorial. *Chang Noi* wrote, "it [double standard] no longer refers to the rather narrow area of judicial bias, but focuses criticism against the wider and deeper inequality in society." Anger at legal bias, pervasive disparities, and a sense that "certain kinds of people seem to get away with almost anything" (*Chang Noi, The Nation* February 8, 2010) was at the core of the Red Shirt movement. In contending that someone in the Red Shirt Prime Minister's office recognized the importance of Hser Teh and Nu Poe's case and advocated that Pong help the father and daughter press charges, Pong was the only person that I met during my fieldwork who linked the Red Shirt analysis of Thai society with the discrimination faced by Burmese people in the country. This connection, an assertion of a similarity between the daily injustices experienced by Burmese in Thailand and the legal and other biases that more pervasively impact everyone but the most elite in the country, helped to explain Pong's vehement and aggressive presence. The frustrated and fractious politics of the day seeped into

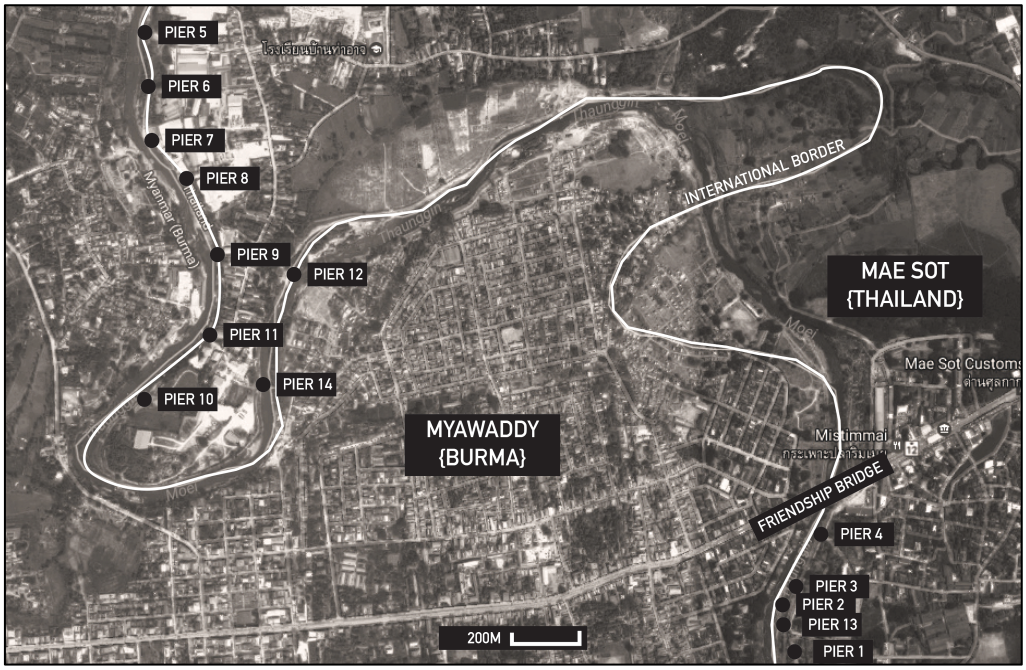

Figure 2: Map of piers lining the Thai-Burma border along the River Moei.
(Image adapted from google maps by the author. Map data: Google, DigitalGlobe)

the police station via Pong, impelling him to 'speak directly' for fairness and legal action, even in the face of the obvious discomfort and disapproval of May, Htoo Lay and the police.

III. The Conspicuous Proximity of the Boats and the Bridge

If the Friendship Bridge was more a monument than it was a channel for regularized trade and immigration between Thailand and Burma, the boats that cross the river were the dominant modes of cross border mobility in Mae Sot district. From before sunrise until sunset, boats made trips back and forth to Myawaddy. In the early morning, passengers with large plastic sacks or baskets of onions, garlic, chilies and other produce walked down the embankments in Myawaddy to the boat piers. Produce grown in and around Myawaddy was cheaper than were similar vegetables from Mae Sot's agricultural lands (Lee 2015). Other people carried fish, dried and fresh, crab, and prawns. The closest access to the sea is two hundred kilometers west of Mae Sot in Moulemein, Burma, so much of the town's seafood came from markets in Burma, not Thailand. Passengers carrying consumables were headed either to the central market in Mae Sot or to a riverside market, whose shops were built in the river on tall stilts that allowed vendors to not be on Thai territory, while selling their wares, over a small wall, to people on the Thai side of the border. Lee reports that merchants in the central market in Mae Sot, also known as the Burmese market because of the non-Thai vegetables and prepared foods it sold and because of the predominantly Burmese make-up of its shopkeepers and consumers, had active ties with vendors on the river market, and sourced their produce and seafood from there (2007, 153)[6]. The boat trip was for some, predominantly female, passengers part of their morning

[6] Most Thais shopped at another wet market in Mae Sot, visiting the main market more as a tourist destination than as a place to buy consumables. A health conscious Thai friend told me that she believed the vegetables at the main market, while cheaper, had been treated, as a result of their Burmese origins, with more pesticide.

commutes to factories in Mae Sot. Major manufactures, like Top Form Factory and others more anonymous, had industrial facilities located on the outskirts of Mae Sot, close to the river. My riverside observations suggested that significant numbers of workers lived in Myawaddy and traveled daily, via boat, to their factory jobs in Mae Sot.

The piers that flanked the Friendship Bridge were three of at least fifteen points (see fig.2) – reputedly twenty, although I could not confirm this number – at which people and things crossed between the Mae Sot area and Burma. On the Thai side, the piers were numbered. Pier 9, approximately 4 km downstream of the Friendship Bridge, was located immediately adjacent to a Top Form factory. Likewise Piers 1 and 13 were within a minute's walk of large garment factories. The location of these piers was obviously suggestive of their use as channels for day workers to enter and exit Thailand without documentation.

One day, I drove to the riverside to visit Pier 11. I had understood, from various Thai friends with whom I had spoken about furnishing my apartment in Mae Sot, that I could buy household goods at this pier. While these objects were to be exported to Burma, it was likely, they told me, that I could convince vendors to sell to me. At the pier, I found a small room that contained modest mounds of used shoes and clothing. Under dim lighting in an adjoining room were piles of sundry kitchenware – plates and bowls, mixers, cutlery – and some decorative items – rusticated brass objects, tablecloths, and small framed pictures and paintings. This was exactly what I had come for.

It was clear, however, that the export of these home and personal goods was a miniscule portion of the activity that occurred at pier 11. For the two rooms that I have described could only be reached by walking through acres of used cars bound for Burma. The vehicles were mostly Japanese makes, their paint jobs often faded because of their old age or perhaps because

of the unrelenting sun. If the scale of the parking lots of baking cars at Pier 11 was astounding, easily exceeding the size of any car dealership that I have ever seen, the number of bicycles was even more astonishing. They filled huge warehouses, some with bikes stacked prone from floor to ceiling and others with bikes parked as if in an orderly showroom. One large warehouse was filled with bike and car parts. The smell was similar to an auto-shop.

The warehouses were scarcely 20 meters from the river's edge and Burma was less than 15 beyond that. A flat barge navigated the river. Porters wearing green vests carried goods down the shallow embankment to the boat. Their counterparts on the Burmese side hefted the barge's contents up a small bank, disappearing on the other side of the low hill. I later looked at Google Earth to glimpse the area to which they headed. It too had warehouses, albeit fewer, smaller and made of walls of bamboo thatch, but there were no lots of parked cars on the Burmese side. Perhaps Pier 11 and other piers in Mae Sot stockpiled the vehicles, sending only small numbers into Burma for immediate sale or distribution in other parts of the country.

On the way back to my car, I saw three men sitting on low plastic stools in a cramped air-conditioned office. They were nonplussed by my presence, neither caring that I had been wandering around the site, nor anticipating that I would purchase anything. I chatted with the men about the pier. One of them said he was a manager. He explained that the porters were Burmese. They came daily, on the very barges that they later loaded, to work on Pier 11 and returned nightly to their homes in the outskirts of Myawaddy. They were joined, he said, by others, who used pier 11 to enter and leave Thailand for work.

From Mae Sot, only one large road, the A1, led to the river. About 2 km from the center of Mae Sot, at its town boundaries, small winding offshoots of the A1 started to appear. They led into low-density neighborhoods that were made up of stilt homes, intermittent fields, worker

dormitories, temples, small shops and home factories. The neighborhoods were unremarkable, except that the occasional border patrol checkpoints signaled their proximity to the border and to the piers. The narrow roads in these neighborhoods also saw unusual traffic in the form of semitrucks that had journeyed from Thailand's ports and industrial parks to its westernmost border. These trucks transported the goods that kept the piers in business. The size of the semitrucks, the frequency of their passage through the tight peri-urban streets and the regularity with which they would be flagged through checkpoints rendered their activity conspicuous, even normal.

The management and regulation of the boat traffic was murky, bringing together the bureaucratization of commerce, and the attendant rent seeking possibilities therein, with the ethnic politics of Burma. From an interview with a Thai customs official, Lee found that Thai customs built thirteen warehouses along the river, presumably to foster and manage cross border trade. Since exports to Burma were not taxed, Lee reasoned that they were largely "well-recorded and legalized." Imports, which were taxed, were not (158). The piers adjacent to these warehouses, Pitch reports, were privately owned (2007, 418). On the Myawaddy side, piers were controlled either by a splinter group of the KNU known as the Democratic Karen Buddhist Army or by the Burman military. The latter used lucrative cross border trade to incentivize armed groups to come within its fold (Lee 2007). Lee cites estimates that 60% of exports and 50% of imports to Thailand moved on the boats (2007, 159). Given that export volumes were estimated, in 2004, to be in excess of 11 billion baht (approximately 280 million USD) and that import volumes were 645 million baht (approximately 16.5 million USD), it is easy to see how much

value inheres in the boat traffic, separate of its also valuable use as a vehicle for migration (Bank of Thailand[7], qtd in Lee 2007, 163).

This is not to say that the bridge was not also an important and lucrative conduit. People on their way to work as well as food bound for market in Mae Sot crossed the Moei via the Friendship Bridge. And, people heading home and goods heading for market in Myawaddy crossed the Moei via the Friendship Bridge. An elaborate transportation infrastructure in the form of tuk tuks, motorcycle taxis and pick-up trucks with benches in their flatbeds greeted bridge and boat travellers at the intersection of the riverside path, the Friendship Bridge and the main road into Mae Sot. The bridge in this regard had a similar daily rhythm as did the boats, whose parallel routes could be observed easily from both sides of the bridge.

Yet, the bridge was a national space, marked on the Thai side by a large three story gatehouse, built with the brown roof tiles, concrete masonry and unadorned plaster as was typical of Thai bureaucratic buildings. Greeting people coming from Myawaddy was a large Thai flag. On a lower level of the structure were three smaller flags – the blue and white Thai national flag flanked by yellow royal flags. The gatehouse on the Myawaddy side of the river was built in a much grander style, with red terra cotta roof tiles and gleaming temple influenced gilt ornament.

Another big difference between the bridge and the boats was equally obvious: the former sustained vehicular traffic, albeit limited to 25 tons or less. As such, the bridge, when it was open, facilitated particular uses. Burmese people undertaking Thailand's Nationality Verification Program in order to obtain a work permit filled large passenger vans and were driven to and from

[7] The Myanmar Ministry of Commerce estimated that, in 2006, exports to Thailand through the Myawaddy/Mae Sot corridors were valued at 61 million USD and imports from Thailand through the Myawaddy/Mae Sot corridors were valued at 95.1 million USD (qtd. in Kudo 2013). It is likely that both the Myanmar Ministry of Commerce and the Bank of Thailand's figures underestimate the total value of trade, especially given the uncountable volumes of the illegal drugs, timber and gems that cross through these borderlands.

Myawaddy to complete the paperwork that was one step in a convoluted bureaucratic process. Older vans with Burmese number plates took passengers back and forth from points in Myawaddy to the Thai side of the border. And, lines of small cargo trucks drove various consumer goods into Myawaddy. Piled under plastic tarps and secured with ropes, these goods had been unloaded from semitrucks, much like those that head to the piers north and south of the Friendship Bridge. Once in Myawaddy, the contents of these trucks would be reloaded to yet another vehicle and would continue their journey to markets from Yangon to Naypidaw.

The competing architectures of the buildings reflected the fact that the bridge was a space for politics between Thailand and Burma and, occasionally, for localized conflicts. As a result, the bridge was often closed, its operation contingent on bilateral mood. No less than three days after the bridge was opened for the first time in a ceremony witnessed by thousands did it close, pending a meeting of the Thai-Burmese Border Committee. Comprised of local business people, representatives of Mae Sot and Myawaddy and delegates from the Burmese and Thai armies, this committee was set to determine – after the bridge was inaugurated – whether to allow bridge users to travel beyond Mae Sot and Myawaddy respectively. The committee ultimately decided that visitors were allowed to be in both border towns from 6AM-6PM, but not overnight. At the same time, the committee agreed that passenger buses would not be allowed to enter Myawaddy and that tourists could not bring video cameras, mobile phones or walkie-talkies into Myawaddy (*Bangkok Post*, August 22, 1997).

The issues here were complex. Myawaddy was being held, somewhat tenuously, by the Burman Army who was suppressing Karen National Union forces. The KNU side held much of the border around the Mae Sot region. For the Burmese, Myawaddy needed simulatenously to be open so as to project Burma's readiness for the ASEAN pan-Southeast Asian vision and to be

closed so as to protect it, precisely for its symbolic and economic value, from Karen encroachment. In Thailand, concerns about illegal immigration from Burma were high. Local business interests exploited these often xenophobic concerns, advocating capital investment in Mae Sot as a way to contain migration to other parts of Thailand. Calls for a Mae Sot special economic zone were rationalized in a similar way. Both the Thai and Burmese were at pains to emphasize that the Friendship Bridge was a channel that would inaugurate neither too large nor too small an opening between the two countries.

After being in operation for less than four months, the bridge closed again in early 1998. Yangon[8] cited its inadequate border trade system as the reason for the bridge's closing. This was likely only part of the story as fighting between the KNU and Burmese armies had flared up early in the dry season of the previous year (November-April). The bridge reopened in September 1998 (*Bangkok Post*, September 17, 1998). Between 1999 and 2007, Pitch documents four bridge closures (2007, 425), all for security reasons. The longest lasted for six months. One closure in 2001 was initiated by Thailand and was prompted by stray mortar fire from KNU and DKBA skirmishes.

For much of my fieldwork, the bridge was closed. In July 2010, the Burmese government accused the Thais of expanding their territory by building an embankment on the River Moei. Under the pretext of this alleged offense, the Burmese government suspended trade across the bridge (*The Nation* August 9, 2010). The bridge reopened in December 2011. From time to time, I noticed that the bridge was open to pedestrians but closed to vehicular traffic. Often people with whom I spoke either had no idea why the bridge closed or had divergent theories as to why

[8] Rangoon was renamed Yangon in 2006.

one side or the other closed the bridge. The boats, on the other hand, transporting workers and goods through the wet Moei borderline, were constant[9].

Modes of travel, transport, passage across a border, perhaps more than the things that traverse it, created the political economy of the Mae Sot/Myawaddy frontier. To understand how the frontier was organized and how this organization had definitional ripples in Mae Sot, it matters less that tons of onions came into Thailand and tons of bicycles headed into Burma than it does that this activity occured because of a transportation infrastructure that had two particular features.

First, cross border mobility and the tremendous profits it generated, both historically and during my fieldwork, created an economic order that was separate from the legal. The distinctions that analysts have frequently used to understand Mae Sot's boat trade – illegal, illicit, informal, partially legal, or licit (Arnold and Hewison 2005; Arnold and Pickles 2011; Arnold and Bongiovi 2013; Lee 2007; Lee 2015; Pitch 2007; Olson and Schjøtt 2014) – seem to assume that economic activity, in order to be truly understood, must be slotted vis a vis legal status. But, when privately owned boats take goods, some of which are recorded by Thai customs, into Burma to trade with a splinter group whose receipt of those goods may be in contravention of Burmese law, what of this activity is legal and, in what sense can its legality (or illegality) matter? In what ways is it insightful to say – and to whom would such an insight be illuminating – that it is illegal that men come from Burma for the day, spend the day loading boats that transport goods for trade with a splinter group whose receipt of those goods may be in contravention of their country's laws? In fact, the boats across the River Moei constitute a system of commerce that formed separately of a system of law in Mae Sot and Myawaddy.

[9] An exception was when the Moei was in its flood stage, as was the case in June 2013 when boats ceased their crossings because the banks of the river had been flooded.

This is not to say that law had not been invoked -- by traders, border crossers and various government functionaries -- to corral the vibrant border economy. It's more that these invocations were contained, overtaken, stymied by the commercial vibrancy of the Mae Sot/Myawaddy border. The Thai Customs Department, after all, was prominently housed in a large building on the Mae Sot bound side of the A1, less than 1 kilometer from the riverside. In 2012, it tracked 1.2 billion baht in imports and 34 billion baht in exports (Lee 2015). Yet, it was estimated that the total volume of cross border trade far exceeded these recorded amounts. According to Lee, Thai customs only document 60% of exports and 50% of imports (ibid). And, how could it do more? At least as of June 2005, only 35 officials staffed the Thai Customs Department in Mae Sot (Lee 2007[10]). Less than ten years before but well after the construction of the Friendship Bridge, customs officials had built warehouses to facilitate the boat passage of goods. Yet its attempt to impose a legal schema on commerce was complicated by the siting of its warehouses next to legally ambiguous border crossing points and means.

The Friendship Bridge brought to the Moei a legal order that oversaw trade and migration, but it was too often closed, unpredictably and for indefinite periods. It was not built to bear the required loads. It was frequently frozen by traffic that resulted from too few lanes and too few officials. It could only play a "symbolic role in trading" (Lee 2007, 127). It was only a promissory note to a Westphalian liberal future. It's documentary counterpart, the border pass, worked in a similar way. The pass, the same one that Hser Teh and Nu Poe acquired upon their entry into the country, prohibited people from staying overnight, from working in Thailand or from leaving Mae Sot to other jurisdictions, although it was widely known that Burmese people flouted all three of these rules and that employers knowingly enabled their violation (*Wall Street*

[10] Lee, in his 2015 article, notes that the number of officials in the Thai Customs Department had increased since his last count ten years before.

Journal, 13 October 2007). Lee's 2004 interview with an immigration official was illuminating. The official reported that, on average, 20% of those who enter Mae Sot with a border pass do not leave that same day, as was required (Lee 2007, 79). With both the bridge and the pass, as with the Thai Customs department's initiatives in Mae Sot, law – the idea of a transcendent regulatory order conceived of and implemented by a state – was materialized by various actors. Yet, it was undone, challenged, weakened, compromised, rendered symbolic, by the conspicuous proximity of other reliable, agile, longstanding ways of doing commerce.

IV. A Resolution to the Case

In the shift officer's boxy office, Pong's strategy – using "straight talk" to frame Hser Teh and Nu Poe's circumstances as a legal case in the making – was jeopardizing the already precarious project of two Burmese people filing a police report against a Thai police officer. Much effort was directed towards containing the threat. May and Htoo Lay tried ignoring him and requesting him to calm down. The police officer cold-shouldered him. This was in part because Pong's attempts to connect the case to national politics, to effect a scalar connection, was threatening, not because it was remotely likely that his contact would intervene but because those politics were so fractious that people avoided unnecessary reference to them. More importantly, Pong's forcefulness also risked his and the police officer's standing, which in turn undermined especially the latter's ability to undertake effective action. Yet another reason, perhaps the most crucial, that Pong was sidelined was that his belief that court was the appropriate venue to remedy the wrong against Hser Teh and Nu Poe relied on explicitly categorical assertions: Nu Poe and Hser Teh had a legal basis to be in Thailand with 23,000 THB; the extorting officer acted illegally; the theft of the money was a matter for the courts. In locating the possibility for redress in a site other than the Mae Sot police station and at a time

other than that afternoon, Pong's statements stood to limit the shift officer, potentially restraining his course of action. Pong's desire for law to mediate the resolution of the case entailed the reining in of the police officer's authority to mediate the resolution of the case. So, as midday dripped into the afternoon, the questioning (การสอบถาม) went nowhere.

A sticking point was whether Hser Teh and Nu Poe could provide a physical description of the extorting officer. In the law clinic office, Nu Poe recalled the offending police officer's face. In the police station, she found it difficult to recollect the details. She was sure in the office that he was wearing a short-sleeved t-shirt with a logo on the breast -- the same shirt that the questioning police officer was wearing – but was confused about the sleeve length when questioned. She could not recollect whether the thieving officer had a gun, first saying that he did, then that he did not. Her father and Pong, who was not present at the checkpoint, affirmed that he did indeed have a gun. When Nu Poe tried to describe the crooked cop's motorcycle, the questioning officer interrupted her. All cops were issued the same uniform, the same gun and the same motorcycle, he said, conveying his skepticism of her memory.

Calling May for a sidebar, the shift officer explained that he had planned to set up a lineup of officers who had been on duty during the relevant period. His plan was to ask the officers to stand outside the tinted sliding glass doors of the portable, and to ask Nu Poe and Hser Teh to identify the offender from the relative anonymity of the inside of the station. Since, however, the victims could not recall the police officer's face, it seemed to him pointless.

Nu Poe's recollection of the thieving officer's face turned out to be the lynchpin of the case. Soon after May was told that the line up was off, as the questioning became more and more desultory, Nu Poe and her father glimpsed the offending police officer as he walked by the office, on his way out of the portable. Events took on a cinematic sequence. The father and

daughter were scared, so much so that Hser Teh was unwilling to leave the shift officer's room. Later on, May told me that she had asked Nu Poe, in Burmese which both women could speak reasonably well, to be brave. Under the pretext of accompanying Nu Poe to the toilets, which were located in a separate trailer outside the main office, she rushed the young girl outside to see if they could confirm the sighting. Nu Poe identified the cop getting on his motorcycle – his personal bike which, incidentally, accounted for Nu Poe's confusion during the questioning. May raced to inform the shift officer who had, just seconds before the sighting, stepped out of his office in one of the many interludes that punctuated the interview.

This was a turning point. Once we had all seen the man that Nu Poe and Hser Teh has fingered as the thief, the interaction sped up, acquiring direction. Nu Poe's ability to remember minutiae mattered less and the shift officer's skepticism abated. He went from perfunctory to purposeful. "Will the matter end if he gives the money back?" he asked of Nu Poe and her father. "Will you pursue a case," he inquired, "if I am able to get the money? What do you want?"

Htoo Lay, Hser Teh and the shift officer had joined May, Nu Poe and me outside the main police station trailer. A warm, intermittent rain fell, so we clustered under a covered area next to the main trailer. It was strewn with disemboweled furniture, computers and other miscellaneous office trash, remnants of the demolished police station. We sat on corners of tables, arms of sofas and what other available surfaces there were. The shift officer tacked back and forth between our group and his mobile phone, getting up to take frequent phone calls. Once, when the shift officer was speaking on his phone, Htoo Lay told the rest of us that the officer had said to Htoo Lay that he wanted to avoid the police getting a bad name (ชื่อเสีย) as a result of this episode. Htoo Lay characterized the officer as scared, although it seemed to me that this was an overstatement.

Returning from a phone call, the shift officer said that he could return Hser Teh and Nu Poe's money. "Will the matter end here (เรื่องจบไหม)?" he asked again. Htoo Lay, on behalf of Hser Teh and Nu Poe, said that the father and daughter were not going to continue with a case. The matter would end with the return of the money. The policeman requested that Hser Teh and Nu Poe return to the police station the next day at 4PM; he would have the money for them then.

The suggested timing posed many challenges. As May pointed out, the border gate, although officially closed at 6PM, often closed at 5:30PM. Meeting in downtown Mae Sot at 4PM would mean that Nu Poe and her father would risk not being at the Friendship Bridge before it closed. If they accepted the appointment, they would likely have to leave by boat. Also, the expense of crossing back and forth was enough of an obstacle for the father and daughter that the additional cost of transportation between the Mae Sot side of the border and the Mae Sot police station would make another day's border crossing prohibitively expensive. Htoo Lay asked the shift officer whether there was anything that the police officer could do to officially allow Nu Poe and Hser Teh to stay in Mae Sot that night but the officer responded that he could not help with immigration issues. "Impossible," the shift officer said, "I cannot guarantee anything" (รับรองไม่ได้)

Into this impasse, the stakes of which was the question of cross border mobility, Pong returned. Predictably, he was displeased, although the source of his displeasure had to do with whether or not a legal point could be made out of Nu Poe and Hser Teh's experience. He advocated proceeding with the case, citing the volume of police abuse against Burmese people who follow the law. He wanted the offending officer to face charges. He accused the shift officer of not accepting (ไม่ยอม) the case. Htoo Lay reminded him that, in fact, Nu Poe and Hser Teh were the ones who did not want to pursue the matter further. "They are scared," Htoo Lay added.

May ventured to head off Pong's attempts to make the case an object of further legal process. She directed his attention to the problem at hand: how could Nu Poe and Hser Teh travel to and from the police station the following day in order to take possession of their money? Could they stay overnight in Mae Sot?

To head off Pong was to contain his insistence that what happened to Nu Poe and Hser Teh was illegal, therefore subject to legal remedy. It was to suppress a categorical impulse, to borrow Ellen's phrase (2006), and the repercussions therein entailed (an investigation, charges, testimony, court, uncertain outcomes for Hser Teh and Nu Poe, possible punishment for the thief-policeman). It was to insist that the work at hand was pragmatic rather than categorical. It was to be concerned with when money could be returned and how the father and daughter could be present to receive the money. In containing the classifying moves voiced so emphatically by Pong, an alliance had emerged among the police, the legal aid workers, Nu Poe and her father. By virtue of my position vis a vis May, I too undoubtedly was commissioned, even if only as a tacit ally. The aim of our alliance was simple: to refrain from recognizing the incident as requiring redress through the legal system.

It is worth noting the perhaps obvious temporalities, of immediacy versus delay, at work in the contest over the resolution of this incident. The promise of completion, closure, and concluding the matter lay with the shift officer's proposed solution. What I am calling the categorical move – the framing of the extortion of Nu Poe and Hser Teh as a criminal matter in need of legal mediation – deferred resolution to an unknown future. It required a deposit of faith in an abstraction, law, and a willingness to wager that faith in the name of practicing the abstraction. As many have noted, this structure of deferral is intrinsic to the liberal project, especially in its legal manifestations (Povinelli 2002). In the Mae Sot police station, in a context

in which legal liberalism was not felt, even by legal aid workers, as hegemonic (indeed it was not), the temporality of delayed gratification made Pong's position even riskier.

Ultimately, it was decided that Pong would take Nu Poe and Hser Teh to the Mae Tao Clinic, often called Dr. Cynthia's Clinic after its founder, Cynthia Maung. A hospital on the outskirts of Mae Sot whose patients were almost exclusively Burmese, Mae Tao saw high numbers of patients who traveled from their homes in Burma to the facility. It was well known that Thai immigration made exceptions for patients being treated at the clinic. Nu Poe and Hser Teh would stay the night there and, accompanied again by Pong, would come back to the police station the following day. But, in order to receive their money, Nu Poe and Hser Teh would be in contravention of immigration law. The border passes that they paid for that morning to enter Mae Sot to come to the legal clinic expired at 6PM. No authority was willing to vouch for their story. They would have to take a boat back to Myawaddy the following day. Indeed, it could be argued that the boats that cross the River Moei made the father-daughter/police/legal clinic alliance viable.

The proposed deal almost collapsed the following day. The shift officer, not on duty that day, arrived at the police station a few minutes after the appointed time, dressed down in pressed tan cargo shorts and a crisp plaid short-sleeved shirt. Oy, the senior legal aid worker, Nong, the office manager, Htoo Lay and the policeman sat in the outdoor covered sala, waiting for Hser Teh, Nu Poe and Pong to arrive. Nong brought up an issue that had been raised briefly by Pong the day before: an additional compensation, in the amount of 10,000 THB, for Nu Poe and Hser Teh. "Let's see (ลองดู)," the shift officer said in what was a slight thawing from his entirely non-committal response the previous evening. Soon after Hser Teh, Nu Poe and Pong arrived. The shift officer gestured towards his pocket and indicated that it contained 23,000 THB. He handed

the entire sum to Nong who counted and recounted the 23 new thousand baht bills. The shift officer then pulled 2000 THB out of his wallet, stressing that this substantial sum was his own and that he had been unable to arrange the suggested 10,000 THB. Confusion erupted.

Nong, Oy, Pong and the shift officer stood in a loose cluster in front of Htoo Lay, Nu Poe and Hser Teh. I was to the side of both groups, attempting to glean as much as possible of both of their conversations. While Htoo Lay explained to Nu Poe and Hser Teh that the police officer would give them 25000 THB, Pong vociferously relaunched his objections. He wanted a case to be filed, for charges to be brought against the police, for Nu Poe and Hser Teh to receive compensation for the policeman's misconduct. In the meantime, Nu Poe and Hser Teh quietly indicated to Htoo Lay that they were satisfied with the 25000 THB. Oy tried to pacify Pong, "Let's conclude the cash reimbursement now and we can file a case in the administrative court later." This prompted the shift officer to signal to Nong, who was holding the bundle of cash, to give the money back. In the meantime, Nu Poe and Hser Teh's assent was lost in the cacophony of simultaneous talk. Breaking from his circle, the shift officer addressed Nu Poe and Hser Teh directly, the first time that he had done so since the day before when he had asked them whether the matter would end with the return of the money. Through Htoo Lay, the shift officer asked, "How do we do this (ทำอย่างไรดี)? Do you want the money?" Their silence -- perhaps a result of Htoo Lay's translation, perhaps a response to Pong's anger, perhaps a fearful reaction to the policeman's direct address-- prompted the shift officer, who, seconds earlier, had taken back possession of the money to walk away from our assembly and head inside the police office.

Following the shift officer into the trailer, Nong disclaimed any connection to Pong. She stated that the law clinic's interest was in Nu Poe and Hser Teh, and that they were not interested in filing a legal case. In the meantime, Pong got his ministerial contact on the phone and tried to

push his cell phone into the shift officer's hands. Politely but firmly, the shift officer declined (ไม่เอา). Nong grabbed the phone, spoke dismissively to the person and disconnected the call. She then repeated, to both the shift officer and to Pong, that the father and the daughter were the clinic's responsibility. The momentum of the interaction shifting away again from his preferred outcome, Pong toned down his statements. At this point, something surprising happened. Nong asked Pong to wait outside the police station. He did so without apparent offense. Mollified, the shift officer repeated the terms of the resolution: the father and daughter would receive 25,000 THB and they would agree not to file a complaint. Htoo Lay conveyed the information, again, to Nu Poe and Hser Teh. They accepted the money. The group drifted out of the office.

V. The Anti-Categorical Diagram?

Everyone in Mae Sot confronts on a daily basis certain proximities that define the town: of a border that is regulated by the state to a border that is unregulated by the state; of mobile people and things that traverse the border to volumes of wealth entailed by their movement; of visible signs of state law to their erratic and questionable efficacy; of continuing investment in the idea that a transcendent legal order can in the future work to a deepening skepticism of the idea that it works in the present. In this landscape of complexity and contradiction, it is insufficient to see the boats and the bridge over the River Moei as detached infrastructural phenomena. For the forces that constitute the boats and bridge can be isolated neither to the prows and trusses of its built forms, nor to the exigencies of cross border trade. Rather, the boats and the bridge, as well as the negotiations in the police station that resulted in the return of Nu Poe and Hser Teh's money are two instantiations of what I discussed in the introduction as an anti-categorical formation that has come to pervade Mae Sot. In myriad encounters, this formation brings

together a tendency to marginalize the capacity of law to assert its standards of behavior and practice with the proximities listed above.

It was tempting to tease apart the licit and the illicit from the legal and the illegal, and to use these four labels to analyze the above as symptomatic of the workings of the gray areas of law. In this vein, it would be revealed that much of Mae Sot's economic activity was (il)licit – "socially legitimate," that is, even if not legally so – as was its labor force (Abraham and van Schendel 2005). The crossing boats would be illicit and the bridge crossings would be legal while the resolution to Nu Poe and Hser Teh's case would merit the illicit tag. The work of customs officials who record items entering Burma via privately owned warehouses and boats would be harder to characterize; at points, their practices might be seen as legal and at others illicit or even illegal.

The problem with this analysis is not only that neither illicit nor licit are terms of art in Mae Sot or in Thailand. (They are not.) It is also that the concept of (il)licitness is too connected to questions of legitimacy to be useful to describe Mae Sot. Abraham and van Schendel, in the introduction to their edited volume on illicit flows, write:

> "By introducing the concept of social legitimacy or licitness and settling it against political legitimacy or legality, we seek to remind our readers of the politically derived nature of this distinction and its moral institutional foundations…" (2005, 31).

Theirs is certainly a very significant corrective, particularly given that their project is to open up understandings of illegality. But it, perhaps, does not go far enough. For it presumes that political and social life is primarily rationalized with reference to legitimate (be it political or social) authority or authorities; it hints at a liberal democratic bias – a theory of consent as the foundation for lawfulness – at the core of licit/legal/illicit/illegal typology. Yet, in Mae Sot, at

the periphery of two authoritarian states and of an ongoing armed ethnic conflict, the overlapping military, bureaucratic, capitalist, and humanitarian interventions that organize the town need not be thought of as legitimate, by most or by any, for them to be authoritative. Might we be better off, therefore, to question whether the legitimate/illegitimate threshold is pertinent to a given structure of authority before using it to interrogate the ordering effects of said authority[11]? Roitman's work, for example, highlights how productive the concept of illicitness can be (2006). In the Chad Basin, very unlike Mae Sot, traders and smugglers characterize their work as illicit – illegal but legitimate – in order to fashion an ethics. Her work suggests how important the difference between a descriptive and normative use of the categories, illicit and licit, can be. Roitman's analysis falls into the former camp, allowing us to see how people can use illegality to define themselves contrastively as truly legitimate. The distinctions among licit/illicit/legal/illegal are illuminating in contexts in which authority is mediated by legitimacy, but less so in places, like Mae Sot, in which authority acts – and powerfully so – with minimal, contingent, shifting claims to legitimacy.

The most compelling caution against using the licit/illicit/legal/illegal categorical quartet to understand how law works in Mae Sot is that the people with whom I spoke were themselves not typically engaged in this sort of categorical thinking, irrespective of whether or not licit or illicit were available as lexical or conceptual choices for people to characterize the social field. Perhaps, counter-intuitively, it was the rare interaction in the legal aid world in which assertions of legal certainties – such as 'that is legal,' 'the employer broke the law,' 'she illegally entered the country' – were made. Why this might be was not an outcome of the internal workings of the

[11] Foucault makes a version of this argument when he writes, of the relationship between power and right, " right must, I think, be viewed not in terms of a legitimacy that has to be established but in terms of the procedure of subjugation it implements" (1995 (1977), 27).

legal order, its allocation of legitimacy or its illicit spaces. Instead, it requires us to think about how people's refusal of law's classifying capacities related more particularly to Mae Sot.

Why did actors refrain from using legal concepts to characterize practice? The short answer was that such refusals were productive. The next four chapters pursue longer answers, but for now let me suggest two frameworks in which to pose the question. One framework is to consider actors' dispositions towards law as a performance of a pragmatics, one that follows from the things, agents, and consequences of Mae Sot as an industrializing border town on significant trade routes in Southeast Asia. From this perspective, the place's particularity, its situation in a global economy and its management of complex cross-border flows -- the proximities I earlier described -- were all forces that caused various effects on particular bodies or things. One such effect was an anti-categorical disposition towards law. These effects could be discerned as patterned only by virtue of their contingent repetition across particular interactions and situations.

Another approach is to analyze the anti-categorical as a diagram, a mechanism of power, and to recognize actors' dispositions towards law as one of its forces. Deleuze extracts the concept of the diagram from *Discipline and Punish* (1995 [1977]), expanding upon it to read Foucault's theory of power (1988 [1986]). Deleuze writes,

> The *diagram* is no longer an auditory or visual archive, but a map, a cartography that is co-extensive with the whole social field…It is a machine that is almost blind and mute, even though it makes others see and speak" (ibid., 34).

He repeatedly likens a diagram to a map (ibid., 34, 36, 44), "a display of the relations between forces which constitute power…" (ibid., 36). Foucault used the term, diagram, to describe the panopticon, writing, "it [the panopticon] is the diagram of power reduced to its ideal form…" (1995 [1975], 205). It shows the imminent, labile, dense connections – "constituting hundreds of

points of emergence" – through which the effects of power are realized (Deleuze 1988 [1986], 35). For Deleuze, discipline is but one kind of diagram. "Every society has its diagram(s)," he maintains, "…because there are as many diagrams as there are social fields in history" (ibid., 35)[12].

With what we know about the boats and the bridge, as well as the case -- their interworkings, the mobilities they presume and foster, and the proximities they trade on -- we can begin to diagrammatize anti-categorical power. From this perspective, the boats and the bridge and Hser Teh and Nu Poe's case, are both concrete enactments ("displays") and an ideal of a type of power that operates through the following forces in Mae Sot[13]: 1. large volumes of moving people and things; 2. profit that is produced (in factories, markets, warehouses, boat fares, taxes, extortion and other so-called rent-seeking activities) because of large volumes of moving people and things; 3. proximity, overlap, bleed between mobility that is authorized by law and mobility that is not authorized by law; 4. gleaming symbols of a Thai legal order; 5. an orientation of legal interventions towards a future in which law will be capable of meaningful regulation; 6. suspended and intermittent faith in present day legal order. Over and over in Mae Sot, these six forces met in singular figurations – in the boats and the bridge, for example, or in the extortion case but also in countless other instances -- all particular points in which the forces that constitute power are apprehensible and on display. Unlike the pragmatic reading suggested above, these forces, seen from the perspective of a diagram, were not only effects of something prior, but were in dynamic and productive relation with each other.

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[12] Deleuze's language here can lend itself to an inaccurate reading of a diagram as bounded by the contours of a society. Such a reading would be at odds with Deleuze's conceptualization. He argued that a diagram is shifting, evolving and in "perpetual disequilibrium," not at all static or spatially delimited as perhaps implied in this quote (Deleuze 1988 [1986], 35).

[13] More research needs to be done on Myawaddy to consider how the boats and the bridge relate to the town.

This returns us to the original question, why would holding legal categories in suspense be powerful (as opposed to merely effective)? Because the six forces enumerated above acted on each other to make law visible in Mae Sot, but in a particular way. "Each concrete mechanism," Deleuze writes, "is realized through a mushy mixture of the visible and the articulable" (1988 [1986], 38). What was unmistakable was the law's symbolic weight in Mae Sot – its connection to the Thai state, its expression in permanent architectures, its announcement in billboards. What was less evident was its efficacy either in corralling, classifying or categorizing those practices it defined as illegal or in implementing legal norms. The numbers of Burmese people in town, a group clearly comprised both of those who had entered the country with legal authorization and those who had not, the centrality of a market whose foodstuffs were widely known to have been imported via both the boats and the bridge, from Burma, the presence of a border bridge that was intermittently operational side by side with a network of boats that consistently made the cross border journey all suggested a legal force that was inefficacious, at best, or inept, at worst. So, law in Mae Sot was both prestigious and weak, like an automobile whose status as a luxury object sits side by side with its reputation for mechanical failure. One looked good driving the car but one wouldn't want to drive too far for fear of a breakdown.

For many moving in this landscape, an anti-categorical stance allowed them to have the best of both worlds: saddling law's prestige while still getting things done, lassoing its cachet while restraining its transformative potential, using its luster while not being overly burdened by its forms. This was a power for which the symbolic visibility of law was essential – in the bridge, in the presence in town of legal aid workers and the clinic, writ on signs declaring updates in immigration law, policed in checkpoints – but the identification, attachment, assignment of

stable, perduring legal categories in, of and to practice was not. Power existed in using law as a set piece not in creating categorical legal knowledge.

This anti-categorical power had uneven impacts, of course, and benefitted some more than others. It should come as no surprise that it was the leading business people in town, the very group that had grown rich from Mae Sot's boat-based cross-border trade and from the use of low-skilled, undocumented Burmese labor, that sustained the momentum to build and open the Friendship Bridge, even when relations between Thailand and Burma were frayed as a result of spillage into the former of the latter's armed conflicts with various of its ethnic groups. Mae Sot's capitalist elite traversed the ranks of its civil society, particularly the Chamber of Commerce, and the Provincial Council under whose budgetary and policy mandate Mae Sot fell (Lee 2007, 82). For these actors, the Friendship Bridge and the associated regalia (flags, checkpoints, customs house, immigration policy) of a Thai legal order responsible for the regulation of the border, howsoever non-functional, allowed them to position the town – and themselves – for a future in which Mae Sot would be a buzzing hub of so-called free trade in the ASEAN Economic Community under construction. Yet, the anti-categorical power with which these initiatives were realized ensured that their looming liberalized future would not imperil their current economic interests. *This* -- the conjuring of Mae Sot as a stable, yet transitioning haven of capitalist development through the calibration of capitalist and liberal temporal imaginaries -- was the reality to which anti-categorical power was addressed. This was why I ultimately read the anti-categorical as a formation of power, not soley as an effect of the mandates and exigencies of Mae Sot.

Power invests the dominated too, as we know (Foucault 1995 [1977], 27; Deleuze 1988 [1986], 35). Nu Poe and Hser Teh's case revealed the ways in which it portioned its burdens

unequally. On the one hand, it enabled a young female legal aid worker to enter a police station with two Burmese people to lodge a grievance against the police. It provided a mechanism for the legal aid workers, their two clients and the police to find common ground. It prompted the quick return of 25,000 THB to Hser Teh and Nu Poe. It did so by keeping the case in the now, the contest between legal and anti-categorical time not being much of a contest. On the other hand, the anti-categorical outcome was realized only by not identifying the extortion as a crime, by not subjecting the offending police officer to investigation, and by not recognizing law as the framework within which the episode should be resolved. It relied upon a toothless exercise of law, more symbolic than substantive, more atmospheric than definitive. And, it was materialized in the additional risk (of jail, deportation, harassment) to which Nu Poe and Hser Teh were vulnerable as a result of having to pass the night and the numerous checkpoints that stood between them and their money. Had they pursued a case against the police, risk would have been distributed more equitably; it would have been borne by the crooked policeman who would have faced rebuke or worse, by the Mae Sot police force as a whole whose reputation would have been further stained, by Nu Poe and Hser Teh who stood to not recover any money should they not take the deal and by the legal aid workers who would have had to mobilize further resources to litigate the case. Indeed, for this last group, anti-categorical tactics were indispensible. In this regard, Hser Teh and Nu Poe's case was paradigmatic of how legal aid could work in Mae Sot.

Paradigmatic and a paragon. It was not with resignation or chagrin, but with satisfaction and a sense of achievement that May, Htoo Lay and Nong regarded the anti-categorical resolution in the Nu Poe and Hser Teh case (please refer to Chapter 5 for a discussion of the relationship between satisfaction and legal practice). As the deal was finally coming to a close and the money had been returned to the father and daughter, Nong announced that she was going

to write a thank you letter (หนังสือขอบคุณ) to the police officer with whom the clinic had been dealing. I had never seen anyone from the legal aid clinic, let alone no-nonsense-Nong, write a letter of appreciation in the course of their work. Why, I asked? Because, she explained, the police officer does his job well (พี่ทำงานดีมาก) and was helpful (เอื้อเฟื้อ) in this and other cases. Her praise for the shift officer doubled as a commentary on the successful handling of Nu Poe and Hser Teh's case. Had the resolution been disappointing, its marginalization of legal categories vexing, thanks would not have been in order.

Good manners amplified the anti-categorical effect. Nong's planned thank you letter was an attempt, through a gesture of politeness, to cement a mutually beneficial relationship between the legal aid clinic and the police. Her effort positively recognized the logic of keeping the case from the courts, imbricating etiquette in the realization of anti-categorical power. The magnifying impact of politeness also explained why Pong's numerous assertions – that the thieving police officer broke the law, that Nu Poe and Hser Teh should press forward with a case, that their case was exemplary of police abuse – were both impolite from the perspective of mannered interactional norms and impolitic from the perspective of the anti-categorical diagram. The thank you letter and the fact and manner in which Pong's statements were managed demonstrate the overlap between the pragmatics of politeness and of anti-categorization. In the Nu Poe and Hser Teh case, to be polite was to be anti-categorical and to be anti-categorical was to be polite.

Chapter 2:
Rule of Law to Roles in Law

In 2009, just before I started my fieldwork, Thailand introduced a new immigration policy requiring Burmese migrants to participate in a process called "Nationality Verification" as a condition to obtaining work visas[1]. Navigating this complicated process was daunting if not impossible for migrants, in no small part because of a lack of Burmese language materials explaining the procedure. Most applicants either engaged the services of a broker to guide them through the process, or were recruited by a broker. This was one reason that a bloom of nationality verification brokerage offices -- 61 at my count in 2011 -- flourished around the Thai side of the Friendship Bridge. This was also a reason that so many Burmese claimants sought the assistance of the legal aid clinic. Extracting large sums to "process" paperwork or failing to follow the necessary steps, brokers were notoriously slippery. And, it was why three claimants arrived at the clinic one morning in July 2011, accompanied by a representative from a local

[1] A similar policy was already in place for Lao and Cambodian migrants, but 2009 was the first year that Burmese workers were subject to its mandates. At the time, it applied only to Burmese nationals already in Thailand. In 2010, a few months before I went to Mae Sot, the Thai Ministry of Labor announced that Nationality Verification would no longer be eligible to those Burmese workers in Thailand who had not initiated the process during that initial period between 2009-2010. To enroll in the program, applicants had to leave the country, apply from Burma and be matched with an employer. By the time that I started my research, the applicants undergoing the onerous Nationality Verification process were either migrants who had returned to Burma in order to apply or would-be migrants hoping to get their papers in order to work in Thailand. A bilateral initiative, the first step of the Nationality Verification procedure was that the Burmese government would vet applicants and issue a 3-year temporary passport. This was an attempt to address the high rates of undocumentation among Burmese migrants in Thailand and an expansion of Burma's surveillance capacities. With a passport, people could then apply for a two-year Thai visa that could be renewed once for another two-year period. Along the way, there were random fees for processing documents, a health check and insurance. The procedure was so convoluted that even clinic workers were unsure of its details. When I counted the number of steps, I was surprised to discover that there were sixteen.

community based organization (CBO) who frequently guided wronged Burmese people to the clinic's doors.

The three claimants already had waited for two months for a broker to deliver the passports he had been paid handsomely to process. (Obtaining a passport is the first step of the Nationality Verification Process.) Each claimant had given the broker 15,000 baht (approximately $500), or roughly half the annual income for the average Myanmar citizen[2]. After speaking to the claimants for a few minutes, Htoo Lay, an office translator, told Oy, one of the legal aid officers, and me, that the clients just wanted their money back. Oy and Htoo Lay agreed to approach the broker directly to negotiate the return of the threesome's money. Coincidentally, Oy happened to have met the broker the day before because he was implicated in another Nationality Verification applicant's troubles. Before Oy could telephone the broker, however, Pui, one of the clinic's lawyers walked into the clinic, having just gotten in from Bangkok on the overnight bus. The clinic's lawyers all had licenses to practice, unlike the clinic's legal aid workers who held law degrees but no professional licensure. Pui was in town, as was the case every few months, to accompany a client to a hearing and to consult on intakes. Once she was briefed, Pui, who was very well regarded among the clinic staff and had at least a decade of experience on the clinic workers, decisively proposed the opposite of Htoo Lay, Oy and the claimants' strategy. She recommended avoiding direct negotiation and filing a police report instead. Htoo Lay gently persisted, asking Pui whether the clinic should contact the broker in any case. Pui insisted, "We don't have the power (*amnaat* / อำนาจ) to convince the broker. They should go to the police. Filing a report is the correct thing to do (*thukthong* / ถูกต้อง)." Their exchange spanned many turns, as both emphasized their positions. Finally, Oy interjected, telling

[2] 2011 UN Data, Myanmar (http://data.un.org/CountryProfile.aspx?crName=myanmar, accessed 10/18/2016.)

Pui that she met the broker the day before and was willing to call him to see if he would return the money. Pui acceded, despite her previous conviction that filing a report was the correct course of action and that the clinic did not have the "power" to negotiate. If a direct plea fell through, Pui planned, filing a police report – "the right thing" – would be their fallback.

This discussion of strategy points to many questions that persistently animated legal aid work in Mae Sot. What, in the context of working with the law in Mae Sot, constituted power[3] and who had access to it? How was action related to power? One minute, a lawyer asserted that the clinic had no power to negotiate with a broker. The next minute, she pivoted, agreeing that Oy should call the broker. Why was even a glancing familiarity between Oy and the broker seen as potentially more effective than lodging a complaint following legal protocol? How was power understood as opposed to correctness? Finally, what forms of knowledge – knowing what vs. knowing who – corresponded with power?

To understand the implications of these questions as they pertained to the practices of legal aid workers at the clinic, certain connections need to be made. Most importantly, I argue, power must be understood in relation to a discourse of duty (*naathii*/หน้าที่) and roles that actors used to understand their own work within the social order. In this chapter, I put forward the idea that clinic staff worked in relation to a spectrum of possible action, ranging from duties and roles, on one end, to power, on the other.

Second, this spectrum of possible actions must itself be situated within transformations in the relationship of law and politics, from early legal activism in the 1960s to contemporary legal aid work along the Thai-Burma borderlands in the 2000s. The legal aid clinic was a product of

[3] Power is glossed in Thai as having influence on someone else such that they have to accept events, or as an ability to make things happen (*Royal Institute of Thailand Official Dictionary*, 1982). In this chapter, unlike the first, I theorize power from my interlocutors' understandings of the concept.

this history, having been co-founded by a prominent legal activist who got his start in the optimistic politics of the early 1970s. He is part of a cohort that is referred to, often nostalgically, as the "October generation" for their role in organizing massive protests that successfully ousted a ruling dictator in October 1973; for their work on land and property rights, environmental and labor law; and for the violence and persecution they suffered three Octobers later, in 1976, which fundamentally altered but never erased the entailments of their experiments in the politics of law.

Munger (2011, 2015) has analyzed the changing face of legal activism in Thailand through the concept of depoliticization. By this, Munger means the relocation of a movement's goals from a realm of politics into the uncontestable realms of the technical and the expert. The perspective from the legal aid clinic in Mae Sot suggests limitations in the claims and applicability of the depoliticization claim. Even in the interaction briefly described above, social and moral questions about what is "right" and who has power *were not* dealt with, in the end, through instruments or logics of legal rationality. Instead, Pui's attempts to locate the dispute in terms of the technical were contained in favor of keeping the matter alive as a political question: could Oy influence the broker to return the cash?

Third, the power/duty spectrum that framed the clinic's work in Mae Sot was interdiscursively connected, as I will suggest, with national politics. Following two influential speeches by King Bhumibol Adulyadej in 2006, the judiciary was invested with ever-greater political influence to intervene in parliament and even to legitimate coup d'etats. This investment was done, in part, through the idiom of duty, and it is towards a consideration of the implications of this duty-talk from the national level on clinic life that the chapter builds.

I. The Birth of Legal Activism in Thailand

As early as the late 19th century, King Chulalongkorn and a cadre of Thai, British and Belgian legal advisors sympathetic to the king's modernization projects transformed Thailand's religiously grounded system of laws based on dhamma commentaries (*dhammathat*) into a system, explicitly marked at the time as modernizing and universalizing, modeled on a mixture of European forms of jurisprudence. "A radical transformation," according to Reynolds (1994, 116), these reforms introduced laws at odds with the *dhammathat*'s historically royalist hierarchy (Engel 1975, Reynolds 1994)[4].

However, it was only during the topsy-turvy decades from the end of World War II to 1972 that law emerged as a privileged site for Thais to imagine and attempt the realization of a more equitable society. Historical conditions and geopolitical conjunctures had transformed Thais, and particularly Thai legal practitioners, who began to envision the sites and stakes of social change in profoundly different ways. These changes came to a head between 1973-1976. After a protest movement resulted in the ouster of military dictator, Thanom Kittikachorn, it appeared to Thai leftists, progressives and liberals that the country was in a new era of political openness, an opening that quickly shut, with violence and far-reaching consequences, in 1976 with a re-entrenchment of royal, military and bureaucratic power that has perdured to this day. The legal ideologies that shaped the legal aid clinic and its practices must be understood within the historical trajectories that made the reimagination of Thai society possible during the 1973-1976 period, that recognized law as a means to that end, and that modulated this potential after 1976.

[4] As this chapter concentrates on the legacy of the so-called "October Generation" lawyers, which I will explain further, and the invocation of law to further popular political causes, I cannot do justice to the longer history of Thai law. For excellent accounts, please refer to Loos (2006) and Engel (1975).

a. Re-Imagining Thai Rural Society / Politicizing Rural Life

The first Thai lawyers who mobilized the law and its institutions to effect social change[5] had their political imaginaries forged in a crucible of forces transforming post-WWII Thailand. Among these forces, the most principally influential on later legal practitioners was that the urban and educated middle classes, flourishing during the post war boom, began to see the country's villages, peripheries and rural spaces as sites that needed (their) help, development and change. Though the scope for political transformation was limited in those years, all of which were under authoritarian rule, the early development programs directed at rural Thailand were a condition of possibility for the more profound transformations that would unfold between 1973-1976.

As different military dictators during the post war period exhibited different postures towards political expression and dissent, a sense of political possibility pulsed, growing and contracting, as the regimes shifted. For the first time since 1947, when a military coup led by Field Marshal Luang Phibun Songkram deposed the prime minister, the repression of dissent

[5] Some scholars refer to lawyers who "practice with a vision of the good society" (Sarat and Scheingold 1998, 302) as "cause lawyers" (Munger 2014, 2015). In their history of cause lawyers, Sarat and Scheingold explain that this mode of legal practice made its first appearance in the United States as a byproduct of the country's largest domestic development strategy: the New Deal (1998). Prior to the New Deal, elite law school graduates tended to pursue careers in corporate firms. The New Deal's "egalitarian and interventionist values" (ibid, 40) established Washington firms that were the first to work, at a large scale, on behalf of public interest. After WWII, America's own post-war glut of law graduates, elite law students who either were unable to secure positions in corporate firms or sustained a commitment, often patriotic and nationalistic in inflection, to their country's development found opportunities and validation in organizations associated with Lyndon Johnson's 'Great Society Program.' The legal services initiatives of the Great Society Program funded lawyers to represent the poor and to fight the root causes of poverty. These lawyers formed a new legal elite who, for the first time vied for prestige with Wall Street's corporate elite. It was this "legal elite" who formed the foundation of advocacy on behalf of the civil rights, environmental and anti-war campaigns during the 1960s and 1970s in America (Sarat and Scheingold 1998).

began to loosen after the passing of Phibun's successor, Field Marshall Sarit Thanarat, in 1963[6]. As a staunch opponent of communists in Thailand, Sarit's regime received lucrative backing from the US government (Haberkorn 2011). Thanom Kittikachorn, Sarit's successor, continued his predecessors' authoritarian, anti-communist policies but demonstrated more tolerance towards activism in the country's universities (Haberkorn 2011).

This slight thaw came just as university enrollment had increased significantly. After a period of rapid economic growth in the 1960s[7], an unprecedented number of families were able to support their children's higher educations, seeding the transformation, more broadly, of the class structure of Thai society. Between 1961 and 1972, the overall population of Thailand increased by 39% (from 28 to 32 million people) but the student population in Thai universities rose by 1,000% (from 15,000 to 150,000 students) (Prajak 2012). Alongside and as a result of this burgeoning university educated population, a "new bourgeois strata [had] emerged…in significant respects outside of and partially antagonistic to the old feudal-bureaucratic upper class" (Anderson 1998, 142).

Thai academics educated abroad exposed this enlarged and more empowered student population to international discourses on development and theories of democratic liberalism (Munger 2015). (Marxism at the time was largely verboten or illicit in academic circles, given

[6] Haberkorn explains that power struggles immediately following WWII among Phibun, Sarit and then Director General of the National Police, Phao Sriyanond, generated some incipient "cracks and fissures" in authoritarian rule for activists to stage modest displays of dissent (2011, 53). However, when Sarit seized power in 1958, he declared martial law and actively prohibited any form of political resistance. Article 17 of the 1959 Constitution, drafted by the Sarit regime, authorized the government to "prevent, repress or suppress any act subverting the security of the Kingdom, the Throne, national economy or affairs of State, or any act disturbing or threatening public order or good morals, or any act destroying national resources or deteriorating public health and sanitation" (qtd. in Haberkorn 2011, 61).

[7] Anderson characterizes the momentum behind the period of pronounced economic expansion during the 1960s as the "Vietnam War boom", a moment when the US government strategically invested heavily in making Thailand a bulwark against the spread of communism (1998, 142).

that the country had been engaged in an armed conflict, largely in its highlands and margins, with the Communist Party of Thailand since the mid-1960s.) Particularly at the country's oldest and most elite institutions, Thammasat University and Chulalongkorn University, professors encouraged their students to think about Thailand's poverty anew, to visit its slums and rural communities to observe and address the pronounced disparity that had developed since the end of the war. In contrast with their experience of increased academic and employment opportunities in the capital, these visits exposed students to the impoverishment, failing or non-existent government programs, extortive land ownership practices[8], political repression and corruption afflicting the Thai lower classes (Munger 2015). It was in this context that students, many to-be lawyers, discovered their earliest causes.

Of course, the university was just one of many channels by which international discourses championing development shaped the ways in which Thais envisioned the countryside as a space for social transformation. America's influence was particularly prominent. During the Vietnam War, particularly under the Sarit regime[9] (1959-1963), Americans and

[8] A new law during King Chulalongkorn's reign (1868-1910) changed land use patterns in the Thai countryside. The law required landowners to either use or relinquish their lands, creating the impetus for landowners to rent to farming tenants. Decades later, simultaneous with the economic growth of the 1960s, which had been enjoyed principally by elites and a growing urban middles class, landowners augmented their incomes by dramatically increasing rents. In Chiang Mai province, for example, the proportion of crop yields that went towards paying rent increased from around 10% on average in the early 1950s to 50% in the 1960s. By the 1970s, 80% of Thai farmers were in debt. Tenancy was very precarious; most arrangements were based on verbal agreements and could be dissolved easily at the landowners' discretion (Haberkorn 2011). The experience of economic inequality was particularly pronounced in the gap between the increasing wealth of landowners and the inverse impoverishment of tenant farmers.

[9] Particularly after Sarit staged a coup and wrested power from Phibun, American influence in Thai politics escalated. Sarit visited the US and sought consultation from American military representatives in his program to "Americanize" the Thai military (Anderson 1998, 145). The US government generally and the CIA in particular supported Sarit's regime with financial and technical assistance. Sarit, meanwhile, buttressed his regime's standing by seeking and receiving the endorsement of the increasingly popular young king, Bhumibol Adulyadej. The CIA and the

American capital flowed into Thailand. In Sarit and Thanom, the United States cultivated allies in its anti-communist campaign[10]. The US also found a strategic ally in King Bhumibol Adulyadej, who was especially keen to consult American technocrats to implement development programs, in part as a "soft" response to the communist threat. The sincerity of these efforts went hand in hand with their instrumental deployment to ensure a positive perception among Thais of the King's leadership.

Thailand became the headquarters for the Southeast Asia Treaty Organization (SEATO), an American led multilateral organization whose mission was to prevent the spread of communism in the region, and a base for the US's illegal military operations into neighboring Laos and Cambodia. As of 1968, over 46,000 American troops were stationed in Thailand, with another 5,000 visiting during R&R retreats from the Vietnam conflict (Anderson 1998, 146). In addition to these troops, another 7,000 personnel involved only in development and propaganda campaigns lived in 8 American military bases in Thailand (146). Such development schemes provided photogenic displays of the Thai monarch and government serving the needs of those poor, rural and working class populations that both the Thai and US governments considered most amenable to communist ideology. In combination with university programs that took urban youth into the countryside, American funded and directed development programs contributed to

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United States Information Services (USIS) commenced a media campaign to popularize the new king in an effort to fabricate his influential persona as an anti-communist force in the region. For a complete account of how the US used media and investment to inflate the King's charisma in Thailand – including US produced broadcasts of the King's musical performances, US published propaganda attributing anti-monarchy sentiments to communism, and the dissemination of pictures and movies celebrating the young king and queen in Thai villages, to name a few, see Paul Handley (2006) and Christine Gray's brilliant PhD dissertation (1986).

[10] This partnership must be seen in light of Thailand's own 'communist threat,' and was a component of its attempts to bring its peripheries more fully under control by expunging the Communist Party of Thailand (or by using the CPT as a pretext for military interventions along its borders). The Thai military embarked on hundreds of anti-communist insurgency military campaigns between 1961-1967 (Anderson 1998).

an evolving imaginary in Thailand that the countryside was in need of transformation and that enlightened elites should contribute to this process.

The first Thai NGOs were founded in the late 1960s. The stated ambition of many these early NGOs was the cultivation of a more equitable society through cooperative, grassroots, and awareness-raising activities (Munger 2015; Naruemon 2002; Prudhisan and Maneerat 1997). This work typically took the form of economic and infrastructural development, sometimes through university affiliated development camps, as well as advocacy for land rights protections. University professors and students were at the forefront of these initiatives. For example, Dr. Puey Ungphakorn, a professor of economics at Thammasat University, founded the Thailand Rural Reconstruction Movement and the Maeklong Rural Development Project in 1967. Shortly after, Dr. Ungphakorn established the Graduate Volunteer Project at Thammasat University, to train students to work in his organizations' rural projects (Prudhisan and Maneerat 1997, 197). Student volunteers who participated in the Graduate Volunteer Project were politicized by their exposure to the inequality they witnessed and newly saw themselves as capable of addressing the issue through NGO work.

While international, government, and university funded development programs in rural Thailand introduced many Thai students, and some rural populations, to new modes and spaces of political engagement, legal activism was still very limited prior to 1973. In the 1960s, law was not a popular profession. In 1960, there were 2,000 lawyers for a population of 23 million. By 1970, that number had only risen to 2,541 lawyers (Munger 2011). Most law graduates sought prestigious and stable jobs in the government or private sector. Thonghbai Thongbao was a notable exception. In the 1950s, Thongbai represented a number of Thais accused of opposing the government, resulting in his and several colleagues' arrest. He was one of the first lawyers to

train others interested in critique and activism, beginning in the 1960s. By and large, however, activist lawyers were at the time rare.

b. 1973 – 1976: Making the October Generation

On October 5th 1973, Thirayuth Boonmee, the former Secretary General of the National Student Center of Thailand (NSCT) – a coalition of students from 11 universities – organized a press conference with other student activists calling for a new constitution and the end to the ruling dictatorship. In the weeks prior, the recently formed NSCT had protested the arrest of several students from Ramkhamhaeng University in Bangkok who had been detained for performing a play satirizing the ruling regime. The NSCT organized student rallies against these arrests, leading to a government shutdown of all participating universities. Fifty thousand students mobilized against the arrests and university closures, compelling the government to release the detained students. With this initial success, the NSCT organized a petition signed by 100 academics and government officials in support of changing the constitution. By October 8th, the government had detained 13 of the petition's signers, prompting protests around the country. By October 13th, over 400,000 protestors filled Bangkok, occupying one its most symbolic geographies – the streets connecting Democracy Monument, Thammasat University, the royal cremation ground, *Sanam Luang*, and the Grand Palace[11]. On the morning of October 14th, government forces responded violently against the protestors, resulting in seventy-seven deaths

[11] The Grand Palace, Thammasat University and *Sanam Luang* neighbor one another in the historically royal enclave of old Bangkok that occupies much of Rattanakosin, an island in the Chao Phraya river. Since Rama I founded the current Chakri dynasty, Rattanakosin – particularly the quadrant that was occupied by October Generation student protestors – was and has remained the symbolic geographical center of the monarchy. The Thai National Assembly building, which was under construction at the time of the 1973 protests, is on the periphery of Rattanakosin Island. At the time of the protests, parliament conducted its affairs in the 19th century Ananta Samakhom Throne Hall located opposite the northern extent of *Sanam Luang*. The protests, in short, occurred on deeply symbolic territory.

and hundreds injured. That evening King Bhumibol announced that Thanom's military government had resigned.

This period was a moment of both excited opening and tension in which the possibility to affect change was no longer exclusively the purview of bureaucrats, the palace, and the military. A former student protestor in 1973, esteemed Thai studies scholar Thongchai Winichakul recalls how "suddenly, it seemed at the time, the old world crumbled beneath people's feet. The change was abrupt, the sense of excitement and joy overwhelming" (Thongchai 1995, 100).

With the dissolution of the military dictatorship came the dissolution of the regimes' repressive laws. New forms of dissent, expanded opportunities for political critique, and the renewed circulation of Thai Marxist literature that had been banned under the previous two dictators shaped activist's perceptions of how societal structures, most especially class, could and ought to change. An expanded bourgeois student population vocalized both liberal and Marxist critiques in demonstrations, satirical performances, and critical scholarship on national histories. On October 14th, 1973, Jit Phoumisak's previously banned Marxist history, *The Real Face of Thai Feudalism Today* (1957), was re-published and disseminated widely. Though it had been illicitly read under the previous dictatorships, its open circulation catalyzed the circulation of other Thai Marxist texts written between 1944-1958, before Sarit and Thanom banned them (Haberkorn 2011; Reynolds and Hong Lysa 1983; Thongchai 1995). This flood of previously contraband scholarship precipitated many activists' embrace of Marxist analyses of Thai history and social life (Reynolds and Hong Lysa 1983). Even casual discourse in a Thai middle class home reflected these new visions. Anderson asks his reader to imagine how a dialogue between a student and his parents about Thai history at the time would use "a vocabulary of social

processes and economic forces" that "refuse[d] centrality to Thai monarchs as heroes in or embodiments of national history" (Anderson 1998, 169).

Beyond this new awareness of class and political economy, many collaborative projects among urban students, rural farmers and workers confronted class in praxis. The early NGO and rural engagement projects that began in the late 1960s also flourished after 1973, in many cases without the elite, urban leadership that characterized similar projects prior to 1973. Thai farmers were increasingly at the forefront of demonstrations in areas around Chiang Mai, leading protests and disseminating information about the 1974 Land Rent Control Act in community meetings with the aid of students and other activists (Haberkorn 2011). They modeled novel, cooperative and interdependent relations between urban elites and the working classes that deviated from what had been historically paternalistic dynamics.

The "politicization of tenancy" that occurred in this moment outside Chiang Mai was an example of how productive these alliances could be. Rural farmers outside Chiang Mai engaged with students and lawyers in protests and litigation for land rights recognition. They worked together to organize, spread information about and generate support for the Land Rent Control Act, the provisions of which lowered the allowable rents on land meant for rice farming (2011, 5). Farmers and their allies protested together in Chiang Mai and Bangkok, resulting in the successful passage of this Act in 1974.

At the same time, however, the newly politicized students, workers and farmers also met heated, sometimes violent opposition. Labor organizers, Marxist scholars, farmers and protesting students were subject to harassment, threats and even assassination (Haberkorn 2011) by right-

wing paramilitary organizations, like the Red Gaurs[12], and nationalist student groups (Anderson 1998). As early as 1974 many activist farmers across the country, for instance, campaigning on behalf of the Farmers' Federation of Thailand (FFT) were abducted or killed (Haberkorn 2011). One right-wing student group, the Village Scouts[13], organized protests, attended lectures by conservative monks, held training camps and published pamphlets. Their activism was a reaction against leftist politics, a manifestation of a trumped up fear that, with the spread of Marxist thought, the country could fall to communism (Anderson 1998). As leftist student activists provoked new visions for how Thai society could change, their opposition countered that Thailand was a 'traditional' society in need of preservation, as is discussed in the next section.

Despite these looming counter-revolutionary forces, the absence of the previous dictatorships' repressive measures against most forms of political and also legal activism nevertheless created a safer atmosphere to engage in cause law. In this new environment, the practice of law as well ideals related to whom law should be practiced for changed dramatically. In keeping with their burgeoning social awareness, leftist lawyers expanded their own practices beyond litigation to offer assistance and representation to political causes, labor unions, anti-government demonstrators and other actors with whom they sympathized. For example, many forged their cause law credentials for the first time while assisting farmers in land rights campaigns. One of the co-founders of the clinic, for instance, helped the Thai Federation of Farmers investigate fraudulent title transfers (Munger 2010). As the 1974 constitution was being deliberated, lawyers drafted and campaigned for provisions that strengthened the parliament relative to other political institutions. Coalitions of protesting academics and lawyers succeeded

[12] The Internal Security Operations Command of the Thai military established this paramilitary organization in 1973 in reaction to the student protests that year. They were involved in the killings of protestors in 1974 and 1976 (Baker and Pasuk 2009).
[13] Please see Bowie 1997 for more on the Village Scout movement.

in passing laws protecting freedom of expression and voting rights. For these reasons, Anderson argues "one must remember that the student demands were essentially legalistic (constitutional) and symbolic" (Anderson 1998, 154).

Lawyers also organized themselves, creating centers for sympathetic lawyers to find shared purpose. The first such organization was the Legal Aid Center Institute, which Thongbai Thongbao, the pioneering cause lawyer of the 1950s, co-founded in 1973. (It was later shut down in the soon to be crackdown.) The Institute offered legal representation to poor and politically marginalized clients. Within months of the 1973 protest, two Thai academics with experience practicing law in England and demonstrating in the 1968 student protests in Paris, established Thailand's second law focused NGO: the Union of Civil Liberties (UCL) in Bangkok. UCL lawyers promoted the expansion and protection of rights through legal assistance. Subsequent generations of lawyers and legal rights activists continued to receive training either directly with the UCL or indirectly from UCL lawyers who had gone on to form independent NGOs that focused on law. UCL lawyers and alumni of the organization observed that the Thai public with whom they interacted did not demonstrate what Merry would call 'legal consciousness.' Merry defines legal consciousness as the "ways people understand and use law" (Merry 1990, 5). In addition to the forms of activism described above, consciousness raising through the training of industrial workers and rural farmers was an important project of the UCL and other legal organizations (Munger 2015).

In interviews with activist lawyers who practiced during the period, Munger found that "the most important event in the career narratives [of cause lawyers] is the 1973 uprising which marked the point at which struggles from below rather than contention among ruling elites would

increasingly drive national politics" (Munger 2015, 320). Though this experiment was short-lived, its inheritance continued to shape ideologies of law as a medium for social justice.

It was short-lived because on, October 6th, 1976, Thanom, who had been deposed in 1973 and who had been in exile in Singapore and the US, returned to Thailand to ordain as a monk. Students took to the streets in protest of his return. Their protests were suppressed, as will be discussed further in the next section, violently and with finality. Days after Thanom's arrival, authoritarian rule had returned to Thailand, to stay, albeit in different and occasionally more democratic guises, until today. The successful popular uprising against the Thanom regime, the nearly three subsequent years, and the country's return to dictatorial rule in 1976, with its ensuing violent suppression of all forms of activism and critical speech, comprised the parameters of legal possibility for those who have come to identify themselves and be identified as the "October generation" (Anderson 1998; Haberkorn 2011; Thongchai 2008). Referring to students, professors, lawyers, and activists who either participated in or aligned with the diverse modes of political activity during the 1973-1976 years, the 'October Generation' moniker is often invoked nostalgically, particularly in scholarship and by those who still identify with that moment. Its reference signifies both a revolutionary episode in which its actors could reimagine the shape of Thai society in thought and praxis, and its abrupt readjustment – or "interruption" (Haberkorn 2011) – in the years since 1976.

II: Displacing Social Movements

One of the legal aid clinic's founders was an October generation lawyer who received his law degree from Thammasat University in 1972, worked with revolutionary farmers after his graduation and participated in the student demonstrations in 1973. After the country returned to dictatorial rule in 1976 he, along with many fellow October generation activists, fled Thailand to

avoid persecution. He returned to practice law in Bangkok after the government granted amnesty concessions to exiled former activists in 1980. He would eventually become the director of the UCL. In 2000, along with a group of October generation academics and activists, he co-founded an NGO focused on human rights and environmental protections. It would become the umbrella organization that in 2005 established and continues to manage the legal aid clinic with which I did my research.

When compared to the aspirations and tactics of the clinic's founders and other October generation cause lawyers between 1973-1976, the scope of the legal aid clinic's work reflects a contraction in the imagined potential for legal activism to shape society. The clinic dispensed advice, escorted claimants through bureaucratic channels, taught migrants and NGO workers about rights and, on occasion, represented migrants in court. These forms of legal activism accepted and reproduced the social order, as the dissertation shows repeatedly. In contrast, legal activists between 1973-1976 aspired to reshape relations across class and geography by advocating new laws; by raising legal consciousness; by extending legal representation to controversial victims of political persecution; and by providing legal assistance to support strikes, unionization and land reform demonstrations. The effects of their work were discussed in terms of social transformation, class critique, and the pursuit of equality. Clinic staff, on the other hand, framed and assessed their potential action in terms of fulfilling the duties according to their roles within a social order, as will be addressed in more detail in the later pages of this chapter. The measure for imagined political change had reduced from revolution to roles.

This section situates the transformed sense of law's possibility according to three considerations: the violence against activists surrounding the return of dictatorial rule in 1976;

the global oil crises of the 1970s and the concomitant stigmatization of the October generation's political project; and alterations in the left's political imaginary.

In the years since Thanom had been unseated, fury against the students had been building. Right wing groups targeted student activists, protesters, and striking workers, accusing them of being communists, threats both to the monarchy and to the economy (Anderson 1998; Haberkorn 2011). So, when in October 1976, Thanom returned to Thailand, prompting large student protests, it was easy to mobilize mobs of militant right wing activists to oppose the students. Having been whipped into a nationalist fury by suggestions that the protestors were anti-king and anti-country, such groups assembled near the site of the student protests. They were backed by Thai security forces with implicit royal support. Violence ensued. At the hands of this right wing coalition, over 100 student protestors were murdered in what came to be known as the Thammasat University massacre. 3,000 students were arrested, and thousands of protesters were injured (Anderson 1998; Handley 2006). The unrest provided pretext for the military to stage a coup d'etat and to install a new authoritarian leader, Thanin Kraiwichian. Thanin promptly issued order 42/2519 which repealed all laws drafted in the previous three years that supported free assembly and speech. Under the new regime, students needed special permission to participate in group activities. The government closed left leaning newspapers and other even moderate publications. Fearing arrest and worse, many activists took refuge alongside communist cadres residing in highland jungles[14]. Those who stayed behind in cities were forced to abandon any form of political mobilization.

[14] In the literature and in conversations with people who went into exile, "the jungle" refers to a variety of spaces in Northern Thailand and in the peripheries of the country. When asked where the jungle was, one interlocutor reported to me that she fled Bangkok for Chiang Mai and maintained a very low profile in the aftermath of the 1976 massacre. Others were forced into more extreme hiding. In any event, the phrase 'jungle' did not refer to a particular location,

A flawed assessment of the causes of the global recession of 1973-1975 and its aftermath also contributed to the shrinkage of the October generation's political imaginary. The oil crisis of 1973 led to a contraction in economies all over the world, including the US and by extension, Thailand, who relied so heavily on US capital. In combination with its failed war with Vietnam, the recession led the US to close military bases, withdraw investment and curtail its funding of development programs in Thailand. In this context, university students, a population that had swelled in post-war Thailand, were graduating in ever larger numbers only to encounter poor employment prospects in a tepid economy. Widespread disillusionment followed.

The concurrence of leftist activism, on the one hand, and economic stagnation, on the other, allowed for the two to be conflated and for the former to be scapegoated as an explanation for the latter. Many within the bourgeoisie blamed the economic deterioration on unionization, labor strikes and other activist strategies that had come to prominence after 1973 (Anderson 1998; Connors 2003). Factory owners and unemployed laborers demonized unionization and new labor laws as hostile to the longstanding patron-client model of employer-employee relations, which they re-imagined nostalgically. The newly censored mediascape amplified these depictions, portraying strikes as anti-nationalist and hostile to foreign investment. As is often the case, xenophobia coursed through these arguments as well, with leftist activism derided as American and foreign to Thai ways of doing things. And, so the vision of a changed society conjured by leftist activists began to hold less and less sway, as its principles were increasingly framed by rightist elements as impotent in the face of the country's struggles or counterproductive to the country's development and economic growth. These arguments were so persuasive, given the economic hardship of the time and the soon to be fashions of neoliberal

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connoting instead spaces beyond the purview of the Thai state (please refer to Thongchai 1994 for a discussion of the history of the contrast of town and jungle).

thought, that they prompted even some of the leftist vision's initial authors to abandon their cause.

The ensuing skepticism across the political spectrum towards what was increasingly characterized as 'western' ideology not only eased the country's return to a repressive dictatorship in 1976. It also allowed the ruling elite to assert the pre-1973 social order, structured along "traditional" institutions like the monarchy, military and romanticized village life, as the ideal model for Thai social and political relations. They argued the country was not ready for its 'experiment' with 'western' democracy (Anderson 1998; Munger 2015; Thongchai 2008). Relative to the experiments with new employee-employer, rural-urban and subject-government relations between 1973-1976, these 'Thai' institutions appeared to work and were reasserted as more appropriate to the economic and political impasses that Thais faced.

A third factor, shaped very much by the previous two, that contributed to a diminished sense of law's possibility was the moderation more broadly in the left's vision of social change. Thongchai exemplifies the arc of the 'collapsing left' in the work of the once Marxist now "cultural nationalist" and "royal nationalist" scholar Chaitthip Nartsupha (Thongchai 2008, 575, 577). Describing him as former champion between 1973-1976 of "radical" "Marxist politics"– a man who once celebrated the anti-state ideology of 'peasant anarchism' – Chaitthip's work in the late 1970s and 1980s turned toward the "essentialisation of 'national' characteristics" (ibid, 583). That this arc had a lasting and steep downward trajectory is also evident in the case of Thirayuth Boonmee, the October generation activist who organized, on October 5th, 1973, the first public press conference calling for a new constitution and for the dissolution of the ruling regime. Thirty years later, the now conservative sociologist Thirayuth coined the term *tulakanpiwat* (ตุลาการภิวัตน์), variously translated as "judicialization," "judicial review" or "judiocracy." The

idea is that judges ought to play a larger role in rectifying problematic outcomes of a corrupted electoral system. Once a prominent advocate for majoritarian politics, Thirayuth now looked to the judiciary and the monarchy to which it owes its duty as the ideal stewards of the political order.

Faced with the violent suppression of political activities and with growing stigma in Thai society, those who remained committed to political change over the next decades did so through channels amenable to the restored regime. After the government granted amnesty to exiled activists in 1980, those who returned worked with and through, not against, existing government and legal apparatuses. Advocacy of political change was permissible via connections with existing institutions, as opposed to from the streets. Of this old new model, Munger writes:

> "Networks of personal influence … tied the October Generation to sympathetic government collaborators [that] linked foreign funders, NGOs, and officials through sometimes contentious, sometimes collaborative relationships" (2015, 309).

The time for transformative change had passed and a politics of incrementalism had set in. The 1987 edition of the Thai Volunteer Service's Annual Directory of NGOs, for example, declared that after the "unhappy experience of the 1970s," NGOs now aspired only to "carrying out small-scale peaceful, practical activities" that served "a long, peaceful process of change in consciousness" (qtd. in Munger 2015, 311). The effects of these shifts was a revolution-in-reverse: the more radical "bottom-up democratization" popularized between 1973-1976 was flipped, returning back to a "top-down democratization" populated and driven by elites (Somchai 2002).

For all these reasons, the connection that October generation activists fused between law and radical politics before 1976 was severed. Though prohibitions against most forms of dissent

forced social movements to abandon many of the more revolutionary tactics and politics, these moderated movements continued to pursue their causes, but by folding them into the viable political spaces still available within a much more intolerant social order. Thus social movements since 1976 became increasingly circumscribed in the legal arena, understood no longer as a space in which radical societal transformation was possible. The nature of this shift, from a wide range of revolutionary political goals and strategies accessible across social and class strata into the technical domain of legal knowledge, is a matter of debate.

Scholars describe the process by which moral and social debates are shifted into technical and expert epistemologies, like law, as a process of 'depoliticization' (J. Comaroff and J.L Comaroff 2001; J.L Comaroff and J. Comaroff 2006; Ferguson 1994; for Thailand, please see McCargo 2004 and Munger 2011, 2015). Munger uses this concept to capture how leftist political desires of the 1973-1976 period became re-imaginable in apolitical terms[15]. Hence Frank Munger's characterization of the October Generation's legacy vis a vis post 1976 cause lawyering:

> …litigation, especially successful litigation, has removed movement goals from the arena of politics, where inequality and power can be addressed directly, to the arena of law, in which the issues are abstract, technical, and depoliticized (Munger 2011, 12-13).

For Munger, the displacement of social movement goals and strategies into the legal realm itself produced depoliticizing effects – separate of the three factors mentioned above that animated this displacement – similar to what Ferguson called "an anti-politics machine." Ferguson describes an "anti-politics machine" as a mechanism by which questions of poverty and resource distribution are neutralized as "technical problems" demanding "technical solutions," defined

[15] While Munger situates depoliticization within the history of cause lawyering in Thailand, Comaroff and Comaroff recognize this trajectory as endemic to postcolonial polities under global capitalism (J. Comaroff and J.L Comaroff 2001; J.L Comaroff and J. Comaroff 2006).

and delivered by expanding institutions of expertise (Ferguson 1994, 256). In the Thai context, Munger argues, "the law graduates who became legal advisers to social movements can be viewed as classic depoliticization of a participatory movement by subordinating popular goals for change to strategies controlled by lawyers" (2015, 307.) According to his argument, law inherently exerts a depoliticizing effect on social movements, and did so even between 1973-1976. Once activist lawyers litigated on behalf of farmers, political prisoners, or activist organizations, they began to translate, in Munger's analysis, a movement's politics into legalistic logics. This analysis presumes law to be technical, isolated and indirect. Therefore, when the aforementioned factors stigmatizing October generation activism forced social movements to increasingly circumscribe their activities within the technical domain of law, the effect was intensified depoliticization.

The practice of law in Mae Sot, however, challenges such explanations. Examining the practices and metadiscourse of clinic staff, I found that politics were not neutralized -- or "depoliticized" -- through law as much as they were transformed. Consider again the interaction that opened this chapter. A lawyer advocated that the client follow steps required to make their case a matter of law: filing a police report. A legal aid officer recommended a different approach: contacting the alleged swindler with whom she was newly and passingly familiar. Her hope was to deal with the dispute directly, outside of legal processes. So, the licensed lawyer, expert in the technical logics and protocols of legal practice, was prompted to abandon what that training and those protocols deemed the "correct" course of action. The law provided a site for the disputing parties to pursue a resolution, but the evasion of the lawyer's expertise in favor of local connections and personal interaction actively blocks blocked the "displacement" of politics into technical or legal rationalities. We saw a similar tactic in the police station in chapter 1,

where the solution was the suspension, *not the expansion* nor the application of technical knowledge. Rather than abandon moral and political questions via their relocation in professional registers, clinic workers embraced them routinely in negotiation[16].

III. Duty and Power in Law

One afternoon, May, the junior legal aid officer, and I sat at a teashop near the clinic office while she explained some of her frustrations. Just minutes earlier, May had burst into the clinic office, noticeably upset. She was so distraught that we decided to take a break together at a café. She explained that, earlier that morning, a CBO representative had informed the clinic staff that a Burmese vendor had been arrested in town. May and a colleague set off to the police station to gather more information about the incident. At the station, they learned that the vendor, not having a visa, a day pass or any identification, was conducting his business without documentation or permits. May was not sure what to do, so asked her colleague how they could help. This question, May said, provoked an impatient retort, which May reported to be the following. "You are the lawyer. Aren't you supposed to know? What did you learn [in law school]? Nevermind. I will call Atisit [the clinic translator] and he will take care of it..." May was so offended at what she revealed was her colleague's latest attack that she stormed out of the police station.

Many of the episode's details warrant elaboration. First, May and the colleague with whom she went to the station had a complicated relationship. May was the newest legal aid officer at the clinic. She, like the clinic's other legal aid officer, had a degree in law but was

[16] Though these accounts speak against any necessary connection of law and depoliticization, a question, albeit tangential to this dissertation, still remains: does law, even if it is practiced in an a-technical, anti-expert mode, nevertheless prevent the emergence of a radical migrant rights movement in Mae Sot?

unlicensed. Unlike the clinic's other legal aid officer, May was often assigned tasks, as opposed to managing herself. The colleague in the police station was the clinic's office manager, had worked with the clinic for about a year by then, and was often the one assigning May tasks. A few years May's senior, the office manager had a bachelor's degree, not in law, although I never found out her field.

Second, May was *not* a lawyer but her colleague rhetorically figured her as such to exaggerate May's incompetence. In two different question formulations – "aren't you supposed to know?" and "what did you learn?" – her senior colleague disparaged *not* May's skills but the irrelevance of the legal knowledge that earned May her degree.

Third, consider the politics of knowledge in their heated exchange. The displacement of politics anticipated in the depoliticization literature, away from social actors in political and social realms to those with technical expertise, did not occur here. On the contrary, the clinic staff person with the expert training asked an administrator how to proceed with a case. After questioning and dismissing May's academic knowledge of law, her colleague turned *not* to a lawyer or to the other legal aid officer, but to the clinic's translator. He was identified as the agent capable of "taking care of it," meaning that he best could figure out a way to help the vendor. This was not unusual. Clinic translators, as Chapter 3 discusses further, deftly navigated social networks in town, circumventing legal procedure to effectively intervene in cases. In short, the technical expert -- figures like the lawyer or legal aid officer -- rarely made politics "indirect," seldom "displacing them" into the realm of expertise. As was the case in the episode described in the beginning of this chapter, it was often they who relied on social networks and local familiarity to keep the 'politics' of migrant relations away from police reports, litigation, legal categories and other legal technologies.

May recounted the altercation in tears. Her feelings, May explained, were a response not just to this event, but also to frustrations that had building over the two months since she had started at the clinic. She felt there was no clarity to the work or to responsibilities in the office, which made it difficult for her to know what her role was in the office and how to perform it. May complained that there was "no system to manage the work." She reported that it was difficult to even understand the metapragmatics of office speech: instructions were "indirect" (*phuut aum* /พูดอ้อม) as was her colleagues' "sarcastic humor" (prachot/ประชด). "You should speak directly!" (*phuut trong*/พูดตรง), or say what you mean, May insisted[17]. Forced to navigate daily office life by relying on the indirect and uninformed advice of her colleagues, May felt "she did not have the freedom (*itsaraphaap*/อิสรภาพ[18]) to manage [her]self." Nothing was clear. The fundamental problem, May told me, was that she did not "know her role" in the office; she "did not know her duty (*naathii*/หน้าที่)."

The café in which we were speaking was small, quiet and cute. Its soft pastel paint, the congregations of stuffed animals on its shelves, the lace doilies covering its small tables, and stacks of comics and gossip rags saturated the tiny volume with coziness. When May and I had taken refuge there before, to debrief about cases or other matters over iced tea, the only other person there was the owner, who made the drinks in a corner of the small shop. We were comfortable with her hearing our conversation and she was almost never interjected. May's distress on this occasion, however, gave her cause. As we were about to leave, the café owner

[17] Please see chapter 1 for a very different use of the antonymic phrases, phuut trong (พูดตรง) /phuut aum (พูดอ้อม).

[18] For an interesting comparison, please see refer to Sopranzetti's excellent analysis of discourses of "freedom" among post-crisis Bangkok motorcycle taxi drivers, one that expands an "anthropology of freedom" and exhaustively situates it in contemporary Thai history (2017).

approached May and gave her an illustrated book entitled <u>*noijai*</u> (น้อยใจ). The two morphemes *noi* and *jai* translate to "small" and "heart" respectively. Compounded *noijai* glosses as feeling small, hurt or vulnerable. From the owner's perspective, May looked and sounded hurt (*noijai*) enough to compel her both to gift May the book and to dispense a parting token of advice, "Do not worry (ไม่ต้องห่วง). Do your duty (*thamnaathi*/ ทำหน้าที่) and that will be enough/satisfying (*phaawjai*/พอใจ)."

As May suggested, knowing one's role in the social order was both important and murky, especially for a legal actor in a place like Mae Sot where anti-categoricality prevailed, where law was more atmospheric than systemic, and where actors subverted, suspended or circumvented its codified rules, techniques and institutions. May struggled in this fluid order. Without clear instructions, without an office hierarchy, without legal protocols and categories to structure her work practice, May could not discern her role. Without knowing her role she did not know how to perform her duties. In response to the teashop owner's consoling suggestion, May admitted while walking back to the office, "I know about the law but not how to practice it here. Knowing the law is knowing a police officer or knowing how to negotiate. It is hard to know what my duties are."

May's statements in the café that afternoon helped me coalesce a series of ethnographic fragments about duty into the beginnings of an understanding of its significance to clinic work. What I started to comprehend that day was that all of the talk about duty and roles that I had heard during my fieldwork occurred in the context of a (sometimes implicit) contrast and that clinic staff in Mae Sot were parsing their actions according to not just one but two modes of

effectiveness: roles and duty, on the one hand, and power, on the other (see also Hanks 1962[19]). Let me begin with the former.

"Even a humble ox can do good, be it only by drawing faithfully his master's cart," Hanks writes (1962, 1248), to illustrate the relationship between duty and what he calls station[20] (and I call roles). The ox's role is serving its master's purpose. Pulling the cart for the master is its duty. Even the lowly field animal knows its role and how to satisfy the duty therein. Gombrich provides another perspective:

> It is the peculiar nature/duty (*sva-dharma*) of fire to burn, of rocks to be hard, of grass to grow, of cows to eat that grass and give milk. In exactly the same way, it is the duty of a potter to pot and of a Brahmin to study and teach the Veda" (Gombrich 1988, 46 qtd in Collins 1998, 467).

In these reckonings, duty parses the possibility and morality of action according to one's place in a social and cosmic order.

May's problem, of course, was that she did *not* know her role and therefore could *not* perform her duty. The ox, the rice farmer, the potter, the Brahmin all knew their "category which ha[d] its own nature, and … duty [was] to conform to that ideal nature" (Gombrich 1988, 46 qtd in Collins 1998, 467). May was not in that position. With anti-categorical forces complicating legal classifications, jurisdiction and technical strategies, and in a 'system-less' office shaped within such an atmosphere, the legal aid worker's role and duties were often enigmatic. The problem for May in not knowing her duty seemed to be that she did not know how to be effective at her job. But, how was dutiful action understood as effective? The café owner offered

[19] My reading of rules, duty and power is greatly indebted to Hanks work on this topic.
[20] What Hanks reads as "stations," I gloss as "roles" in my transposition of his argument into the language of my informants. Hanks explains that social life is an ongoing process of individuals moving from one station to another as they succeed or fail at performing the duties corresponding to a given station. He also defines hierarchies as ordered systems of stations. All of this resonates with my informants' use of roles

one answer. The doing of one's duty and the fulfillment of one's role was effective because it enabled a person to find satisfaction in having done what one is meant to do even when the conditions are challenging. Her advice echoed the influential Thai monk Buddhadasa Bhikku's teachings. He extolled doing one's duty as the "most important" mode of action, arguing:

> The *Dhamma* in rice farming, with its dutiful plowing in the hot sun behind a buffalo, is enjoyable and conducted with a felt smile. The early rice farmers knew such satisfaction because they felt their duty as their most important moral responsibility and action. The most important thing that we can do is our duty (Lecture, March 25, 1991).

From Hanks, a related answer emerges: Duty is effective because discharging it produces merit[21] in a complex chain of causes and effects that "govern the cosmos" (1962, 1254). The more that one satisfies the duties of one's role, the more merit one accrues. The more merit one accrues, the more effective one's actions become in this life and the more mobility one enjoys across roles, in this and next lives. Higher roles within a given order are the product of greater accumulated merit. "Because of his greater merit," Hanks maintains, "a rich man is more effective than a poor man and freer from suffering" (1962, 1248). Kings are seen to have more merit and effectiveness than do professors who have more merit and effectiveness than do street vendors,[22] and so a social structure of roles, based on different amounts of merit and different

[21] Merit is a complex and dynamic concept the debates of which exceed the purview of this chapter. I am drawing heavily from Hanks's use of merit. He warns that there is no simple translation of a Thai sense of merit into English (nor is there necessarily a discrete 'Thai' sense of merit in any case). It is associated with virtue and is a selfless reward for one's selflessness. An individual should not selfishly desire the accumulation of merit, though it is beneficial in enabling social and spiritual mobility. Merit, Hanks continues, is always being gained and lost (1962). For similar reasons, Gombrich describes a lay understanding of merit as akin to "spiritual currency" (Gombrich 1988, 92).

[22] Hanks cautions against the conflation of class and roles, emphasizing that the Thai conception of the latter is more effectively traversed than is class through merit accumulation.

abilities to act, is ordered. Merit is a reward for working (dutifully) within this order, resulting in a greater ability to effect action within its confines.

Consider the following example of how acting in keeping with one's duty was effective. Early on in my fieldwork, I accompanied two legal aid officers and clients to a mediation session (*gaanklaiklia* / การไกล่เกลี่ย) at the courthouse. This was the first mediation that I witnessed, and I was surprised that a prosecutor (*ayagaan* / อัยการ) dominated the proceeding, as opposed to the judge who was present. After we returned to the office that afternoon, I asked one of the legal aid workers why this was. Who has the most power (*amnaat*/อำนาจ) in mediation, I queried? He replied, "No one has more power. It is not about power. It is about roles." In the mediation we had just seen, he explained, the prosecutor had "the most prestige (*giiat* /เกียรติ)" and thus the most sway in the interaction. Confused further, I asked the legal aid officer why the judge did not have the most prestige in the interaction. He explained that, in other instances, judges might have more prestige. However, in this instance, the prosecutor, not the judge, executed his role with the most impartiality, which was his duty. The prosecutor, therefore, had the most prestige in the interaction, and was the most influential in its outcomes. This was role/duty-effectiveness at work and this, in addition to the sense of satisfaction articulated by the café owner, was what May longed for, but was unable to achieve, in her work at the clinic.

Yet, this is not the full explanation, as roles and duties existed as part of a contrast with another model of effectiveness -- power. Consider the examples that Hanks provides of people who have power (1962, 1254-1255):

- a person who reads the astrological or other signs correctly and sells his/her buffalo at the right time
- a person with special knowledge that allows him to act efficaciously

- a person who uses an auspicious amulet and is successful

- a person who receives special favors because s/he is protected by a spirit

Or, recall the vignette that opened this chapter. Pui, the lawyer, initially claimed that the clinic staff did not have the *power* to convince the broker into returning the money to their clients. Only when Oy told Pui that Oy had briefly met the broker the day before did Pui recognize that perhaps the clinic did have *power* to prevail upon the broker. Or, reconsider May's statement as we walked back to the clinic after our conversation at the café: "Knowing the law [here in Mae Sot] is knowing a police office and knowing how to negotiate," she said. From the perspectives of clinic staff, having the fortune to know the right people, even if only in a passing acquaintanceship, gave them some measure of power-effectiveness. In all of these examples, power is constituted by the mobilization of some privileged, obscure, contingent domain -- be it social connections, charisma or numerology -- to make an action successful.

Yet, power was a more opaque and suspect form of effectiveness than was duty. There is "an uncertainty in power," Hanks argues (1962, 1255). Clinic staff might have special knowledge that allows them to successfully negotiate with a police office. They might have run into someone at a local market who later turned out to be a broker involved in one of their cases. They might happen to have helped the relative of somebody who would be instrumental to later negotiating a case. Because of the indeterminacy of its sources, power was regarded as morally dubious. Contrastively, roles/duty-effectiveness was not. Whereas duty indexes merit, which was seen as an ordering principle of the cosmos, power indexes obscure sources, rendering it an ambiguous, amoral force.

In Mae Sot, these two modes of effective action -- duty/roles and power -- operated in tension with one another. While the former had a positive moral valence that could yield

satisfaction, action based on power, nevertheless, was often seen to be more efficacious in the anti-categorical atmosphere of Mae Sot, as was the case in my opening story about Pui. However, there were times when pursuing an anti-categorical solution could also be dutiful and satisfying. In the first chapter, for instance, the clinic workers all left the police station feeling "satisfied" with the restoration of their clients' money even though the crooked cop did not face any legal penalties. Nong even wrote a letter to the duty officer commending his good work; this effort could be considered duty-effective. All parties had fulfilled their respective duties -- the clinic staff to help their clients, Nong to maintain the clinic's tenuous standing with the police in Mae Sot, the policeman to protect his force from a substantiated accusation of extortion -- and could count on the merit attained therein. They all walked away content. Anti-categorical outcomes resulted from power-effective actions, but could also arise from clinic staff acting correctly, doing their duties and fulfilling their roles.

IV. Conclusion

My informants' tendency to define and evaluate action according to roles and duty suggests differences from 1973-1976 to today in terms of how legal actors perceived Thai society and the possibilities therein for law to intervene. Whereas the potential for effective legal work was once formulated in terms of leftist visions of social change, in which the undoing of class and other foundational structures of exploitation was the target of legal activism, the practices of the clinic mostly were rooted in a static imaginary, one in which amelioration, mitigation and conciliation defined their work. The fact that clinic staff often valued their work in terms of whether they fulfilled their roles was in keeping with this ethos, as the roles/duty nexus located their efforts within the maintenance and reproduction of existing social hierarchies.

The staff's citation of roles and duties also hearkened a national discourse unfolding in Thailand before and during my fieldwork, in which the elite actors, especially the king, were amplifying an interpretation of dutiful action -- one that positioned it as supposedly neutral and apolitical and therefore a counterbalance to the powerful and corruptible actions of politicians. The fact of this potential interdiscursive connection speaks volumes to the changed position of law vis a vis politics in Thailand.

In 2006 and 2007, around the first of the "twin coups" briefly discussed in the introduction to this dissertation (see Baker 2016 for a thorough discussion), the King delivered a series of speeches to separate audiences of judges from the highest courts in the land[23]. A central theme of his speeches was that judges had a "duty" to him, to the people and to democracy -- note the absence of law in this list -- to "solve" political problems. Speaking to the administrative court judges in 2006, the king emphasized:

> Your oath of allegiance is very important because it is broad. The duty of a judge relevant to administration is very broad…you have sworn to work for democracy. If you cannot do it, then you may have to resign. You must find ways to solve the problem (qtd. in Mérieau 2016, 454).

"The problem," a barely concealed euphemism, to which the King referred was the stalemate that existed between the electoral preferences of the country's majority and the interests of the opposition royal, military and capitalist networks in Thailand. The oath to which the king referred required judges to swear "that [they] shall be loyal to the King and shall perform [their] duty in the name of the King with honesty, removed from all biases, in order to create justice for the people" (qtd. in McCargo 2015, 31). All judges take this oath while kneeling before a statue of the king. In a second speech in April of 2007, this time to judges on the Supreme Court, the

[23] For more on this period as it pertains to courts, please refer to the introduction of this dissertation. And, for a far more comprehensive analysis than that, please see Mérieau 2016.

king again cited the oath, emphasizing that judges have a sworn duty to him to combat corruption in electoral politics:

> You have sworn an oath of allegiance, according to which you must perform your duty in my name. If you do it right, I'll get the favour of your work performed in the public interest. If you don't do it right, I'll be dishonoured…If there is no justice, it means people can cheat and do wrong, and if the courts do not perform their duty to support good people, the country will not survive (ibid 457).

For the king, the times called for judges do more than adjudicate cases. Their duty was to act in his name against the cheats (representatives elected by a majority) and corrupted processes (elections) that held sway over Thailand. The king's statements about duty framed judges in Thailand as his proxies, invested by him with a moral, meritorious form of effectiveness to help the country.

Significantly, the king did not say that judges have the power to intervene in the country's problems. Rather he said that the judges were vested with duty to intervene in the country's problems. This was not only because the king's statements rehearsed a structural contrast between roles and duty vs. power discussed in an earlier section, but because that structural contrast had come to articulate a historically specific opposition between politicians (powerful) and good people, including judges (dutiful). In this opposition, politics was the purview of those who could wield an amoral power.

Because the effectiveness of duty indexed both the source and the making of merit, dutiful action was seen as correct and virtuous. This was the form of effectiveness with which the king identified himself. Yet, there was also something somewhat new afoot: the king's speeches had entailed, at least as it pertained to the judiciary, an important interpretation of the concept, one that was infused with some of his particular kingly luster, his prestige (barami/บารมี).

Many have analyzed the politicization of the judiciary since the 1997 constitution as a move, on behalf of the monarchy and those invested in its stability, to invest judges with some of the unbiased force that the king was seen to provide during major political crises in 1973, 1976, and 1992[24] (Connors 2008; Mérieau 2016; McCargo 2004, 2014; Thongchai 2016). His two speeches in 2006 and 2007 were delivered in moments of political turmoil during which the old and ailing king refused to intervene. Scholars have helpfully described the judges' increased effectiveness as a token of a type of effective action based on the mandate of royal legitimacy for a monarch to intervene in state processes (McCargo 2015; Mérieau 2016; Unaldi 2013). This distribution occurs through either claims on royal prestige (*ang barami*/อ้างบารมี) or a reliance on royal prestige (*peung barami*/พึ่งบารมี*)* (ibid). Yet, scholars writing on this phenomenon sometimes make the mistake of conflating a general concept of power with the type of effectiveness the king was distributing through his statements on duty. The king's repeated reminders of the judges' oath to act "in his name" when intervening in politics were consistent with readings of the politicization of judges as a safeguard against future crises following the king's impending passing. By communicating the relationship between king and judge in terms

[24] After the fall of the Thanom regime on October 14th 1973, the king played a central role in the transformation of the government. That same day, the king appointed Thanom's successor, the dean of the faculty of law at Thammasat University, Dr Sanya Dharmasakti. In December, the king also appointed a new National General Assembly. In 1976, the king backed the military interests involved in the overthrow of Prime Minister Seni Pramoj. Immediately following the coup, the king appointed the outspoken royalist and anti-communist judge, Thanin Kraivichien to lead the new dictatorship. Again on February 23, 1991, a military coup overthrew a democratically elected government and Army Commander Suchinda Kraprayoon became Prime Minister. Between February and May, Suchinda was replaced as Prime Minister by Anand Panyarachun. Anand was himself unseated shortly thereafter through a parliamentary vote that restored Suchinda to office. Protests quickly ensued. By May 18th, violent clashes erupted between government forces and protestors, the largest assembly since 1973. On May 20th, the king held a televised meeting with a kneeling Suchinda and opposition leader, Chamlong Srimuang, in which he commanded them to resolve the dispute. Chamlong immediately asked for protestors to disperse and Suchinda resigned as prime minister (McCargo 1997; Reynolds 2002).

of duty, however, the king attempted to frame the judiciary as possessing a particular, positive, neutral force that was most capable of reproducing kingly intervention after his passing. This infusion of kingly charisma (บารมี) into the judiciary ought to be understood in its own terms, as that of dutiful, not powerful, action.

Let me end on this speculation. If, in fact, the discourses of duty surrounding judges and the king related interdiscursively, through duty discourse, with those of clinic staff along the border, might we not understand this distribution of prestige as unfolding recursively across all legal actors? Perhaps, as was the case with the prosecutor whose dutiful impartiality in the court earned him prestige, legal activists aspired to understand their work as an enactment of the sovereign's neutral, ordered force in Thai society. This tentatively suggests another explanation for the changes in legal activism over the past forty years. It was not through expert technical discourses but through the diffusion of an unbiased kingly duty in the judicial system that that law was now being imagined to act upon local and national politics.

Chapter 3:
Projecting Universals and the Problem of Translation in Legal Aid

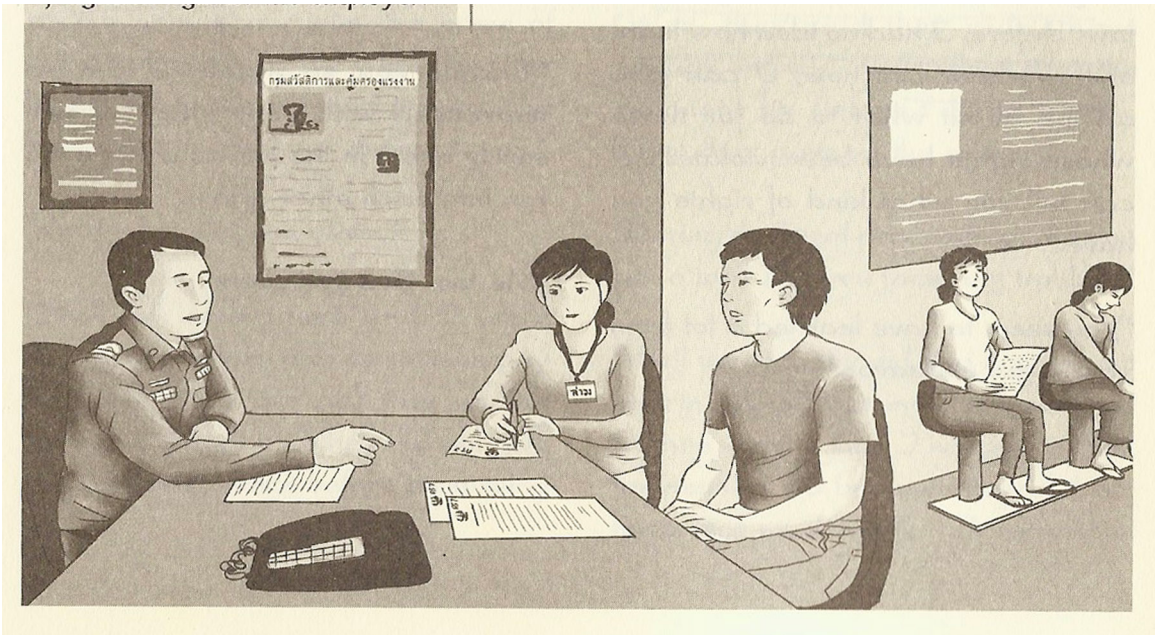

Figure 3: Image from the MAP Foundation's illustrated guide, *A Piece of Justice: Migrants' Experiences Fighting for Justice* (2009).

Legal work concerning migrant workers and others from Burma occurs across language barriers. A 2011 Tufts University study found that 47% of the population of Mae Sot speaks Burmese as a first language. 8% speak either S'gaw Karen or Pwo Karen (Saltsman, Jacobsen and Nichols, 6). Little is known about how much of that 55% bloc of Mae Sot's population speaks some Thai or about the fluency and literacy rates of the 45% who report speaking Thai as a first language. Given this multilingual context, translation, understood as an effort to convey the sense of an expression in one language to another, is central to the experience of law for those who are party to legal interactions related to migrant workers in Mae Sot.

This chapter explores how the ideals and practices of linguistic translation relate to and often undermine legal aid in Mae Sot. The image above, excerpted from a handbook for migrant workers about their legal rights, hints at the complexities of the situation. Created "to show that

protection under the law is available to all," the manual was published in Thai, Karen, Burmese and English, but the same image was used in all four versions (2009, *A Piece of Justice,* 2). A young man sits across a desk from a uniformed official from the Labor Protection and Welfare department, a government entity mandated to enforce labor law and to broker settlements between employers and their workers. In front of the young man is a Kor Ror 7 (กร7) form. When workers first file claims in the Labor Protection system, they are asked to list on the Kor Ror 7 their personal information and the details of their complaints, including the amount of compensation they are requesting. As the form is written in Thai and as its institutional existence will unfold in Thai, a female translator, identified by a badge that she wears around her neck, sits near the young man, her pen poised to complete the form as the official and the claimant speak. The nametag announces her as a translator (ล่าม) but does so only in Thai, presumably rendering it useless to the people for whom that information is most pertinent. The same image, with Thai text on the translator's badge, appears in all four versions of the manual. The fact that the translator sits closer to the young man than she does to the government worker suggests her affinity to the claimant, although in fact she is employed, as the accompanying text explains, by the Thai Department of Labor Protection and Welfare. The image not only envisions a moment of translation in legal process. It also expresses a set of metasemiotic ideals about how translation should work in legal aid – that, first and foremost, Thai and Burmese (or Karen) are distinct yet translatable languages; that the transformation of an oral to a written expression is seamless; that a translator will be present in the relevant moments; that the availability of a translator promises to bring non-Thais under the aegis of law; that people need not fear that translators articulate their own structural position or interests; and that neutrality, or even a bias towards the worker, is possible.

At the same time, the contextualization of the image in the four manuals suggests tensions within these ideals. The fact that the translator is represented in all four manuals as wearing a badge with Thai script places an untranslated sign, inscrutable to non-Thai speakers or to those who cannot read Thai, in the very materials that posit the ease and possibility of translation in legal processes. It also reproduces Thai as the dominant language not only of law, but of legal aid and activism, an outcome that sits uneasily with the aim of expanding non Thai speaking workers' legal rights. Contradictions such as these are well known to students of translation for whom the observation that translation structures inequalities among the languages being translated would be familiar (Asad 1986; Benjamin 1968; Bourdieu 1991; Derrida 1985, 1988; Gal 2015; Liu 1999a, 1999b).

For the clinic workers, these contradictions went largely unremarked in the process of extending Thai law to migrant workers. This was in part because the status of legal aid was still in such a tentative position at the time of my research that significant effort was directed to stabilizing the very notion that Burmese migrant workers had legal rights, hence manuals, like the one just referenced, for workers and employers that proclaimed this idea; radio shows broadcasting legal statutes; and trainings for workers. In these forums, legal activism appeared chiefly as a universalizing undertaking, an attempt to cast concepts like law and rights as transcendent frameworks within which the particularity, difficulty and variation of Burmese migrant workers' laboring lives could be made legible, commensurated and possibly even bettered.

I call these frameworks 'projected universals' to highlight that they had to be advertised, broadcasted and touted, and to flag their projection as a key moment in which I propose to unpack them. Speakers believed that the doing of projection – the advertising, broadcasting and

touting – could solidify these frameworks, so I discuss projections as wishfully performative acts. The structure of wishfulness was key here, as I will explain. In favor of projecting universals – declaring that Thai law applied to migrants, asserting that workers had rights, and proclaiming that justice for Burmese laborers was possible – legal aid workers often subordinated the nitty-gritty of translation, of translingual meaning making and of commensurability across languages. Yet, as the image suggests, embedded within these wishful acts were various assumptions and approaches, howsoever untheorized, to translation. It is the task of this chapter to describe what these approaches were and to demonstrate how they gave shape to the concepts that legal aid workers were projecting into Mae Sot.

The analysis builds along the following lines. First, I expand upon what I mean by 'projected universal' and 'translation.' I then provide examples of the three methods of translational practice through which law, rights and other legal universals were projected in Mae Sot. The next section focuses on the clinic's translators. With their connections and multilingual skills, the clinic's translators were called upon, by their colleagues, to consult on cases and even to broker extra-legal resolutions. They, therefore, were both mediums of the clinic's attempts to universalize law and experts at working outside the law. As agents of legal universalism and as brokers who could work the system, translators wore two, essentially contradictory, faces in the legal aid clinic. The blurring of these two roles was a source of confusion and uncertainty in legal practice. The final section connects the discussion to Chapter 1, suggesting that the double figure of the translator was another formation of anti-categoricality in Mae Sot.

I. The Workshop

a. Projected Universals

After lunch on the second and final afternoon of a "Paralegal Training," Chalerm, a

lawyer from Bangkok, asked the workshop's participants to break into four groups. Having worked with the clinic since its beginnings, Chalerm often helmed sessions at the clinic's workshops. That afternoon, participants, sluggish after a big lunch and tired at the end of the two-day training, were slow to follow Chalerm's instructions. Once they did, they were given black markers and several sheets of A1 paper. After speaking with Chalerm, Han Tun, a translator who worked widely in the NGO sector in Mae Sot, quickly explained to each group a unique scenario for which the group would have to devise a legal strategy. The groups quietly brainstormed ideas and, at the end of the allotted time, taped their responses to the walls of the meeting room. Group members clustered around their work, waiting for their turn to explain their ideas. One by one, the groups recounted the scenario they had been assigned and pointed out the ways its circumstances violated labor law. They all recommended that help first be sought at the Labor Protection Office (LPO). Failing resolution in that venue, claimants should consider filing a case in court. Their proposals, which matched the protocols that Chalerm and the clinic workers had advocated throughout the workshop, were met with approval; they signaled to the trainers that the trainees had been trained correctly. As the third group outlined their recommendations (LPO followed by court), Chalerm interjected, enthusiastically affirming their strategy. "Yes! Good…." he started. I quickly jotted down what he said for it was exemplary of the statements that I had come to expect in trainings:

> The court and the labor protection office protect all workers. The court is part of the justice system and follows human rights norms but the labor protection office is between the employer and the employee. The labor protection office should follow the law, but really it is between the two sides. The court is there for everyone if they do not receive justice [from the LPO].

Remarks such as these flourished in workshops. Statements about what the court does and how the labor protection works were wishful in two seemingly contradictory ways. First, they would

have wilted in the face of the complex situations that migrant workers and their advocates daily navigated. Second, legal activists nevertheless believed that, because Mae Sot people did not yet know these statements about law to be true, speaking them was key to making them normative. They were performative to the extent that they were evocations, attempts to talk into being a legal system that everyone understood to equally protect all. The problem to which these comments were directed was not law per se, but people's understanding of the law's reach. Activists' wishfulness around these utterances shares a temporal logic similar to that which Butler highlights in her discussion of performativity. Butler writes, "the anticipation of an authoritative disclosure of meaning is the means by which that authority is attributed and installed: the *anticipation conjures its object*" (1990, xv, emphasis added). Characterizations like Chalerm's invited recognition of their object, beckoning people to understand and thereby constitute the law for what it already is[1]. That such statements may not have been effective obviated neither the wish that they were, nor the logic of desired performativity that framed their deployment[2].

[1] Scholars have long recognized that the question of how words do things is especially central to understanding how law and rights discourse, especially in texts like human rights declarations or constitutions, work (Derrida 1988; Butler 1990; Esterhammer 2000; Richland 2013; Warner 1990). The literary scholar, Angela Esterhammer details the debate between Edmund Burke and Thomas Paine on this point. Burke's position was that a constitution could not bring anything new into existence, whereas Paine's was the opposite. Paine wrote, "A constitution is a thing *antecedent* to a government, and a government is only the creature of a constitution" (qtd. in Esterhammer 2000, 53, original emphasis). At the core of the debate was whether or not a text could be said to *constitute* anything new. In this debate, we can see the seeds of an understanding of how words relate to rights that connects a 220 year history of interdiscursive links among constitutions, declarations of rights, human rights documents, and rights discourse with the ways in which activists in Mae Sot, Burkeans and Paine-ists in the same instance, hope their language use to work.

[2] My reading of performativity draws both from the linguistic anthropological and the post-structural conceptualizations of performativity (Butler 1997, 1990; Derrida 1988; Lee and LiPuma 2002; Nakassis 2012, 2013a; Richland 2013; Silverstein 1979). One outcome of the fact that language is citational – bits of it can be separated from previous uses and repurposed or cited

Indeed, discourse such as this could be understood as the material delimitation of the workshop as a particular sort of stage – a forum for the wishful thinking (and talking) required to imagine and enact a new legal reality. This was because workshops were future-oriented events, training attendees to bring into existence the legal relations being discussed. Unlike clinic workers' daily work, which I argued in Chapter 1 traded on the particular and the un-generalizable aspects of clients' problems, workshops were a good site from which to apprehend legal aid as a universalizing project and to consider how translation mediates such claims.

The work rhythms of clinic employees – meeting clients in the office, taking claimants to the Labor Protection Office or the Social Security Office, dropping documents off at the courthouse, attending meetings with affiliated NGOs and CBOs, appearing in front of Labor Court's judges – were punctuated every few months with training workshops. These events brought together clinic staff, administrative higher ups from Bangkok, lawyers also from Bangkok and one of two target audiences: either Burmese migrant workers or Burmese employees of CBOs that worked with Burmese migrant workers. The six workshops that I attended shared a standard format. They were held in meeting venues in small guesthouses or modest hotels around Mae Sot. Days were scheduled around morning and afternoon sessions, each of which was broken by catered tea breaks and ample buffet lunches and dinners. Venues were stocked with meeting appropriate accoutrements: paper and pens for each participant,

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in a current context – is that instances of language use, citations, can produce new meanings. This creative aspect of language is its performative dimension. A reader may question my use of the term, performative, to describe statements that did not have discernible performative effects, that were not in fact creative of that which they declared. I am sympathetic to this ambivalence, for the power of the concept of performativity is that it allows the analyst to demystify how certain instances of language use seem to "magically [bring] that which it describes into existence" (Nakassis 2013a, 62). However, my use here of performative is meant to highlight a metapragmatic framing that motivates these statements, not to theorize the causal relationships (which were in any case absent) between these statements and any performative effects.

microphones, large easels with pads, and whiteboards.

The purpose of the workshops was to disseminate information about the legal rights to which migrant workers were entitled, a goal central to the mission of the clinic, but the topic of each workshop varied, sometimes substantially. One training concerned a new work permit program. Another focused on a Memorandum of Understanding between Myanmar and Thailand that opened a channel for Thai employers to recruit workers from Myanmar. There were also "Training of Trainers" meetings and "Paralegal" Trainings targeted towards CBO employees who were (correctly) thought of as having more immediate connections with Burmese laborers than did the clinic's staff. At the end of the "Paralegal" trainings, CBO attendees were deputized as unofficial paralegals with ID badges and a certificate that stated that they had undergone the clinic's legal training.

While the workshops' contents were dissimilar, presenters, who were drawn from the ranks of clinic workers and lawyers, spoke about legal rights in uniform ways. In the trainings, unlike in their daily activities, clinic staff trafficked in categorical statements about law, characterizing its protection as available to all, regardless of nationality. Shifting indiscriminately between global human rights frameworks and the Thai legal system, presenters made seemingly descriptive statements about law's universalism, its openness to everyone and its non-discriminatory spread. Examples, taken from speakers' presentations at the six workshops, included:

- Migrant workers have rights in Thailand.
- Everyone has human rights.
- Everyone has the same needs. Meeting these needs is a human right.
- There is equality before the law.
- Equality before the law is a human right.
- The Labor Protection Act of 1998 protects all workers.
- Migrant workers are equally entitled to justice.
- Migrant workers labor rights are protected under the Thai legal system.

- Every worker, regardless of nationality, is entitled to protection.

There was an undeniable distance between the legal landscape of Mae Sot and the one outlined in these utterances. For one thing, it was hard to reconcile the evident double standards and exclusion that pervaded Burmese people's lives in Mae Sot with the idea that Thai law equally protects everyone. For another, the liberal notions of formal equality at the core of these statements were challenged by the age, class and status hierarchies that defined Thai social relations. If the above statements were not simply descriptive of how law worked in Mae Sot, then they at times straddled, for the clinic staff, the descriptive and the normative, the is and the should, the what is and the what ought to be.

It was noteworthy that legal activists so frequently made characterizations such as "all workers are protected under the law" in trainings but not in the course of their ordinary work. For clinic staff, workshops were meant to remedy widespread legal ignorance. Migrant workers and their advocates needed to be educated about the law; they needed to know their rights in order to exercise them. As one of the original clinic workers told me in an interview about the clinic's objectives during her tenure at the organization, "We had to make labor law public. People don't know about law." Legal aid workers already knew that, for example, 'migrant workers are equally entitled to justice,' but the public needed to know it too in order for it to become true. The promise of law could only be realized as more and more people learned of its reach. This is why I came to characterize the categorical statements listed above as "projected universals," speech acts that announced and asserted the existence of an overarching, common frame from which Burmese people could derive protection. In the context of the trainings, clinic staff projected universals like "everyone has human rights" to recruit the audience into recognizing and acting upon the reality the statement purported to capture.

Projection – the casting or launching of a universal framework – was always a translated endeavor. Presenters at the workshops spoke in Thai and audiences were presumed, by the event organizers, to be proficient in Burmese. For everyone involved, translation was seen as essential to the two parties understanding one another and to the presenter being able to inform participants about the law's universal purview.

To note that a universalizing project like establishing the rights of migrant workers was also a translated one is not as self-explanatory a claim as it may sound. Obviously, threading a universal, a concept of non-difference, across a landscape comprised of difference entails contending with the pragmatics of meaning making in various languages and linguistic communities. However, scholars have offered very different explanations of how this works (Gal, Kowalski, Moore 2015; Liu, 1999c; Levitt and Merry 2009; Merry 2006; Tsing 2005). Merry, for example, advances an influential argument that human rights law and programs are "appropriated" and "translated" into local contexts (2006). She writes:

> "Transnational programs and ideas are translated into local cultural terms, but this occurs at a relatively superficial level, as a kind of *window dressing*. The laws and programs acquire local symbolic *elaboration*…..The programs are appropriated and translated but not fully indigenized (2006, 177-178 emphasis added).

For Merry, the transmission of a global concept into a local idiom occurs through a process of "vernacularization" (2006, 219), in which culture, difference, specificity, and "local cultural terms" ornament the concept, rather than domesticate or alter it. Consider how Merry characterizes that which clothes transnational ideas as they are vernacularized in different contexts around the world: "familiar costumes" (138), "window dressing" (177), "culturally resonant wrappings" (221). Through translation, actors add cultural veneers to core concepts in the hope that these concepts becomes relevant and palatable to intended audiences. These

accretions are "not themselves ideas but ways of packaging and presenting ideas," Merry writes (136). Even as it is appropriated and translated in places all over the world, the "fundamental grounding" of a concept is "retained" (218). Merry's model asserts a kind of pre-cultural mooring for universal concepts like human rights, a mooring left un-impacted by encounters with particular cultures and languages. Even though Merry does not explain how actors work to preserve this foundation over time and space (she seems to take this for granted), her view privileges the stability of universal concepts across instances of their translation. Indeed, this endurance, for Merry, is the source of their power to impact local cultural practices (162).

Liu highlights the opposite (1999a, 1999b, 1999c). Describing the spread in the 19th century of international law, a precursor, she notes, to the emergence of human rights frameworks in the 20th century, Liu argues:

> …the circulation of meaning involves a great deal of coauthorship and struggle among the dominant and the dominated groups over the meaning and distribution of universal values and civilizational resources…(1999a, 21).

Later, Liu adds, "…the coming into being of a global universal can be plotted as a series of *translated* and *contested* moments…" (1999c, 128 original emphasis). For Liu, the fact that a universal concept must be translated entails the possibility that the concept is co-authored and redefined through interactions between both sides of a translational exchange. This aspect of Liu's discussion is in keeping with key axioms of linguistic anthropology, which note that actors entextualize and recontextualize texts –bits of language – producing potentially new meanings and contexts along the way (Silverstein and Urban, 1996). Liu's account puts into play how universal concepts are meaningful, characterizing their meaning not only as existing prior to translation but as contested and emergent from an unfolding historical process. Open as they are to the contingencies of translation, universal concepts are significantly more impressionable in

Liu's telling than they are in Merry's (please see Gal, Kowalski and Moore 2015 for a parallel critique).

Liu makes a more specific intervention, however. The "local symbolic elaboration" of global laws and programs in Merry's analysis (2006, 177), articulate, for Liu, the terms of a potential universalizing vision in its own right, what she calls a "competing universalism" (1999a, 19). In Liu's analysis, universalizing projects, from colonialism to the spread of international law or human rights, produce, rather than encounter, difference, "victimizing [it] as a *lesser value* or a *non-universal value*" (19, original emphasis). She advances the concept of "competing univeralisms" to combat this logic of devaluation, wherein the Western construct indexes the real, universal meaning (in Merry's schema, for example, human rights) and its particular instantiations are "not themselves ideas" (Merry 2006, 136) but local (non-universal) flair. Where Merry might see in legal trainings in Mae Sot evidence of the "relatively superficial" packaging of transnational human rights (ibid, 177), Liu would observe not the cultural gilding of international human rights norms but the terms of a potentially universalizing order in its own right[3].

[3] For an example of competing universals, consider Liu's discussion of *quanli*, the noun that came to denote 'right' in Chinese. Because of its association with *quanshi* (power or domination, in Liu's gloss) and because of its connection with trade, *quanli* carried an ambiguous and even negative meaning in the 1860s, just as concepts of international law were being globalized. These ambivalences hung on to the term, Liu finds. And, they impacted subsequent translations of the term back into English, for example, when in the early twentieth century, *quanli* was translated into English as 'rights and privileges.' Of this process, Liu writes, "the convoluted translation has the effect of reinterpreting the English word 'right' with some translingual echoes of the original Chinese character *quan* suggesting 'power,' 'privilege,' and 'domination' (1999c, 150). Liu continues, "the historical unfolding of international law cannot but include the multiple translations and circulations of international law in the other languages" (1999c, 150). For Liu, the translation of 'right' into *quanli* is neither correct nor innacurate, and *quanli* is neither a better nor worse term to signify 'right' than is 'right' itself. Rather, *quanli* and 'right' both articulate universal visions that have potentially and subtly different meanings, meanings that contend with each other through the processes in which they are translated and circulated.

This distinction is meaningful. Implicit to the vernacularization model is a metadiscursive assumption that the world is comprised of rooted, local, particular cultures that themselves cannot achieve transcendence but that can be transcended by transnational logics that emerged in the west. The local does not add "ideas," after all, just "packaging." Seen in this light, vernacularization and the work of translation it theorizes might best be understood as an ideology of western modernity, rather than as an analysis of how its universalizing projects in fact unfold. Rather than reifying this ideology, Liu insists on the generative potential of translation, broadly, to unsettle meanings and, specifically, to be a moment in the life of universal logics in which alternative universalisms emerge and contend with one another.

Thinking with Liu to understand how translation shapes the universalizing project underway in the workshops, an additional issue arises, one that stems from the unhelpful capaciousness of the term 'translation.' In the trainings, I noted not one but three distinct approaches to translation – to creating "sameness-in-difference," as Gal's formulation would have it (2015). These three approaches, which I describe below, were contradictory, were based on different assumptions about communicative practice and subjectivated Thai legal practitioners and Burmese claimants in different ways. Little to no effort was directed towards standardizing or reconciling these approaches. To clump them under the mantle of translation without considering how each approach uniquely stood to impact the expansion of law in Mae Sot would be to flatten – to attribute an absent homogeneity to – social practices that were in fact different. Translation in the trainings did not conform to a singular semiotic pattern, but to multiple, layered and inconsistent semiotic processes. It is to the heterogeneity of translational approaches – and their concomitant effects – that I now turn.

b. Approach 1: Dependent Translation

The first session of the second day of the Paralegal Training was designed to recap the preceding day's lessons. The air conditioners powerfully cooled the room but barely kept the damp of the rainy season at bay, resulting in an uncomfortable combination of frigid humidity about which almost everyone complained. As workshop attendees, familiar faces from CBOs who worked in the Mae Sot area, found their seats around the u-shaped table and wrapped themselves in pullovers and scarves, Chalerm and Han Tun, the lawyer and translator respectively, stood at the front of the large meeting venue, warming the room with casual banter.

To start the session, Chalerm asked participants to review the previous day's conclusions about the definition of human rights. This work, which had been produced in groups, was recorded in Burmese on large pieces of paper and affixed with generous pieces of masking tapes to the room's walls. Overnight, the humidity in the room had loosened the tape, so the poster-sized sheets flopped noisily under the brunt of the air-conditioners. Han Tun translated Chalerm's statement, prompting some of the attendees to walk to their group's displayed ideas. Unfamiliar with all but the most basic of Burmese pleasantries, I could only infer Han Tun's statements in Burmese by the responses of the workshop participants and by what he later stated in Thai. With some standing, propping up their group's work, and others seated, Chalerm continued. Referring to the sheets on display, which he could not read, Chalerm said, "Yesterday, we discussed what laborers must have. What do laborers need?" Han Tun conveyed Chalerm's question to the audience, who then offered up answers in Burmese. Han Tun waited for a few people to respond at a time and restated their replies in Thai for Chalerm's benefit. Chalerm then listed answers on the white board, often paraphrasing Han Tun's statements in briefer, bureaucratically inflected terms. Government that cares for laborers (รัฐบาลที่รักษาแรงงาน),

for example, became labor standards (มาตรฐานแรงงาน). The ability to see a doctor if one is ill (ไม่สบายก็ไปหาหมอก็ได้) became health care (การรักษาพยาบาล). Being able to speak with one's boss regarding one's workplace problems (พูดคุยกับนายจ้างเรื่องปัญหา) became labor relations (แรงงานสัมพันธ์). The white board quickly filled up with needs such as these, as well as others, including wages, breaks, holidays, unions, public health standards, overtime, safety equipment, and access to the legal system. "All workers have needs," Chalerm summarized. "Are these needs," referring to the crowded board of terms written in Thai which the assembled participants likely could not read, "human rights….?," Chalerm asked leadingly. Han Tun translated Chalerm's statements to the audience. A few people responded, in Burmese. Han Tun reported their affirmative responses to Chalerm in Thai. "Yes, these are human rights," Charlerm concluded. Having made his point, Chalerm introduced two observers, a Thai NGO worker and a Thai representative of the International Labor Organization, who had come to watch the workshop in action that day.

This exercise reproduced the idea of difference between the participating linguistic groups and structured their relations across it. It began with the Thai lawyer, who did not speak or read Burmese, reminding participants that the day before, agreement was achieved among the legal aid workers and Burmese trainees on the question of what all laborers must have. His proof was the Burmese text, which he could not read, written on the A1 sheets. This text, for Chalerm, was not functioning semantically. He did not reference what it said but *that* it said, and he proceeded to build the current exercise off the indexical evidence that the unreadable Burmese script offered him: 'Look, work was done. Understanding was achieved.' Chalerm recontextualized the Burmese inscriptions not as symbols of semantic meaning, but as indexical icons of a consensus achieved across linguistic difference in the form of a prize – the Burmese

trainees recapitulation of yesterday's projected universal (all workers have the same needs). It indexed translation, in one direction, from Thai trainer via the translator to the Burmese trainees. It iconized, for Chalerm, a communicated universal.

The second day's exercise flipped the linguistic itinerary (now from Burmese to Thai) with similar effect. The bureaucratic terminology that Chalerm wrote on the white board in Thai, after Han Tun has translated the trainees' reactions from Burmese to Thai, and after Chalerm translated Han Tun's terms into a more legalistic register, was illegible to the Burmese audience. While Han Tun translated Chalerm's interpretations, the written text served no semantic purpose to its audience. Rather, the writing on the board was indexical of another supposedly successful transmission across the two languages. Like watermarks on a wood table, the text indexed the process that conjured the text, a process whose inscriptions – despite being illegible to the audience – signaled that their (Burmese) words had been recognized and understood. It iconized productive translation. When Chalerm pointed to the Thai text that no trainee could read and asked, "Are these human rights?," trainees signaled their affirmation not because the Thai script semantically represented their ideas, but because of indexical and iconic value it achieved in the exercise.

The translator, Han Tun, was central to every exchange between Chalerm and the trainees. The cadence of Chalerm's questions reflected a commitment to the belief that everything ought to and could be translated. Chalerm would utter a question and pause, awaiting Han Tun's translation. Han Tun, on the other hand, stockpiled replies from trainees and exercised discretion in communicating their statements in Thai back to Chalerm. In these exchanges it was the translator who fostered an imbalance between discussants. He was more responsive to Chalerm than to the trainees. Chalerm's every utterance was followed by Han

Tun's translation; it took several utterances from trainees before the translator communicated in Thai with Chalerm. While my extremely limited Burmese prevented me from commenting on whether semantic commensuration across the languages was attained, I can say that parity in terms of the sequencing of exchanges was not practiced. Then, the messages that Han Tun did eventually relay to Chalerm were re-presented by Chalerm in a more technical register. Though the ensuing ink on the board indexically iconized the translations that produced it and though that acknowledgement appeared in recorded form, the process that generated the text did so by erasing the trainees' actual responses and by valuing their utterances below those of Chalerm's.

Unable to read the Thai bureaucratic versions of their replies, Burmese trainees accepted the inscriptions before them as indexical icons of successful translation because of a politics of representation latent to the exercise. Presupposed and entailing a hierarchy of dependence between Burmese trainees and the clinic workers, the exercise framed the former as reliant on a Thai person speaking voice. In agreeing that 'these [illegible thai words] are [the] human rights [we discussed],' the Burmese trainees recognized and, in so doing, realized their subordinated dependence upon Thai legal actors to articulate their claims.

c. Approach 2: Thai-splaining

Workshops had been an important technique in the migrant rights movement since its beginnings, as Sutinan, a lawyer, recalled in an interview in early 2013. Initially, lawyers participated in this movement not by taking on cases, but by teaching migrant workers and their advocates about human rights. More direct advocacy followed, Sutinan said, as the Bangkok based legal community became familiar with the conditions on the border. They started to volunteer with organizations that assisted migrant workers and some, like Sutinan, were drawn to work on the expansion of legal rights to Burmese laborers. Like Chalerm, whose sessions I

discussed in the previous section, Sutinan had worked with the clinic for many years. He was an active part of office life, coming several times a year to Mae Sot to consult on cases, appear in court and lead trainings.

On one such visit in June 2012, Sutinan taught a workshop to a large group of factory workers. It was an unusual event. Of the six workshops that I attended, this was the only one whose audience was comprised exclusively of migrant workers. The Federation of Trade Unions of Burma (FTUB), an active organization that advocated for migrants' rights in Mae Sot, had arranged for the group, all employees of the same garment factory, to attend the workshop on a day off. Because of the large size of the anticipated audience, the clinic booked a banquet hall in one of the main hotels in town. This meant that workers had to traverse the center of town, passing, as I had noticed that morning, at least two checkpoints, to attend the workshop. I heard much concern that day, from the clinic's workers and from FTUB staff who had recruited the audience, about the workers' safe passage to and from the meeting venue, and a rumor that FTUB had to convince the police to release a small group of workers on their way to the workshop. Unlike the other workshops I had attended at which a handful of participants spoke some Thai, no one in the audience of this workshop was a Thai speaker. This was established by Oy, a senior clinic staff member. By way of opening the workshop, she asked who in the audience spoke Thai. When Atisit, the clinic's senior translator, posed the question to the audience, not one person answered in the affirmative.

The workshop was nevertheless typical of other presentations that I had seen Sutinan deliver. He used Powerpoint, which at this event was projected onto a screen at the front of the room. His slides were crowded with Thai text, often full sentences or chunks of relevant legislation. The presentations were a mix of platitudinous projected universals like "men and

women have the same rights" and "everyone has the same status under the law" and highly technical recapitulations of legal statute. He spoke loudly and with few pauses. Even without the microphone pack that he wore that day, his bass rich voice would have been amply discernible in the furthest corners of the room. The density of his presentations and his amplified presence made it difficult for translators to keep up with him.

The objective of this training, Sutinan told the assembled group, was to create knowledge (ความรู้) that workshop attendees could use in their workplaces. "You have rights. Human rights. Rights following Thai law. If the factory takes advantage (เอาเปรียบ) of you, you can take your knowledge and use it (เอาไปใช้)," he said. To explain what these rights were, Sutinan structured his presentation to follow the organization of the Labor Protection Act of 1998[4]. Sutinan started with first principles, defining the relationship between an employer and employee and explaining the concept of minimum wage. Reading from his slides, which were in Thai, Sutinan condensed the legislation, highlighting sections relevant to the audience. The information was detailed, concerning the intricacies of everything from when employers were obligated to pay wages, what sorts of work pregnant women were exempt from, and what an employment contract is to how wages should be calculated.

Atisit also had a microphone. Whereas Sutinan stood on the right of the front of the room next to the dais on which his computer was placed, Atisit was front and center, and would sometimes move down the middle aisle as he spoke. He frequently reminded Sutinan that he needed to translate the material for the audience. "Wait a minute, brother, excuse me" he would say from time to time, or more playfully, "Professor, a small moment, please." To these interjections, Sutinan would apologize or ask Atisit to please proceed. I do not know what

[4] This legislation was amended in 2008. The new version maintained the organization of the 1998 law, but added new sections concerning, among other matters, holidays and sick leave.

information Atisit conveyed or omitted, but he never spoke as long as Sutinan had. Sometimes, Sutinan advanced through multiple slides before Atisit successfully staged an interruption. Especially in those instances, I presume that Atisit was unable to convey the technical minutiae captured in the slide presentation. For these reasons, the presentation encouraged inattention in the audience. A few people fell asleep, others were on their phones and some spoke quietly among themselves.

Sutinan's approach to 'creating knowledge' was to 'Thai-splain' legal principles – to *talk his expertise at* Burmese trainees – regardless of uptake. It was exemplary of a language ideology common in Thailand's schools and universities and was reminiscent of law classes I observed at Thammasat University in Bangkok, Thailand. In those classrooms, professors lectured to audiences of students without pausing for questions, feedback or any dialogue. The prominent legal thinker and former Dean of Chiang Mai University's School of Law, Somchai Preechasilapakul, argues that contemporary legal education in Thailand is dominated by a pedagogical model dating back to the 1940s. Where pre-1940s legal education was concerned with the formation of officials and citizens capable of connecting their lessons to their changing political and social conditions, the current model emphasizes professorial lectures, rote learning and technical knowledge in isolation of context (Somchai 2010). To prepare for exams, students memorize Supreme Court rulings; these rulings are the answers on course and bar examinations (McCargo 2015). Sutinan's technical slides – full of decontextualized and memorizable information – and his delivery – he was acting the legal pedagogue – were in keeping with the model identified by Somchai. They also expressed a model of language use in teaching that enshrined propositional content rather than interactional effects or contextual relevance.

Given the language ideology within which Sutinan was working, it was surprising that he ignored Atisit, who easily could have been recruited to reproduce Sutinan's referentialist tendencies. What was at stake in these translational dynamics? Even though Sutinan hardly gave Atisit the chance to translate his presentation for the assembled workers, it would be hasty to conclude that the translational processes underway at the workshop therefore were stymied or unproductive. After all, as Gal, Kowalski and Moore remind us, "translation is not replicative but profoundly generative" (2015, 613). Even if translation did not enable the transfer to Burmese of much propositional content[5], it nevertheless was productive of participants' positionality and of a metapragmatic commentary on the role of translation in the act of projection in Mae Sot.

Sutinan and Atisit's translation practices, from the former's crowded slides in Thai and his forgetfulness of the need to translate to the latter's understandable difficulty keeping pace with Sutinan's delivery, ensured that participants understood very little of the denotational meat of the presentation. Indeed, the workers' ignorance of their rights, ostensibly the rationale for the training, was actually reproduced through the translation processes in the training itself. In so doing, attendees were framed as passive, uncomprehending witnesses to Sutinan's performance. This was a participant role that demanded the workers' physical presence but little more, all but ignoring their comprehension of the rights being discussed. It positioned the assembled workers as peripheral to Sutinan's role as an announcer of Burmese migrant workers rights.

The above practices also indexed a hierarchy of what counts in Thai-splaining: announcement over uptake, broadcast over understanding. Recall that Atisit repeatedly framed his efforts to translate Sutinan's words as interjections, albeit polite ones, to Sutinan's professorial flow, interruptions for which he asked permission or license. "Excuse me, brother,"

[5] Please refer to Bauman and Briggs 2003, Gal 2015, and Duranti 2015 for critiques of the notion that translation is primarily about the establishment of referential content across languages.

he would say, “I need a small moment.” I read these mannerly requests to translate/interrupt not only as Atisit’s deference to Sutinan’s status but as repeated metapragmatic statements on the perfunctory status of translation to the real work of the day – declaring and announcing rights (or, as Susan Gal suggested to me, declaring and announcing the declaring and announcing of rights). Thai-splaining was projection at its most monolingual and monologic, where translation, trainee participation, and comprehension were rendered peripheral to the broadcasting in Thai of rights.

It initially puzzled me that neither clinic staff nor the clinic’s Bangkok based administrators ever critiqued this model. At the day’s end, Sutinan, as well as others who used similar pedagogical techniques, were thanked for their work and were invited back to lead trainings. In the annual reports, these trainings were described as successes, with little differentiation from those that used other translational techniques. Over time, I came to see that the Thai-splaining model had analogues outside the clinic’s work. All over Mae Sot, and especially around its municipal buildings and along its main highway, were packed billboards, written in tight, bureaucratic Thai fonts. Only occasionally did these signs have Burmese text. These hoardings, which the city or provincial government had mounted, announced new laws or legal procedures pertaining to migrant workers. Depending on what work permit scheme was then in effect or whether a registration deadline was impending, signs would list the legal procedures that workers should follow. The public for these signs was not the migrant, for whom the Thai script was likely to make it illegible. It was also unlikely to be the employer, who ample evidence suggests was the least likely figure in Mae Sot to be concerned about labor law. Rather, I came to regard the billboards and Sutinan’s Thai-splained trainings as akin, both instances of projection for the sake of being able to report, to bureaucratic higher ups, projection. Both were

about achieving the fantasy of transmission or dissemination in the absence of the friction of translation, even if the fantasy came at the workers' expense.

d. Approach 3: Peer-to-peer transmission

At the start of a "Training of Trainers" workshop, Chalerm observed that many in the audience were familiar to or friends of the clinic. This fact struck me as well. Mae Sot was a small town, and there were numerous forums – including trainings, Migrant Rights Working Group meetings, teashops popular among development workers, and the clinic itself – at which the NGO and CBO communities interacted. Yet, it was not only that attendees circulated in the same spaces as did clinic staff but that many people repeated their attendance at the clinic's workshops. For Chalerm and the other presenters at the "Training for Trainers" meeting, however, repeat attendance was a boon, not a problem. Chalerm said, "Some have done this before. But this is not a lecture. It is about how you spread your knowledge about the law and help people whose rights have been violated." For Chalerm, trainings were not about information, which could be delivered in a one-off lecture, but about understanding how to "spread" information. The more training attendees underwent in the how-to of knowledge spreading, the better, according to Chalerm.

Wassana, the financial and administrative officer of the foundation that funded and oversaw the clinic's operations, was also present at the workshop, as she was at most of the clinic's events. Welcoming participants to the training, Wassana said, "We want to create assistant experts (ผู้ช่วยวิทยากร)." She went on to explain that the best way for people new to Thailand to know their rights is for their friends and fellow nationals to discuss the matter with them. For Wassana, the audience of assistant-experts-in-training was uniquely positioned, by

virtue of their impending training and, equally, their language, ethnic and national backgrounds, to disseminate knowledge about rights within migrant communities, among people like themselves. As Atisit translated Wassana's statements, some in the audience nodded in agreement.

The Training of Trainers workshop was based on the assumption, widely shared that morning by attendees and clinic staff, that learning over a terrain of common language and experience, rather than across a barrier of language or cultural difference, was more effective. For anyone experienced with the tactics of non-governmental organizations, the peer learning logic would be familiar indeed. The roots of this model are diverse, from the psychological theories of Piaget (1955) and Vygotsky (1978), who wrote about the role of peer interaction in childhood development; to the educational philosophy of thinkers interested in experience like John Dewey (1938); to folk ideologies about the ways in which humans have always learned "naturally" not from teachers but from those in similar social positions (see Topping 2005); and to a notion of "capacity building" which posited that development endeavors should support "people's capacity to determine their own values and priorities" (Eade 1997). The legal aid clinic had long routinized the model, holding multiple workshops every year in which Burmese people who worked in the Mae Sot CBO circuit could become "assistant experts", "paralegals" or "trainers," primed to disseminate rights knowledge to the broader migrant community. In this respect, the workshop identified the training trainers as active vectors in the spread of legal consciousness, agentive unlike the dependent or silenced figures produced through Charlerm and Sutinan's sessions, respectively.

Within this framework, however, translation was understood naively – as an obstacle that existed in the training session, between legal aid workers and their Burmese trainees. Even then,

the problem was seen as a relatively trivial matter of procedure. Nobody doubted that reference would be maintained across instances of translation in the trainings, despite the way that this confidence potentially indexed the dependence that attendees had on the workshop organizers' speaking voices (see approach 1). An even more significant lacuna was that the linguistic and cultural diversity of the migrant community in Mae Sot went unrecognized in the workshop. This oversight had the effect of glossing over the multiple possible ways in which translation could continue to be an issue after the workshop, adding friction to the peer-learning model so enthusiastically subscribed to by everyone involved.

e. Arrested Projection

Legal activists were not always sanguine about the impacts of their work. One legal officer told me in 2010, as I was studying Thai and conducting preliminary fieldwork in Mae Sot, that she felt that nothing much had changed in her past five years of laboring at the clinic. Workers did not know their rights. They did not understand Thai law[6]. They were unaware still that they were entitled to a minimum wage. A common explanation for this stagnation was that migrant workers who came to Mae Sot from Burma were unlikely to stay there, moving on to other parts of the country and, in so doing, taking the knowledge they presumably gleaned in Mae Sot to the central Thai industrial centers to which they moved. For clinic staff, this mobility would account for why workshops were in a constant state of projection – asserting, disclaiming, stating and restating the basic premises of Burmese people's rights claims in Thailand.

[6] Please refer to Arnold and Pickles 2011 for an alternative perspective. Arnold and Pickles detected incremental changes, since the early 2000s, in terms of migrant workers' ability to negotiate with their employers, and a decrease in violence and intimidation perpetrated against uncooperative migrants and activists (2011, 168).

An additional factor, a partner to this macro-sociological explanation, concerns the micro-semiotic practices of universalization evident in the workshops. The question, as I see it from the point of view of the clinic's training workshops is: if, as we know, universals are brought into being through their translation (Liu 1999c), a mediation that stands to substantively define the universal, how does the project of bringing into being a universal proceed when translation itself unfolds via multiple and inconsistent approaches? If the so-called dependent approach to translation defines the concept 'all migrant workers have rights' through a particular politics of representation and imbricates it in a hierarchy that locates Thais as having the ultimate interpretive authority, do not the 'peer-to-peer' and 'Thais-plaining' approaches respectively produce different bundles of associations through which universal claims are made? As legal actors deployed different techniques of translation, they were actually projecting different universal ideas whose presuppositions and entailments, while purportedly denoting the same concept, were not in fact in alignment. Might this suggest that the making of a universal concept across linguistic difference can be tracked, historically and pragmatically, as a process of regimenting linguistic translation? In Mae Sot at the time of my research, people did not engage in metapragmatic reflections, at least in the public spaces in which I largely circulated, on the work of translators or translation in trainings. There was no momentum, imminent or imposed, towards the standardization of linguistic translation in legal work. As a result, the coalescence of universal legal concepts – the grist of the legal liberalism that activists were wishing for – was thwarted, their formulation arrested in a seemingly perpetual state of projection.

II. The Clinic

For their differences and contradictions, the three approaches to translation that I observed in trainings all figured the role of the translator as central and essential to the work of

including migrants under the purview of Thai law. This may seem an obvious point but I underscore it because it dislocates the expertise of the lawyer, landing interpretive power and authority squarely on people who have no legal training. Therefore, for a full account of the ways in which translation made possible but also challenged the grounds of legal assistance to migrant workers in Mae Sot, it is important to step, for now, out of the workshops and into the clinic's daily operations, to ask how translators' mundane efforts more broadly shaped legal practice. These impacts were various, ranging from the assertion of hierarchies of competence to the arrangement of extralegal resolutions to cases, and from the maintenance of the clinic's institutional memory to the creation of relations of obligation.

The clinic employed two translators, Atisit and Htoo Lay. Atisit, fluent in Thai, Burmese and Karen, had worked with the clinic since it opened. He had outlasted all of its legal aid officers, among whom the turnover was high. Atisit was regarded, by the clinic's legal aid officers who were all young, fresh university graduates as well as by CBO staff, as having the experience and know-how of a long time advocate. Htoo Lay was also fluent in Thai, Burmese and Karen. He joined the clinic's staff while I was doing fieldwork after performing low-level administrative jobs in the development sector in Mae Sot.

Outside of trainings, Atisit and Htoo Lay performed several roles. They messengered legal documents to offices around town. They made photocopies at the local copy shop and mailed letters. They enabled legal aid officers to understand clients' grievances and clients to understand the steps that the clinic would take on the clients' behalf. In a typical circumstance, a legal aid officer would perform an intake interview of a prospective client. Atisit or Htoo Lay participated in the interview by translating the legal aid officer's questions into Burmese or Karen and by translating the clients' answers into Thai. While legal aid officers typically led

these conversations, with assistance from one of the office translators, the interviews were also a moment in which office hierarchies were performed and contested. Outside of these interviews, translators were sometimes called upon, in lieu of legal officers, to intervene in cases. Occasionally, these invitations were, as an informant said after a bruising episode, minor matters (เรื่องเล็ก) of interoffice strife, in which clinic staff appraised each other's capabilities by requesting a translator to manage a case. In other instances, the office's translators took the lead in addressing cases by attempting to leverage their authority, established by suturing the status of the clinic to their own savvy and connections, to help clients.

In one case, Atisit was translating for Oy and a group of new clients, with whom Oy was conducting an intake interview. Abruptly, Atisit interrupted Oy to directly question the group. He then turned to Oy and me to summarize what he said. "I asked them, What are your demands? You have to know what you need. You have to say what you need. It's not clear." Atisit went on, "They should say, Wages. Food money. Overtime. Dormitory. No?" listing the possible subjects on which a worker may desire change. He then took over the questioning, translating only the barest of details for legal aid officer, Oy.

Before his intervention, the intake interview had stalled. Oy was able to determine that the group had negotiated, with the assistance of the Labor Protection Office, an agreement with their employer, but could not understand why the group had sought the clinic's help. Atisit's scolding had many effects. It located blame for the floundering conversation on the claimants' purported inability to express themselves. It guided the workers through how they should 'clearly' express themselves -- through demands in list form. It produced a similar metapragmatic commentary to Oy on how she more effectively might conduct intake interviews. Through his interruption, Atisit shifted his footing in the interaction from the translator,

conveying the two parties' words, to the protagonist of the exchange, from animator to principal (Goffman 1981). In so doing, Atisit marginalized Oy, her legal training and any association of expertise that her title at the clinic may imply. That he could do so without pushback from Oy was because clinic staff often deferred to his sense of how to handle claims, as well as to the acumen and judgment that he had acquired over his years with the clinic.

In another intake interview that same day, Oy was discussing with the concerned workers an agreement between them and a factory owner. Two of the clients spoke Thai, so Oy relied on them to translate. They explained that they had come to the clinic because their employer had breached an agreement that the two parties had negotiated with the assistance of a Labor Protection Officer. Atisit dipped in and out of the conversation, offering suggestions or asking questions as he performed other office work. At one point, Atisit was filing papers next to the sofa on which three of the workers sat. He leaned against an open drawer and said in Thai:

> You must be more detailed. [In stipulating you wanted room and board in addition to wages], you requested 'curry allowance[7] (ค่าแกง) which is too little. You must use the phrase 'food allowance' (ค่าอาหาร).

Oy agreed with him, and the weavers nodded their acknowledgement. Atisit's intervention here was not exactly in the capacity of the clinic translator (the workers and Oy were managing on their own), but of a wise guide to effective claim making. The art of asking, phrasing, framing claims was one of Atisit's proficiencies, a skill that indexed neither knowledge about the law nor a regard for its statutes but his familiarity with negotiation.

Atisit's sway in the clinic was immediately apparent. The other clinic staff referred to him as *Pi* (พี่ or brother) Atisit, in acknowledgment of his senior age. Even though the import of

[7] "Curry allowance" was a non-standard phrase, although everyone would have understood that it referred to an additional payment to the workers for food.

their use of kinship terms could be minimized as perfunctory politeness, Atisit's co-workers demonstrated their respect for his opinions by consulting him on cases and deferring to his advice. The more hours that I logged on the leather loveseat in the office's waiting area, reading old case records, greeting clients and observing the clinic at work, the more that I came to see that Atisit was also influential among the broader CBO community with which the clinic worked. CBO workers streamed into clinic, bypassed the legal aid officers whose desks were located towards the front of the narrow one-room office, walked to the back of the office, and perched next to Pi Atisit's desk for long conversations. At a strike that I had learned about from an anthropologist friend, I was surprised to find Atisit sitting in the middle of a large group of striking workers. Even though nobody from the clinic was organizing, assisting or advising the strikers, Atisit was gathering information about their workplace grievances and their strike experiences. As a result of his connections and commitments to the CBO and migrant communities, it was not uncommon for CBO staff or for claimants themselves to come to the office specifically to seek Atisit's help[8].

One afternoon in July 2012, a group of four came into the office, accompanied by three CBO staff, one of whom was an occasional participant in Atisit's deskside chats. Atisit was absent from the office that day, as he had been for much of that summer. Suffering from a painful ailment, Atisit had been working from home, his mobile phone connecting him to office affairs. The claimants and their advocates crowded into the clinic's small waiting area. Oy and May, the legal aid officers, Htoo Lay, the translator, Nong the office's administrator and I, squeezed into the remaining seats. With Htoo Lay and May acting as interpreters, the four related

[8] Htoo Lay, the clinic's other translator, was only 19 years old when he first started at the clinic and had not yet acquired Atisit's skills. While he nevertheless did try to leverage his linguistic competences and his growing reputation for the benefit of clients, he was not as successful at doing so as was Atisit.

a tale of fraud. A broker for a nationality verification company had charged each of the four claimants and eight others 14,000 Baht per person in exchange for processing their nationality verification paperwork. The broker had failed so far to procure the required documents. The group suspected that they had been cheated[9].

Oy was not sure that the clinic could help. When one of the claimants said that the broker, a man named Tanzo, worked from an office in Myawaddy, Oy advised the group to engage a Burmese lawyer to file a police report in Myawaddy. This was her attempt to wash the clinic's hands of involvement in the case[10]. Undeterred, the CBO representatives who had accompanied the group to the clinic ignored Oy's suggestion, insisting that the foursome continue their story. Equally unswayed, Oy interjected again a few minutes later. This time she pointedly asked whether the group wanted to report a crime or to negotiate with Tanzo. If they wanted to involve the police, Oy reiterated, they would have to do so in Myawaddy. When the group said that they wanted to negotiate with the broker, Oy again demurred. Still reluctant to implicate the clinic in the resolution of their problem, she urged the four to have the CBO call Tanzo (ให้CBOโทรคุย). As justification for her suggestion, she reasoned that CBO staff and Tanzo

[9] Similar stories were all too common in Mae Sot. Just the day before, two separate groups had sought advice about nationality verification scams. At the time of my research, sixty-one companies in Mae Sot handled the paperwork around the process of so-called nationality verification. This process allowed Thai employers to register Burmese employees, bringing both employer and employee in compliance with Thai law. In practice, however, this process opened opportunities for unscrupulous companies, assisted by brokers with connections in Burma, to overcharge or defraud workers.

[10] Only in reviewing my notes much later did I come to see that clinic staff had been trying intermittently over that summer to limit the cases that they took on to matters of labor law. The clinic's stated position was that it only intervened in situations pertaining to labor law, although even from the cases discussed in this dissertation, it should be clear that they often assisted in other realms as well. This position was part of its attempt, inconsistent at best and ultimately impossible (see Chapter 2), to fashion an uncontroversial identity for itself in Mae Sot as a mere executor of law rather than as a partisan vested in migrants rights, understood as a political, not legal struggle.

were from the same place (บ้านเดียวกัน), implying, without knowing in fact from where the broker or the staff hailed, that they would have more common ground from which to negotiate than would the clinic and Tanzo.

Visibly disappointed by Oy's dismissive stance, the CBO workers had one more card to play. The same CBO representative who had passed many hours stationed next to Atisit's desk chimed in to tell May, who then translated, that four years ago, well before Oy, May and Nong had accepted their current positions, Tanzo, the broker, had sought and received the clinic's assistance with a legal matter. Atisit knew Tanzo. In Pi Atisit, the clinic *did* have a foundation from which to negotiate with Tanzo.

The invocation of Atisit's connection to Tanzo recalls Lucien Hanks' memorable description of Thai society:

> The coherence of Thai society rests largely on the value of becoming a client of someone who has greater resources that one alone possesses; a person is ill-advised to try to fight one's own battles independently. Security grows with affiliation, and the crowning moment of happiness lies in the knowledge of dependable benefits (1962, 1249-1250).

Security grew with affiliation, as CBO staff well knew, and among the "greater resources" with which they hoped to affiliate was Atisit's cache of connections in Mae Sot, including with factory owners, managers, brokers, religious leaders, migrant workers and NGO staff. These relationships were marked in two ways. First, they were defined by a disparity in specialized knowledge and competences. Atisit's long association with the clinic, the legal know-how that he developed through this association, and his conversancy – in multiple languages and from experience – with legal realms conferred upon him a status that exceeded both those who came to the clinic for help and, occasionally, the legal aid workers. Second, because the clinic was in the business of helping claimants, it built relations of obligation in the wake of its work. That the

bulk of claimants had neither the opportunity nor means to return the favor did not nullify the fact that from client to clinic there existed a relationship of indebtedness, occasionally concretized through gifts of fruit and other expressions of gratitude. That Tanzo would have been associated, through indebtedness and inferior status, with Atisit was a boon for the CBO staff, who rightfully understood this connection as being a strong grounds from which their clients' claims could be made. As an embodied reminder of Tanzo's clientage (to the clinic), Atisit would have an advantageous position, especially relative to the CBO staff who had neither Atisit's outstanding credit nor his superior social status, to make Tanzo listen to the clients' grievances. The CBO position was thus: if anyone could prevail upon Tanzo, it was Atisit. Convinced, even if reluctantly, Oy called Atisit, who reported that he indeed did know Tanzo. Atisit started talks with Tanzo and, after numerous twists and turns in the negotiations, 17,500 THB was returned to the clients.

Initially, the clinic staff, led by Oy, was anxious not to become involved in this case. Their resistance decreased neither because they figured out a way to make a legal case on behalf of the extorted document seekers, nor because they could advise the group on how they might proceed with a case in Burma. Rather, the clinic became involved in the case once its staff realized that the clinic, via one of its senior-most workers, was already involved, in a relationship of patronage and debt, with Tanzo. By pointing this connection out, the CBO staff revived it, suggesting Tanzo's debt was alive and Atisit was obliged to call it in. It was not only Atisit's trilingualism or his quick-footedness in multilingual conversations but that he embodied the clinic's institutional memory and that he cultivated relations of obligation with people far and wide in Mae Sot that made him so essential to the clinic's activities in this case.

III. The Double Figure of the Translator

In this chapter, I made the ethnographic observation that, in trainings, but rarely in the course of their everyday practice, legal activists repeatedly stated that migrant workers had rights, that migrant workers were protected under Thai law and so on. These statements contradicted the fact that, in Mae Sot, the rights of migrant workers were systemically ignored and their ability to seek redress in the Thai legal system was shaky. Because the ostensible target population of these statements was (rightly) presumed to be not proficient in Thai, these statements had to be translated from Thai into Burmese or Karen. Translation was undertaken not in a concerted or coordinated fashion but was instead approached in three contingent and contradictory ways.

From these ethnographic observations, I proposed the following analysis. Thai legal activists were attempting to speak into existence a legal landscape in which Thai law was equally accessible to Burmese and Thai workers alike. These were the statements and contexts in which the universalizing work of legal actors – their efforts to expand law to apply to subjects who both had historically been excluded from its protections and who were unaware of the rights to which they were due – were most clearly asserted. Seemingly banal aphorisms had to be talked up because Mae Sot was in fact inhospitable to migrant bodies and claims, a situation that legal activists believed could change only as more migrants understood and asserted their rights. Statements like 'migrant workers have rights' were therefore wishfully performative declarations that I characterized as projected universals. The fact that these statements were translated from Thai to Burmese in inconsistent ways added a layer of complexity to their projection – indeed, likely arresting it.

If the translators' role, however variable, in the workshops was to extend and support the projection of legal universals, they were markedly less concerned, in the daily life of the clinic, with universal concepts, general pronouncements, or all-encompassing categories. Most relevant to their clinic work, instead, was specific, rooted, experiential knowledge – turns of phrase, contacts in Mae Sot, wide relations of obligation and debt in the town, a sense of how to argue. Atisit, in particular, knew Mae Sot and was known in town. He had years of experience with the clinic. He was savvy with his contacts and advice. These were tools that he had cultivated. In addition to his fluency in Thai, Burmese and Karen, they were what made him so effective and well-regarded at work. They also distinguished him from the legal aid officers of the clinic. University educated, studied in law, but newcomers to Mae Sot, typically monolingual young graduates[11] without the stocks of contacts and capital that Atisit, the legal aid officers were not from Mae Sot, as Atisit and Htoo Lay were, and had neither of the translators' familiarity with or reputation in the town.

Atisit's skills recall Fallers' description of the 'modern African chief' as "a point of articulation between the various elements of the patchwork" of "widely different social systems" (1955[12], 290). As Atisit moved from trainings to his day-to-day work, he went from being an

[11] May, the newest legal aid officer, was the only legal aid officer who spoke two other languages -- Chinese and rudimentary Burmese -- in addition to Thai. She had grown up in a neighboring district on the Thai-Burmese border. Her Sino-Thai farming family had employed Burmese farmworkers, so May had learned some Burmese to converse with them.

[12] Political anthropologists of the 1950s, like Fallers, went from thinking about how systems were internally organized to how systems related to other systems (Fallers 1955, Wolf 1956, Redfield 1956, Steward 1955, Geertz 1960). The terms of their inquiry focused on the "different levels of integration" in "complex societies" (Wolf 1956, 1076) and on the structures that exist to relate "little" and "great traditions" (Redfield 1956). For Wolf and Geertz, the 'broker' was a useful concept with which to discuss the actors in a society who do the coordinating work of connecting traditions, cultures, and systems. Wolf writes, "they stand guard over the critical junctures or synapses of relationships which connect the system to the larger whole" (1956, 1075). From Geertz:

agent of universalism to an agent of cultural specificity, from a projector of universals to a trafficker of local knowledge. His mastery over the particular, the intuitive and the other knotty specificities of negotiating conflicts *in Mae Sot* was what allowed him to be so authoritative in the clinic, while his work in trainings made projection possible. He was practiced in every model of translation implied therein – from dependent translation to the translator as Mae Sot cognoscente – and could, therefore, be seen as a hinge -- 'a point of articulation' – on which the language practices of anti-categoricality hung.

At the crux of anti-categoricality is a contradictory disposition to law. On the one hand, one of the forces of anti-categoricality is its future-oriented optimism of law, its evocation of law as a future framework of regulation and meaning. On the other hand, another feature is the management and rejection, in the now, of the categorical frames of legal knowledge. Things aren't legal or illegal now, even though they may be in the future. Let's not disagree over the application of labor law in the present, even though we hope widespread understanding of law in the future will make disagreements over the application of labor law obsolete. This disposition was managed discursively, of course, through the use of certain linguistic frames (dependent translation, Thai-splaining and peer-to-peer transmission) in one context and particularizing approaches to language and claim making in another. And, it was in this sense that the clinic

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> It is these groups and individuals who can "translate" the somewhat abstract ideologies of the "New Indonesia" into one or another of the concrete idioms of rural life and can, in return, make clear to the intelligentsia the nature of the peasantry's fears and aspirations (1960, 228).

While I am less interested in "integration" as an achievement, the identification in this literature of figures whose authority accrues through their ability to move fluidly among the various spheres, forces and discourses that comprise their milieu does resonate with my discussion of translators in Mae Sot.

translators were exemplary anti-categorical figures, both framing the ways in which universal frameworks could be imagined in Mae Sot and marginalizing those frameworks in the present.

Chapter 4:
Identity Paper/Work/s and the Unmaking of Legal Status in Mae Sot

What is valid proof of legal status? For legal actors in Mae Sot from lawyers and police to migrant workers and bureaucrats, the question of identification was most vexing. For Burmese people moving into and through Mae Sot, it was also hazardous. This was because Mae Sot thrives within the shadows of the Thai economy, in the blind spots and ellipses created by its dependence on and partial regulation of foreign labor. For a Burmese person making a livelihood in these ambiguous zones, in quotidian encounters at a police checkpoint, with an employer, or in court, the task of furnishing documentary evidence to prove her identity and legal status often represents her most risky and frequent interpellation as a Thai legal subject.

This chapter focuses on the paperwork that mediated these risky interactions. It builds, from an examination of documents in use, a theory of how competing notions of personhood shaped legal status in Mae Sot. It argues that the very instruments that were issued to prove legal personhood were the same instruments that, in circulation, unmade legal status.

Analyses of the materials of law – its papers and forms and ephemera, as well the practices around the circulation of legal things – are too often made the chaff of legal analysis. This is especially and surprisingly true in the scholarship on identity papers, where ambiguous tropes about the foundational indeterminacies inherent to law recur as explanations for the fraught and unpredictable nature of identification processes (Asad 2004, 282; Kelly 2006, 90; and Poole 2004, 62). Such descriptions cast the legal as fundamentally enigmatic – a force whose formlessness evades analytical capture.

Approaching identification processes in Mae Sot through the practices of and dispositions to documentation reveals a different account for the inconsistencies and ambiguities inherent to

the identification encounter. Rather than being expressive of a shapeless gap at the crux of law, this unpredictability has an anatomy, one that can be traced through the movement and practices of paper. By following these practices, this chapter is based on a central methodological stance: we have to conceive of law as form-full, rather than formless and abstract, in order to see that it is through its graphic mediations – its paperwork, documents and documentary practice – that law actually materializes, in perhaps counterintuitive and contingent ways, personhood, the state and political economy.

During my two and a half years of fieldwork with the clinic, I noted the documents that Burmese people mobilize to negotiate identification encounters, observing their paper proofs to be heterogeneous, numerous and occasionally surprising. They included work permits, passports, day passes, doctors notes from a medical clinic in Thailand, factory identity cards, receipts that attested to a person's enrollment in a Thai registration scheme, photocopies of receipts that attested to a person's enrollment in a Thai registration scheme, 10 year residency cards, United Nations issued identity cards, letters from Thai bureaucrats and cards issued by non-profit organizations that work along the border. At border patrol checkpoints that periodically interrupted a 60-kilometer span of road between Mae Sot and Mae La Refugee camp, I saw people present university and school identification cards, in addition to the documents listed above, to soldiers checking travelers' papers. In a court case concerning compensation for her son's workplace injury and fatality, a claimant from Burma produced a letter from her village's headman. Translated into Thai, this letter was to suffice, in the absence of other evidence, as proof of her kinship to the deceased worker. Perhaps more striking than their variety is that these proofs of identity *could* 'work,' allowing people to pass checkpoints, appear in court or file

police reports. Indeed, these documents were often felicitously furnished, and were therein placed in efficacious and meaningful circulation in the Mae Sot border region.

Despite the necessity and ubiquity of identity papers to the day-to-day lives of Burmese people in Mae Sot, these documents were regarded by my informants as fragile objects, subject, of course, to loss and decay but also potentially tainted by indeterminacy, fraudulence, or unintentional and unavoidable inaccuracy. In observing, daily, instances in which identity papers were presented, debated, accepted, and/or declined at checkpoints, in court, in front of government bureaucrats, in the legal aid office, I came to see that there existed a high threshold for documents that contained inconsistencies, blanks and mistakes. This tension between the centrality of documentation in legal encounters in Mae Sot and the tolerance for their evidentiary frailties forms the contradiction at the heart of this chapter. Documents proliferated *and* legal actors dismissed or ignored the information contained within them. Why did people put so much work into the circulation of things that they also perceived with suspicion and sometimes disregard? If an identity document is understood to translate a body, its history and particularity into a stable, legible prosthetic, why did migrant workers, their lawyers, judges and police officers tolerate illegible and incomplete prostheses?

I argue that the contradiction between the necessity of documents and the widespread doubts to which they are subject was in fact a trace of the inter-workings of two modes of documentary practice through which the legal status of Burmese people in the Mae Sot border region is discerned and adjudicated. 'Modes of documentary practice' refer not only to records, papers, certificates, cards and forms, but to the patterns of filling in, wielding, explaining and referencing a variety of print matter. Implicit to documentary practices are the ways in which

paper becomes peopled – how assumptions about personhood and polity are enacted via paper instruments.

In what follows, I contend that the differential value that actors assigned to signs of a person's singularity – birthdates, names, biometrics, photographs – manifested, in identity documents, the differences between these two modes of documentary practice. As will be expanded upon, the first mode reified these markers, asserting them as connective tissue between a legal status and the person designated on the document. The second minimized their import, invoking instead a typological approach to personhood. I develop the idea that these two modes of documentary practice existed in a fraught feedback loop, in which the practical inefficacies of the first mode reinforced the second. In so doing, I argue that documentary practices individuated Burmese people in Mae Sot not as bearers of a determinate status but as one of a type of person whose legal status was largely insignificant to their personhood.

I develop my arguments in five sections. The first has a dual purpose: to explain how identification papers have come to be so central to Burmese people's lives in Mae Sot and to provide an overview of key debates in the emergent social theory on identity documentation. The second introduces Nazir, the legal aid clinic's client from July to December 2012 and an important interlocutor. The criminal charges against which he fought bring to light various dimensions of the relationship between documents and legal status in Mae Sot. Reflecting on the paper practices evident in Nazir's case, the third section describes the first mode of documentary practice while the fourth section contrasts this first mode with a second mode. The fifth and final section considers the implications of the co-existence of these two modes of documentary practice on the legal status of Burmese populations in Mae Sot.

I. Identity Documents Take Shape

Since Thailand began regulating migration from Burma in the early 1990s, its mercurial policies have yielded a host of identity documentation instruments of variegated validity. Pinkaew situates the documents disseminated to Burmese workers as but one strand of a longer history of "chaotic, inconsistent and arbitrary" identity card programs (2014, 156). Noting that at least nineteen different document schemes have been initiated since 1967, each potentially issued in multiple batches over the years, Pinkaew describes these articles of identification as "unevenly categorized, using random criteria of ethnicity, political ideology, or elevation" (2014, 151-156)[1]. Indeed, no single Thai government ministry or agency is charged with the responsibility of designing or enforcing a stable body of immigration or labor statute. Instead, the Prime Minister, his or her Cabinet, and the Ministry of Labor issue policy decrees that follow and typically flip-flop in step with the vicissitudes of economic growth or decline, political in/stability, and voting trends (Pungpond 2009).

Beginning with a Cabinet decree in 1992, migrant workers were required to register with the government, a bureaucratic remand for which they received an identity document declaring their status as 'illegal, pending deportation.' A 2004 Cabinet decree issued a policy to regularize some foreign workers already in the country. Only implemented in 2006, the program provided for Burmese, Cambodian and Lao[2] workers to receive work permits provided they submit to a

[1] Pitch (2007) attempts to impose some classificatory clarity to the "chaotic" list of identity documents. He proposes two categories: one for documents generated through worker registration programs and another for the color-coded identification cards that the Thai Ministry of Interior disseminated, in limited numbers, to various minority ethnic groups. He argues that the former produces registered illegal migrant workers and the latter produces minority illegal migrant workers, both of which possess a border partial citizenship, in Pitch's terms. I discuss Pitch's arguments in the final section of this article.

[2] This policy arose from bilateral Memorandums of Understanding (MOU) between Thailand and three of the four countries with which it shares borders. Immigration procedures and facilities for Burmese, Cambodian and Lao workers have emerged as distinct with separate offices being created to process Burmese, Cambodian and Lao workers' immigration paperwork.

process called ‘nationality verification’ in their country of origin. Having done so, a Myanmar, Cambodia or Lao People’s Democratic Republic’s national could be granted, by his/her home country, a temporary passport or certificate of identity, which could then be processed as the basis of a short-term Thai work permit. This avenue was only open to those in possession of proof of their pre-existing registration with the Thai government. In parallel, a process for recruiting low skilled, credentialed foreign workers – those who, as a condition of gaining employment, were documented both in their home countries and in Thailand – was implemented. In 2008, immigration law and its preferred, or at least proffered, form of identity paper changed again, with the Thai government introducing two-year work permits, once more only to workers already enrolled with the Thai government. In what became a three-year panic concerning undocumented workers, and the subject of international censure, a new decree just one year later threatened mass deportation of all workers who had not registered and commenced the process of nationality verification by February 2010. On six different occasions between January and September 2010, orders from the Prime Minister, statements from the Ministry of Labor or Cabinet decrees alternately granted or repealed amnesty extensions, finally settling on a two-year extension of the registration period, contingent on a worker obtaining additional documents verifying an “intention to enter national verification” (Hall 2011; Huguet 2008; Human Rights Watch 2010; Pungpond 2008). A similar extension was granted in 2012 and more recent steps, including mandating that workers return to their home countries for variably perfunctory periods

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The special relationship among these four countries has been institutionalized in other ways as well, most especially in the Ayewaddy-Chao Phraya-Mekong Economic Cooperation Strategy. Associated with the Asian Development Bank, whose goals include globalizing production in the so-called Greater Mekong Sub-region, the Ayewaddy-Chao Phraya-Mekong initiative focuses on improving transport, trade and ease of investment in this sub-region.

(one month to three years) have been implemented in order to deal with workers who timed out on their permits.

In the face of these convoluted policies and their haphazard implementation, NGOs, inter-governmental organizations and community based activists in Mae Sot directed significant energy towards holding trainings, creating public awareness campaigns, and engaging with bureaucrats in order to understand and publicize the documentary burdens that workers had to meet. The Burmese people that I spoke with in the course of my research were either unaware or nonplussed by the changing requirements. It is perhaps not surprising, therefore, that the only lesson that stuck from almost three decades of capricious policy is that migrants need correct paperwork. What qualified as correct paperwork and how it could be obtained was, for the legal actors with whom I interacted, a shifting and shrouded target. For me, the question was why correct paperwork persisted as a target at all, especially given that documented and undocumented workers received the same wages in Mae Sot (Arnold and Hewison 2005) and that the penalty of potential deportation did not exert the same spectral terror as it did in parts of Thailand further away from Mae Sot's exceptionally fluid border (fieldnotes; Olson and Schjøtt 2014).

Although the documentary media through which personhood is apprehended are central, in fact, to the operations of capital, the state and power, the major theoretical traditions on capital, the state and power have had little to say about identity documents and identification processes (Caplan & Torpey 2001). Writing on bureaucracy and surveillance, Weber (1975) and Foucault (1995[1977]) refer generally to the role of files, documents, and cases in rationalized administration and subjectification, respectively. Both implicate the "network of writing" Foucault (1995 [1977], 189) in which people are increasingly imbricated as a mechanism of

domination "through knowledge", in Weber's famous formulation (Weber 1975, 225). Both also point to the self-perpetuating proliferation of paper forms, to the tendency of files to beget more files (Szreter & Breckenridge 2012), an apparently unceasing momentum towards increasing documentation that especially resonates with my observations on identity papers in Mae Sot.

In the past twenty years, a body of scholarship on identification and its artifacts has taken shape (Caplan 2001; Caplan & Torpey 2001; Ferme 2004; Gordillo 2006; Kelly 2006; Kim 2011; Pinkaew 2014; McKeown 2008; Navaro-Yashin 2008; Scott 1998; Scott, Tehranian & Mathias 2002; Torpey 2000; Yngvesson & Coutin 2006). Three arguments, against which my own thinking on the subject has developed, recur in this literature.

The first concerns the role of identity objects in realizing state, economic or other collective projects. Scott et al., for example, argue compellingly that identity documents are one of many "synoptic technologies" that enable states to make their subjects "legible," an operation that the authors argue is essential to modern, democratic state-making (2002). A "synoptic technology" might include deeds, titles, tax payments, cadastral surveys, and identity documents that use standardized forms of identification to make individuals equally legible, 'similarly-visible,' to various governmental gazes. Subjects are made visible because they are represented through standard, repeatable textual forms like serial numbers, stable patronyms, and ID cards; these acts of translation allows subjects to be seen similarly and made comparable across multiple state entities. As technologies of identification are refined, the state, according to Scott et al., becomes increasingly literate, reading subjects not just synoptically but panoptically (2002, 37).

In making the important connection between identification processes and modes of state power, the authors gloss over the practices through which identity papers are used, read and

circulated. Rather than acknowledging the uncertainties either of the identification encounter or of the economy in which documents are given value, Scott et al. presume that proofs of identity, once generated, do in fact make subjects more legible and states more powerful. Ends and means collapse. Discussions of documentation in Mae Sot, in NGO reports and more rigorous academic treatments, often succumb to this same problem of conflating telos and process, rendering identity papers as inert media that passively enact, without substantive divergence, the social structure (of vulnerability, exploitation, capitalist development, geopolitical fissure, racism and so on) (Arnold and Pickles 2011; Hall 2011; Human Rights Watch 2010; Fu Yang 2009; Olson and Schjøtt 2015, 60; Pearson and Kusakabe 2012; Pitch 2007).

The second argument is that identity documents, far from being passive objects, "split subjectivity," creating an administrative avatar detached from an embodied counterpart. Jacob (2007), for example, advances the concept of a "form-made person," while Kelly (2006) maintains that identity cards "acted like masks" in his research site. The third analytical trope concerns how people attribute sorcerous or mystical powers – even a sacral authority in one study (Rosental 2012) – to a document. All too often in these latter two accounts, complicated questions about faith, representation and performance are reduced to a characterization of identity papers as fetish objects (e.g. Navaro-Yashin 2007) – things whose material form is misunderstood as itself powerful. Those who wield identity papers are exposed as misapprehending the social relations in which their documents take part. In both of these arguments, paper abstracts. It creates relations of estrangement. It hides a purportedly true state of affairs.

My analysis presents an alternative account of identity documents, one that does not invest identity papers with the power to transubstantiate bodies or to mask the real. There is no

'real' that is divided or distorted, nor do its pulp-doppelgangers require analytic demystification. At the same time that it eschews the magical realism of documents, my analysis also moves away from regarding identity objects as faithful vehicles of good or bad social engineering. Instead, I favor an approach that, first, examines the practices of identity artifacts in Mae Sot (the modes of documentary practice) and, then, considers how such practices shape possibilities for Burmese people in this border town. This is my attempt to build theory *out of* an examination of the materials of law, without presuming their significance as either inert actors of the social or as misunderstood fetishes.

II. Nazir (The Case of the Driver who Drove while Documented)

Returning from lunch one afternoon with a banana-leaf filled with fragrant grilled pork, caramelized onions, herbs and noodles for May, the junior legal aid officer, I passed two men seated on the steps outside LLC. They had prudently located themselves in the shade of the shophouse's portico and appeared to be waiting for attention from someone within the legal aid clinic. After sheepishly walking by the men into the air-conditioned office, I discovered that the men had been asked to wait outside while the two legal aid officers and the translator ate lunch. This was an uncustomary practice, especially given that the couches that comprised the waiting area of the clinic were unoccupied. When the two men were finally invited into the office, Mai questioned the duo about the circumstances that prompted their visit to LLC. Pulling up a chair next to one of the men and across from May, I listened as their story unfolded.

Their circumstances were these. One of the men who had sought LLC's assistance that afternoon had been detained a few days before and charged with assisting eight people to illegally enter Thailand. After posting bail in the amount of 75,000 Thai Baht (roughly $2,362), he sought the clinic's help in defending himself against criminal charges related to human

trafficking and the provision of unlawful transport to illegal foreign nationals. This man's name was Nazir. The person who accompanied Nazir to LLC was one of the eight alleged trafficking victims; his name was Ahmed. Their appearance was germane to the case: as brown-skinned men, they would, in Thailand, more likely be identified as Burmese or Indian or Muslim than they would be Thai. In fact, both men were Muslim. Ahmed was also a Burmese national, at least according to their Thai Ministry of Interior issued cards. I never learned Nazir's nationality. Although the court documents identified him as Burmese, his papers did not indicate his nationality.

Nazir had been arrested while driving a truck carrying Ahmed and seven other passengers from Mae La refugee camp to Umphiem refugee camp. Paralleling and occasionally touching the border, the road on which the party had been detained is an artery for local vehicular traffic and for heavy trucks transporting the agricultural bounty of the region to market in Mae Sot and beyond. A small trickle of tourists – motorcycle hobbyists and others traveling to the stunning Thi Lo Su waterfall – also used the road. Despite the surrounding areas largely being sparsely populated farmlands or balding forest, the road is one of the most policed routes in Thailand. On the two occasions that I drove the entirety of the route, I lost count of the numerous checkpoints that I passed. Not all of them were manned, but enough were staffed to ensure that I kept my passport close at hand.

Nazir came to the legal aid clinic with photocopies of the identity cards that his passengers used on their trip to and from Mae La camp. All eight of them possessed what is widely called, in English, a 'camp card' or a 'UN card,' which indicated their residence in Umphiem camp. Camp cards are plastic identity cards that were issued through a convoluted administrative arrangement between the Thai Ministry of Interior and the United Nations. 88,000

of them had been distributed in 2007 as part of a one off measure to register refugee camp dwellers, reportedly at a cost of one million USD (www.unhcr.org). The card's official English title is "ID Card for Displaced People" (บัตรประจำตัวผู้หนีภัยการสู้รบจากพม่า is its Thai designation) and contains the following information: name, photograph, nationality, date of birth, camp location, date of issue and expiry, thumbprint, a number indicating registration in Thailand's administrative rolls and a number indicating registration in the UN's administrative rolls. Printed on the back of the card are the caveats that the card neither implies the bearer's legality in Thailand (จะไม่ได้รับสิทธิ์หรือสถานะ) nor authorizes his or her travel outside of the camp without additional approval from a government official.

Nazir's passengers were travelling with the required additional approval in the form of a letter from the Thai Ministry of Interior, written and signed by an official whose jurisdiction Umphiem camp falls within. This letter, a photocopy of which Nazir also provided, stated that Nazir was to drive, on July 7th, eight people whose names and ID card numbers were reported in the text, to a religious ceremony in the larger and more cosmopolitan Mae La camp and that he was to furthermore drive the party back to Umphiem before the 9th of July. Nazir explained that he frequently performed similar errands for people from Umphiem, deriving a supplementary income from the work. Never before had he encountered any problems on the journey. This time, on the return trip on the 8th of July, after successfully passing numerous border patrol checkpoints on the heavily surveilled route, the Provincial Police stopped Nazir's truck at one of their checkpoints, examined his and his passenger's documents and, finding them lacking, accused Nazir of abetting (ให้ความช่วยเหลือ) the groups' unlawful passage into Thailand. Nazir and his passengers spent the following two nights in jail. The bureaucrat who issued the permission

letter facilitated the release of the group of eight who then returned to Umphiem under his recognizance. Only after Nazir was charged and posted bail was he released.

III. Documentary Practice, Mode One

Nazir's entanglement with the Thai legal system continued for months after his arrest, costing him time and worry, and took many twists and turns that are not pertinent to this chapter. For the purposes of my argument here, what was significant about the case was that it turns on ten identity documents – Nazir's card, the Camp Cards of his eight passengers and the letter written by Umphiem Camp's presiding bureaucrat. The acquisition of these documents was the condition of possibility for the group's travel and their failed mobilization at a police checkpoint was the basis for the group's detention and Nazir's prolonged legal problems. I suggest that the production and circulation of these ten documents exemplified one mode of documentary practice that configured the legal identities of Burmese foreigners in the Mae Sot area.

What were the characteristics of this mode of documentary practice? Most significant was a semiotic ideology[3] concerning how identity papers should work: all ten documents purported to index their referents through a relationship of sameness that is based on particularity. Thus, a name, a photograph, a birth-date and a thumbprint, information specific to one person, as well as registration numbers, also ostensibly singular, were listed on the documents. They individuated the bearer of the document, placing him or her among a series of others who wield the same document but who nevertheless may be known by their respective

[3] Keane theorizes semiotic ideology as the "basic assumptions about what signs are and how they function in the world" (2003, 419). Among these assumptions are the "the role that intentions play in signification…, what kinds of possible agents (humans only? Animals? Spirits?) exist to which signification might be imputed, whether signs are arbitrary or necessarily linked to their objects, and so forth" (Keane 2003, 419).

particulars. In Scott's language, these features were the grammar of a "legible" subject. The fact that Nazir's identity card, his eight passengers' camp cards, and the letter from a camp official individuated Nazir and the eight travelers in this way was the basis for establishing the legality of their actions. If the eight were who their cards say they were – i.e. particular persons who are residents of Umphiem camp -- and if the letter identified and permitted that set of particular persons to travel to Mae La camp, then Nazir, within the semiotic logic of these documents[4], was simply their driver, not a criminal courier of illegal immigrants.

What distinguishes the documentary practice that Nazir and the eight passengers enacted in their trip to Mae La camp was not only the semiotic ideology at its basis but also the preparatory measures – and the attendant implications on the time-scales of mobility – that all nine people undertook. The letter from the camp bureaucrat was dated July 2, 2012, five days

[4] The notion that an identity document could or should stand as a "record of uniqueness" has a historicity that is worth noting (Caplan & Torpey 2001, 8). Identification through traces of particularity –of the "elusive qualities of individuality" in Ginsburg's formulation– emerges in the mid 19th century as a technique of policing and surveillance (1980, 25). "No one must remain unknown to the police," Fichte declared, proposing that every citizen carry a "pass" containing a detailed description of himself produced and signed by a government official (1796[1889], 378). Then-Siam's developing corrections system was very much of its time in its embrace of particularizing identification techniques – in particular, fingerprinting – which allowed the emergent bureaucracy to track its criminal classes and to increase punishment for recidivists. In 1901, a Fingerprints Division opened in Bangkok. By 1903, fingerprint checks became standard practice for employment in Thai government jobs (Pirongrong 2000).

Policing, albeit targeted not towards criminals within its society but towards immigrants on its border, continued to be an important impetus for increasingly elaborate identification documentation for residents of Thailand (Veeratham 1983). A Ministry of Interior memo from 1962 stated, for example, that the rationale for a comprehensive national identity card scheme was the need to expeditiously and authoritatively determine Thais from the (apparently) phenotypically similar Lao and Vietnamese who were entering the country in ever-larger numbers in the 1960s (Chaiermchuang 1965). In the intervening years, the concept that an identity card identifies by noting information particular to its designee and that everyone in the country is obliged to hold some form of documentation that performs this function, has become so routinized to the average Thai, as Pirongrong (2000) has argued, that it is only in spaces like the Mae Sot border region where the operant practices of identification, particularly as they pertain to foreigners, are evident.

before the group undertook the one hundred and six kilometer journey. Nazir stated that the imam of a mosque in Mae La camp requested permission from the Umphiem camp bureaucrat in mid June, weeks before the religious activity was scheduled. Actually procuring their permission letter required all eight travelers to present themselves and their camp cards to the camp bureaucrat. While some scholars would suggest that Burmese people were "immobilized" (Olson and Schjøtt 2015) or "confined" (Pitch 2007) in the Mae Sot region, it was at the very least clear that the work required *to prepare to present* documents – the mandated forethought required for document mediated encounters – significantly slowed mobility for foreigners in Mae Sot and its surrounding areas, prolonging the lead-time required for even short journeys. Revealingly, on Nazir's first trip to the law clinic, he repeatedly asked the legal aid worker what documents he would need to prevent a repeat arrest on a subsequent journey. He had already started preparing for his next trip.

In so far as preparing and presenting papers which link status with a particular person wielding a document comprised one mode of documentary practice, Nazir's arrest and the detention of his eight passengers marked a complete failure of this framework. Why did it fail? Why weren't Nazir and his passengers recognized as authorized travelers? Why were they arrested?

The literature on identity documents focuses heavily on their intrinsic precariousness and explains breakdowns in identity verification according to five underlying phenomena: the risks inherent to any moment of recognition; indeterminacy that is inherent to law; uncertainty that is inherent to documents; contingency of the mood or disposition of identity gatekeepers; and/or the capriciousness of sovereignty (Das 2004; Jeganathan 2004; Kelly 2006). From these

perspectives, identification processes will always be susceptible to inconsistency because of the foundational inscrutability of the law and its human and paper mediations.

IV. Documentary Practice, Mode 2

Perhaps a breakdown in one mode of documentary practice signals not only the existential vulnerabilities to which proofs of status can fall victim, but the success of a different framework. Though Nazir and his eight passengers possessed the right papers with names, photographs and biometric data necessary to establish the singular registers of their identities and to authorize their travel, the provincial police officer disregarded their documents and detained all nine individuals on the suspicion that their movement was—despite all documentary evidence—illegal. In this case, it is not that identification did not occur, but that identification by particularity failed and was, instead, superseded by legal practices that identified the travelers by type. Likely because of their skin color and the long facial hair on the male members of the party[5], Nazir and his passengers were recognized as Burmese, not as individuals with particular legal statuses. Keyes (2002), Thongchai (2005), Pitch (2007) and other scholars' work on ethnicization as an exclusionary technique that the Thai state has long used to other people from Burma supports this reading. For example, Arnold and Pickles, writing on current attitudes towards migrant workers, argue that, "the political project of racialization in Thai history has represented Burmese people through a singular national identity as having negative social and personal traits" (2011, 1614). Ongoing racist xenophobia builds upon a long history of conflict between Burma and Thailand (Thongchai 2005). As such, it was very plausible that Nazir and

[5] In his testimony to the court, the arresting officer stated that he stopped Nazir's truck because he could see that it contained 8 passengers of "Burmese race and nationality" (มีคนต่างด้าวเชื้อชาติและสัญชาติพม่าโดยสารมา จำนวน 8 คน). Skin color almost certainly played a role in the officer's apprehension of the passengers in the passing vehicle.

the group of eight's particular claims – their articles of identification and the indications of legal status contained therein – were made marginal to the checkpoint encounter.

Were this an exceptional incident of a Provincial Police officer's prejudice, the event could be dismissed as an isolated act of stereotyping. However, I argue that stereotyping was a facet of a broader mode of documentary practice, the second that I elucidate in this chapter, that parsed the legal personhood of foreign people in Mae Sot. Unlike the first mode that distinguished people through particularity, the second mode instantiated a logic of type, whereby people were perceived as members of a group. In so far as the first mode of documentary practice used signs of a person's individuality as the link between the subject and the status designated by a document, this second mode of documentary practice devalued signs of a person's individuality as being pertinent to establishing his or her legal status. What is especially noteworthy about the situation in Mae Sot was that this typological thinking was mediated through the very identity documents that ostensibly identified a person by his or her singularity. In fact, it became bureaucratized in what I provisionally call *stereo-typos* – errors, slippages, blanks, and inconsistencies – which came to define this second mode of documentary practice.

Let me explain further with illustrations from my fieldwork. On various occasions, I observed legal actors, both foreign claimants and Thai legal aid workers, expressing indifference towards inconsistencies and gaps in documents concerning the legal status of the former. This apathy took various forms. A first step for many Burmese workers seeking legal redress in Thailand was visiting a legal aid organization that have, in the past decade, begun facilitating foreign worker's access to Thai courts. Typically, when a claimant first arrived at the legal aid clinic that I observed, she would relate her grievance to a legal aid worker who, upon establishing that the organization could assist in the case, would enter information about the

claimant's identity on the organization's standard intake forms. The legal aid worker would also request to photocopy whatever identity documents the claimant possessed. These papers became the basis of a file that rooted the claimants' case in the statements and documents that she presented when she first came to the legal aid clinic, even as the case transformed and developed as it made its way through Mae Sot's complex legal channels. Despite the seeming importance of the intake procedure, information about claimants was notated with remarkable insouciance. Lines were customarily left blank. Ages were noted down inaccurately. Minimal effort was expended in transliterating claimants' Burmese names into Thai in any consistent manner. Names would either take on a (very) loose phonetic approximation or, quite commonly, the legal aid worker would simply record several permutations of the same name. Clarification or verification from the person to whom the name belonged was rarely sought, so it was not surprising, then, to attend hearings in which a confused claimant would listen to the judge and attorneys refer to her by an unrecognizable name. In one case, a claimant was referred to, in all the legal proceeding and documents concerning her case, as "either Tolae or Toleng" (โทแลหรือโทเลง). Her name, as she told me many days after we met, was Soe Lay. Often, legal aid workers and other legal bureaucrats – judges, translators and officers alike – would bypass claimant's names altogether, referring instead to an individual in the third person singular (เขา) or in the abstract as "a worker" (คนงาน).

Such practices were not limited to paperwork generated in the legal clinic. Claimants regularly proffered identity documentation with erroneous or absent information, which was partly related to the prevalence of fake papers. On one occasion, a legal aid worker chuckled at the obviously inaccurate age denoted on a claimant's government issued card, but did nothing to rectify the inconsistency as it was processed into the clinic's records. Little attention typically

was paid to obvious mistakes or to the resolution of divergences among biographical information indicated on the intake form, biographical information indicated on an identity paper or court document, and biographical information indicated by the claimant.

How can we interpret this unconcern? It would be folly to mark as insignificant the practices that leave documents riddled with blanks or errors, given the frequency with which I observed documents being created and circulated in this way. It would be equally unsatisfactory to associate these documentary practices with the carelessness or malfeasance of bureaucrats, legal aid workers and judges, who were largely committed to the diligent discharge of their respective duties. Analysts have offered various explanations for what may appear to be a half-hearted approach to form filling. Garfinkel, for instance, makes an argument about efficiency (1967). In his analysis of a psychiatric clinic, he finds that changing institutional protocol render the fixed details called for on a form irrelevant, their notation an inefficient waste of time, and form-filling a devalued knowledge practice (1967, 186-207). Reed, in a paper on intake records at a prison in Papua New Guinea, points to the ways in which prison forms can be over-determined, their answers always implicit and therefore marginal to the exercise of completing a form (2006, 168). Neither prisoners nor wardens are inclined, according to Reed, to complete every space on the intake documents because the form's very format already defines what about the prisoner is germane to his incarceration (2006, 165-168). Both Garfinkel and Reed's accounts resonate with my observations on the practices around identity papers in Mae Sot.

However, I ultimately came to interpret actors' indifference to the accurate documentation of a migrant claimant's singular characteristics as part of a disposition to identity documents quite at odds with the first mode that I earlier described. In this second mode of documentary practice, an identity document needed not signify a relationship of likeness to its

designee through the notation of signs of that person's singular characteristics. Much to the contrary, this alternative mode was defined by a high tolerance for not knowing, for ignoring, or for mistaking a person's "records of uniqueness," such that a subject's singularity was bracketed as irrelevant to the task of identification. As a result, the typos, blanks, gaps, disparities, and errors – the stereotypography, to push forward with the neologism, of this alternative documentary framework – created an outline, in stark contrast to Thai nationals, of a class of actors whose status needed not and could not be identified by paper prostheses. Indeed, names, ages, and biometrics that composed the foreground of identity papers—the instruments putatively designed to stabilize and communicate individuality as a basis for legal identification—were blurred as the lens of this second mode of practice zoomed out to view a Burmese person in Mae Sot as one among a group of nondescript actors.

V. The Dialectics of Documents

Moving back and forth between the zoomed out view of this second mode of documentary practice and the zoomed in view of the first allows us to grasp the vastly different figurations of personhood envisioned through these two documentary frameworks. If the first mode grounded personhood in an individual's particular and unique characteristics, the second mode bound it to a group, a class, a type. If the first was particularizing, the second was typologizing. Tacking between these two views was precisely, I found, what actors in Mae Sot were doing when it comes to establishing the legal status of Burmese people. For these two modes of documentary practice around identification co-existed, sometimes even structuring different moments of a single interaction, as I would argue was the case with Nazir's arrest. As such, they related to each other as two inputs in a feedback loop, wherein the practical agility of

the second approach to paper and legal identity undermined the fragile idealism of the first approach which, in turn, justified the stereotypographical techniques of the second and so on.

The dialectics of documentary practice – the relationship between the two modes – resulted in a challenge to the epistemological grounding on which legal status for Burmese people in Mae Sot can be determined. This is the unmaking to which the title of this chapter refers. If the logic of documentary practice mode one presumed an identity document's capacity to link the person who bore a document to authenticating markers indicated on that document, on the one hand and a status, on the other, the skepticism, doubt, blanks, errors and stereo-typography that were characteristic of mode two undermined this capacity so as to make an identity document insufficient to the task of proving legal status. In short, legal status was asserted *and* undone, uncertainty and unpredictability injected directly into the forms and practices that determine it.

These findings generally support the consensus that the processes underway in Mae Sot pull Burmese immigrants into the global economy as subordinated, fungible workers whose capacity to labor, as opposed to live or thrive, was privileged. Arnold and Pickles, for example, write about the "production of surplus populations" in Mae Sot (2011). Olson and Schjøtt hold that Burmese immigrants are illegalized, "a mechanism that disciplines them into a highly disposable labor force" (2014, 20. See also Arnold and Bongiovi 2013, and Pearson and Kusakabe 2012). Pitch, to take the most historically detailed account of this argument as exemplary, advances the concept of "border partial citizenship" to characterize both the position of Burmese workers in Mae Sot and in Mae Sai, a smaller and less industrialized town on the Thai-Burma border, and the particular spatialization of capitalist development in those towns (2007). Border partial citizens lack the entitlements, protection and freedom of mobility of "full"

citizens or workers. The partiality of their citizenship is correlated with their classification *vis a vis* the Thai state. Many possess one of sixteen color-coded identity cards, artifacts of previous registration schemes. According to Pitch, these cards immobilized their bearers in two ways, first in the district in which the document was issued and second, in a state of perpetually unrealized citizenship-to-be (2007, 169). This is one form of border partial citizenship. Another form is based on having a work permit, a document that designates its holder as an illegal, registered worker. The work permit is even more restrictive, in that it confines its holders not only geographically but to the employer who sponsors the permit. Of both of these citizenship regimes, Pitch argues that they are "a certain form of social relation as production [that] was invented to ensure the maximum profit via exploitation by the prevention of citizenship rights…" (2007, 142). The tendency that I discuss in this chapter to recognize Burmese workers as legally unknowable or to mark their legal status as irrelevant could be seen as a trace of this "form of social relation as production" (2007, 183).

However, a consideration of identity paperwork and how identity papers worked in Mae Sot raises questions about this reading and, more generally, about the prevailing social theory on the town. I again take up Pitch because his is an exemplary and seminal analysis. What are his assumptions about paperwork? If Pitch places identification instruments at the center of his theory, he does so without asking about the relationships among graphic media, their circulation and the documentary practices that constitute their meaning. If the sixteen identity cards and the work permits are building blocks of two border partial citizenship regimes, they are conceptualized as robust objects, capable of "imposing upon [their bearers] the partial status assigned by the state" (2007, 183). If proofs of identity signify the Thai state's intention to

alienate and exploit certain populations in the service of capital, they are characterized as, in Pitch's account, faithful mediums of this mission.

My research advances a contrasting perspective on the work of identity documents in Mae Sot. Prone to performative misfires, indeterminacy, errors and doubt, identity proofs and the practices around them bequeathed sufficient uncertainty to the identification process as to make the categorical stability of *status* untenable. As I have argued in this chapter, legal status and the categorical certainties implied therein were eroded through the documentary practices that call them into being. Might this suggest that work permits and identity cards would be hard pressed to construct, in practice, citizenship categories, howsoever partial? Given the feedback loop that I described in this chapter, could an identity artifact mediate a status or categorical stability in Mae Sot? These questions are not to say that border partial citizenship is not a useful analytic, but that its relationship to identification regimes needs to be more thoroughly explored. Documents are not inert entities enacting the agendas of capital, but express modes of documentary practice that undo, frame and destabilize both paper artifacts and the projects of which they are a part.

Netted in a feedback loop between two modes of documentary practice, my Burmese informants in Mae Sot were caught in a double bind. They were mandated to be identifiable, via their papers, as singular individuals, while being produced, through the stereotypographical practices that infiltrate those very same forms, as indistinct members of a group. The graphic artifacts employed in identification processes were so shot through with blanks, skepticism and indifference that their value was undermined, making the successful enactment of the documentary mandate even more slippery. Out of this feedback loop an ambiguous status for Burmese people in Mae Sot took shape, one in which identity papers were simultaneously required *and* marginalized; the markers of a person's particular characteristics were normatively

called for *and* ignored as signs of her personhood; and her ability to live and labor in the town could never be confidently supported by the documents she bore. Legal status here did not reside in the documents, its determination only needing to be revealed in the identification encounter. Neither did it emerge de novo from the interactional dynamics of the identification encounter. Rather, it took shape in the material flows of people, authority, semiotic ideologies, and paper that pre-existed, enacted, overtook and outlasted the identification encounter.

What this feedback loop forebodes for the possibilities of the rule of law or for the ameliorating role of identification processes in the structuration of capital are questions that I cannot fully address in this chapter. However, it should be noted that a lack of papers is frequently pathologized as a factor in the easy exploitation of migrants and the stateless. Diagnosed in this way, poor documents pose a problem that can only be solved by more and better documents. In human rights discourse, the goal of universal credentialing – the idea that everyone should have a legal identity and documents to bear out that identity – is becoming increasingly axiomatic. In Mae Sot, the proliferation of paper proofs of legal status over the past ten years has been heralded by many, Burmese and their advocates alike, as a sign of progress, as a trend that mitigates the Burmese populations' precarity in the region. "Hallelujah!" one resident of Umphiem camp exclaimed (McKinsey and Han 2007), when he received his camp card – the same document, incidentally, that betrayed eight of his neighbors as they were attempting to return to Umphiem with Nazir. My arguments greet their enthusiasm with reserve.

Chapter 5
"Satisfaction" in the Time of Legal Uncertainty, or, the King in Mae Sot

So far in this dissertation, I have explained why the expansion of law in Mae Sot, far from producing a predictable regulatory order for migrant workers to abide by, created new terrains of confusion and unpredictability for the people it was mobilized to help. I argued that this instability can be understood as an effect of two factors: one, an anti-categorical orientation that has persisted in Mae Sot for the past twenty five years and two, the semiotic processes through which law is materialized in language and on paper.

Given my assertion that legal process in Mae Sot fails to produce robust categorical knowledge either about itself or social life more broadly, readers might fairly wonder how people in Mae Sot make sense of the law. Early in the dissertation, I offered one answer to this question. People regarded law as a prestigious, if only decorative, foil for social life, one that made a good impression even if people could never be sure that or how it worked.

This final chapter offers an altogether different answer. As Evans-Pritchard long ago demonstrated, contingency, unforeseen circumstances and random events become areas of social activity, management and narrativization (1937). Much as the Azande used accounts of witchcraft to explain the contingencies to which their lives were subject, so did migrants and legal activists in Mae Sot use 'satisfaction (*khwaamphaawjai* or ความพอใจ),' a concept derived from Buddhist socialist and Theravadan Buddhist streams, to manage their encounters with law and its myriad uncertainties.

Consider the following circumstance[1]. In July 2012, a group of weavers from a large garment factory in Mae Sot lodged a grievance at the Labor Protection Office (LPO). An investigation ensued and, in its aftermath, a labor protection official negotiated a settlement between the workers and their employer. I never read the agreement, but one of the aggrieved workers explained its terms to me. First, the factory owner agreed to pay each weaver 150 THB/day for his or her work and to compensate each person an additional 71 THB/day for food. Payments were to be made regularly on a monthly basis. The stipulated compensation was substantially less than the 226 THB daily minimum wage in Mae Sot. Second, even if the factory did not have any outstanding orders, the factory would still pay the weavers – 50% of their daily rate – at the agreed upon monthly interval. Third, the employer acceded to repairing the weavers' quarters. The roof of their dormitory leaked, a problem that was proving especially uncomfortable during the ongoing monsoon, and their toilets were substandard, prone to clogging. In the agreement, the factory owner promised to fix both the roof and the plumbing.

Weeks after the settlement had been made, when I first met the weavers at the legal aid clinic, their situation had worsened. The employer had breached the agreement. While some in the group had started to receive regular payments of a daily wage, others had received inconsistent payments at an uncommonly inadequate piece rate. A few had not received any payment at all. While the roof had been repaired – flimsily, the workers reported – the toilets' malfunctions had not been addressed. Though the agreement stipulated that the employer would pay a daily food stipend in addition to remuneration, no such defrayal for meals had been made. The workers' manager recently informed them that the weaving department had no new orders to fulfill. Rumors of the factory's impending closure circulated among its increasingly idle weavers.

[1] Chapter three considers this same case in light of the clinic's translation practices.

LPO settlements were not toothless. Failure to comply could land an employer in civil court, where fines applied. In the many instances that I observed in which workers sought advice about breached settlements, however, clinic officers predominantly encouraged workers not to file a complaint in the court, but to return to the LPO to renegotiate the settlement.

In this case, the clinic's staff, Atisit, the senior translator, and Oy, the senior legal officer, moved matters in yet a different direction. At some point in the intake interview after the workers revealed the above details, Atisit asked after their general welfare. Where had they been eating, he inquired? At the factory, they answered, where their employer was continuing to provide them food[2]; their fare, they reported, was only the sewing department's leftovers[3]. One of the workers added that the factory owner was continuing to let them stay in the dormitories, even though there was no new work for the weavers. "Really?" Oy asked, seemingly taken aback. Confusedly, Oy asked "… What then are your demands? Are you satisfied or not? Were you not satisfied with the LPO agreement?" The workers tried to answer Oy's questions, but their answers were lost on the clinic staff. Atisit returned to his desk, leaving the work of translation to those among the weavers who could speak Thai and to an academic, a Canadian PhD student, who could speak Burmese and who had accompanied the workers to the clinic's office. Later in the conversation, as it became clear that the clinic would not intervene in the case, Oy wondered aloud why the group had even come to the office in the first place.

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[2] Providing workers with meals on factory premises was a common practice, one that was both exploitative and paternalistic. It was used to justify paying employees less than the minimum wage, to protect workers from checkpoints around the town and to bind them to their workplaces.

[3] The sewing department of this factory apparently continued to receive orders. Mae Sot's garment industry was located at that point in the clothing supply chain in which sub-contractors producing parts of garments predominated the market. This was why a factory could have work for its sewing department, but not for its weavers.

There was an apparent paradox in Atisit and Oy's response. A group of migrant workers had followed legal procedure with regards to lodging workplace grievances. This path found the workers party to an agreement whose terms were not in compliance with labor law, at the very least on the issue of the minimum wage. Faced with the breakdown of this agreement, the workers had come to the clinic for advice on how to proceed. All of the conditions for the clinic's involvement were seemingly present: migrants with problems squarely within the realm of labor law; an employer who was breaking the law; a failure of the legal procedure established through the law (and recommended in most instances by the clinic) to address the situation. Yet, the clinic staff did *not* want to get embroiled in the case, a position they took conspicuously once Oy had explicitly and implicitly raised a series of questions regarding "satisfaction": Were the weavers (not) satisfied with their living conditions and the money with which their work was remunerated? Were they (not) satisfied with a settlement whose stipulations awarded them less than that which the laws promised? Were they (not) satisfied that their employer continued to feed and house them even though his or her factory had not received new orders? Were the weavers (not) satisfied by his or her commitment to them?

Intrinsic to the possibility of migrant workers being able to find relief in the law was a concern about portion size. How much was too much to ask for from employers, from the clinic workers, from Thai society? This concern emerged not from a liberal politics of distribution in which a society must forge mechanisms to allocate finite resources, but from a politics of self-making in which, as I will explain further, desire must be contained and the relation of the self to the material world is founded on a recognition of the limits of the latter to alleviate the suffering of the former. These politics crept into legal work, unsurprisingly, and were marked in countless instances by legal actors' invocation of satisfaction/*phaaw jay*. These politics, broadly, were at

work in Oy and Atisit's position towards the weavers' request for help. Comaroff's characterization of the relationship between law and contemporary Christianity in the US, resonates with my arguments here: "Legality is the secular instrument by which civil society is to be remade in the image of the sacred" (2009, 202).

The rest of the chapter unpacks the relationship between satisfaction and legal practice in Mae Sot, offering a closer reading of the weavers' case and drawing from other examples to make the following arguments. First, I situate 'satisfaction' historically, asserting that satisfaction, as both concept and virtue, is meaningful in post-colonial Theravadan Buddhist Southeast Asia in the context of a discursive formation around 'enoughness.' I unfold these connections through a discussion of the various material conditions from which enoughness and, relatedly, satisfaction arose. I then stage two arguments about satisfaction: one, that it was a motivation of the anti-categorical diagram that I describe in Chapter 1 and two, that it offered a grounds, extrinsic to law, from which to manage the contingency, uncertainty and unknowing that is characteristic of legal practice in Mae Sot.

I. Enoughness Discourse

Before proceeding further, let me underscore what satisfaction, as lawyers, migrants and legal aid staff used it in Mae Sot, was *not*. The term, *khwaamphaawjai*, neither implied the meeting of one's obligations (as in, the 'satisfaction' of debt), nor did it carry with it a political theological trace of the Christian doctrine of satisfaction (as in, Christ's suffering and his good deeds balanced out the world's sins). It also was not in the lineage of the liberal utilitarian thought of either Bentham or Mill, in which happiness is based on the satisfaction of 'true' needs. All of these conceptions of satisfaction rely upon a logic of commensuration, in which satisfaction is established by rendering equivalent both sides of the balance book – one's

payments and one's obligations, for example; the depth of Jesus' suffering and the magnitude of humanity's sins; or, needs and their fulfillment.

Khwaamphaawjai was rooted not in reconciliation and equivalence, but in a discursive formation around "enoughness" that took shape in post-colonial Theravadan Southeast Asia. Enoughness is one way in which people in post-colonial Southeast Asia render sensible the workings of the systems of which they were a part. Certain conditions of these systems were particularly influential to the formation of ideas of enoughness, including Thailand and Burma's experimentations with so-called Buddhist socialism; Thailand and Burma's respectively changing economies; a royalist semiotic ideology that privileged a sign's surface; and Theravadan understandings of causality. Each of these features will be explained, its connection to *khwaamphaawjai* clarified, in the succeeding pages.

a. Buddhist Socialism or Economics for an "Age of Brutal Stupidity"

Khwaamphaawjai is a compound noun, comprised of three morphemes: *khwaam* (ความ), *phaaw* (พอ) and *jai* (ใจ). *Phaawjai* (พอใจ) is a compound adjective that means satisfied. *Phaaw* (พอ), an adjective that means enough, is an extremely common morpheme, compounded into numerous nouns and adjectives that denote moderate, suitable and otherwise adequate qualities.

One such compound, *saehtthagitphaawpiang* or sufficiency economy, exemplifies how ideas of enoughness became central to Thai politics in the past thirty years. *Saehtthagitphaawpiang* became a buzzword in Thailand in the late 1990s and was still very much in circulation when I did my fieldwork. Note that one of the morphemes in *saehtthagitphaawpiang* is *phaaw* (enough) and that *phaawpiang* means sufficient.

Bhumibol Adulyadej, the former king of Thailand, was the sufficiency economy's original theorist and its most influential proponent. He began to proselytize the concept's merits in 1997 in his annual birthday address to the country. The King's vision for sufficiency economics, as expressed in the 1997 speech and elaborated during his birthday speech the following year, was impressionistic. (One of his only specific prescriptions was to exhort Thais to buy local when possible.) Through extended parables about variously successful petitioners and investments, the King loosely suggested that sufficiency economics could lead to the formation of a Thai political economy based on village-based communities of people who live within their means, who refrain from the temptations of cheap loans and quick money, who have simple desires, who avoid rash decisions and who resist foreign influences. Moderation in everything, the King, whose fortune at the time of his death was said to exceed 30 billion USD[4], preached (Linshi 2015; Porphant 2008, 2015). One should have just enough to eat, the King said, citing a widely used Thai idiom[5].

The King's ideas were a response to the economic crisis in which Thailand was then mired. Since February of 1997, Thailand had been embroiled in a series of devastating market failures, prompted by an imploding real estate bubble in Bangkok, runaway private sector debt, currency speculation and an incapable central bank response. These events precipitated what came to be known as the Asian Financial Crisis and forced "Thailand to come to terms with the abrupt end of its long boom" (McCargo 2001, 99). At the time of the King's speech at the end of 1997, layoffs of over 30,000 workers were underway, a precondition to a second International

[4] Porphant (2008) estimated the monarchy's wealth to be even more bottomless, suggesting that the Crown Property Bureau, the entity in charge of the monarchy's wealth and investments, was worth, in 2008, $41 billion dollars. Royalist justifications of this wealth counter that the monarch's billions belong to the institution, not to the man.

[5] พอมีพอกิน

Monetary Fund structural adjustment package (*Bangkok Post*, December 13, 1997). Newspapers predicted that 1998 would bring worse: foreign debt would increase to 80% of gross domestic product and up to 6% of the workforce would be out of work (*Thai Rath*, December 5, 1997; *Bangkok Post* December 13, 1997). In light of these immiserating circumstances, the King's advocacy of sufficiency economics was both a proposal for a path forward for Thais and a repudiation of the pace, anomie, scale, *foreign-ness* and endlessly desirous impulses of global capitalism.

Academics and bureaucrats[6] rushed in to elaborate the King's ideas through a series of quasi-academic conferences led by state funded entities such as the Thailand Development Research Institute and the Thailand Research Fund (McCargo 2001; Isager and Ivarsson 2010). In 1999, the Office of the National Economic and Social Development Board (NESDB) formalized sufficiency economics into policy. Of its translation, Isager and Ivarsson write:

> It is noteworthy that the NESDB categorized sufficiency economy as a philosophy. It does not address the economic system directly but strives for a new economy through the reform of the economic behavior of individuals and communities in Thailand (2010, 228).

From the relatively rarefied realms of policy statements and academic debates, the sufficiency philosophy was pushed – propelled by a partnership between the Ministry of Education and the Crown Property Bureau – into school curriculums and onto television programs designed for the edification of young viewers (Isager and Ivarsson 2010, 232). Understood as a behavioral and moral philosophy for a reorganized economy, sufficiency economics were still a keystone of various state interventions at the time of my research almost two decades later.

[6] Academics who work at publically funded universities in Thailand are civil servants, sharing a title (ข้าราชการ)with bureaucrats employed at government ministries.

Amplified in interpretations of the concept was what Thais would consider the Buddhist thought latent in the King's words. By the time that sufficiency economics appeared in the 9th Annual Economic and Social Development Plan [2002-2006], it was said that sufficiency was a praxis all could follow, with the Middle Path[7] as the model for correct action in a sufficiency economy. Government planners overtly identified strengthening the "moral fiber of the nation" as the goal of sufficiency economics. Despite the ample attention given to defining and theorizing the concept, the term, as many scholars have argued, continued to be vacuous and under-defined, often slapped on as a branding mechanism to questionably 'sufficient' projects and schemes[8].

In addition to the already significant fact of a shared root morpheme (*phaaw*), the king's speeches linked *saehtthagitphaawpiang*, a hot topic of turn of the century Thailand, and satisfaction (*khwaamphaawjai*), the object of this chapter:

> Both the sufficiency economy and the New Theory[9] can develop the country. But, [we] must have persistence. [We] must have patience. [We] must not be hasty. [We] must not argue with each other. If we understand each other, [I] believe that

[7] Following the middle path (or middle way), in lay understandings of Pali interpretations of the Buddha's third *sutta*, leads to nirvana. To follow the middle path, one must refrain from all extremes. For a richer discussion, please refer to Collins (1998, 165-177). There are eight practices that can keep you on this path. Please see footnote 18 in this chapter for more.

[8] For example, Siam Cement, the largest cement producer in Southeast Asia, won a King's prize for Best Practice of the Philosophy of Sufficiency Economy. To take just two other examples, Nippon Pack, a plastics packaging manufacturer, and Toshiba Thailand were also publically lauded for embracing the philosophy (Prasopchoke 2010).

[9] The New Theory refers to proposals made by the King in 1994 concerning agricultural methods. These proposals advocated crop diversification, advocating that Thai villages adopt a suggested village layout that would enable villagers to produce more of their own food and to be more self-reliant. These proposals were intended to help farmers deal with water scarcity and volatile market conditions (Royal Speech Given to the Audience of Well-wishers On the Occasion of the Royal Birthday Anniversary At Dusit Palace, December 4, 1994, accessed 01/06/2017 from http://kanchanapisek.or.th/)

> everyone can have satisfaction[10] (Royal Speech Given to the Audience of Well-wishers On the occasion of the Royal Birthday Anniversary At Dusit Palace, December 4, 1998, accessed 01/06/2017 from http://kanchanapisek.or.th/)[11].

King Bhumibol went on to say:

> If we are satisfied (พอ or phaaw)[12] in our needs, then we will have less greed. When there is less greed, then we will exploit others less. If every country thought this way, as opposed to thinking economically, [we] would have the idea that whatever we do must be sufficient, meaning enough -- not extremes, not very greedy. We then would live with happiness[13] (ibid).

If Thais are satisfied by what they need, the King said, they can be happy. If they are patient with sufficiency policy, they will find satisfaction. Satisfaction, in the King's formulations, was both the means and ends of sufficiency economics. And, in so far as sufficiency economics offered a critical stance towards capitalism, satisfaction was also

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[10] "เศรษฐกิจพอเพียง และทฤษฎีใหม่ สองอย่างนี้จะทำความเจริญแก่ประเทศได้. แต่ต้องมีความเพียร แล้วต้องอดทน ต้องไม่ใจร้อน ต้องไม่พูดมาก ต้องไม่ทะเลาะกัน. ถ้าทำโดยเข้าใจกัน เชื่อว่าทุกคนจะมีความพอใจได้"

[11] The translations of the King's speeches are my own.

[12] Please note the discrepancy in the diction in different reports of the speech. The version quoted here uses the adjective 'enough' (พอ/phaaw) and was taken from the website of the Golden Jubilee Network, a "mass educational project initiated" by the then Crown Princess. However, numerous other circulating versions of the speech, including from news reports and on official websites, use the adjective 'satisfied' (พอใจ/phaaw jai) in the same spot (see, for example, http://www.cca.chula.ac.th/protocol/organizations-individuals.html?start=2; http://news.ch7.com/speech/22/%E0%B8%9E%E0%B8%A3%E0%B8%B0%E0%B8%9A%E0%B8%A3%E0%B8%A1%E0%B8%A3%E0%B8%B2%E0%B9%82%E0%B8%8A%E0%B8%A7%E0%B8%B2%E0%B8%97.html; and http://www.tnews.co.th/contents/208372, accessed 01/06/2017). I have been unable to access an 'official' version of the speech, but conjecture that the inconsistency arose because of the shared morpheme (พอ/phaaw) and because of a tight overlap between the connotations of both terms. In any event, the fact that the version of the sentence that is circulated widely is the one that includes satisfied (*phaawjai*/พอใจ) is significant. Regardless of the King's actual diction (and any potential interdiscursive entailments) on the occasion of his speech, it was widely reported that he used the adjective satisfied (*phaawjai*/พอใจ), therein cementing the usage anyway.

[13] "คนเราถ้าพอในความต้องการ ก็มีความโลภน้อย เมื่อมีความโลภน้อย ก็เบียดเบียนคนอื่นน้อย. ถ้าทุกประเทศมีความคิด - อันนี้ไม่ใช่เศรษฐกิจ - มีความคิดว่าทำอะไรต้องพอเพียง หมายความว่าพอประมาณ ไม่สุดโต่ง ไม่โลภอย่างมาก คนเราก็อยู่เป็นสุข"

both means and ends of this stance. Moderating desire – not wanting more than one needs – as called for by sufficiency ethics, leads one to satisfaction.

In the twenty years since the King's first statements on the sufficiency economy, his comments on the topic have become national dogma. Drawing from an unpublished paper by eminent economist Pasuk Pongphaichit, McCargo notes, "phrases from the speech immediately entered common parlance all around the country" (2001, 103). Quotes from the King's 1997 and 1998 speeches, especially the, "If we are satisfied by what we need, then we will have less greed..." passage, adorn the web presence of diverse entities – from universities to companies, blogs to individual's twitter bios. They also appear in advertisements, cartoons and other print media. The mass mediation of the King's words, in addition to the dissemination of his ideas in schools, ensured that, for generations of Thais, satisfaction, sufficiency and a critical stance towards capitalism were linked in an intertextual web of royal pronouncements, state discourse and nationalist rhetoric.

For Thais, these links resonated with a hodgepodge of theories, social experiments and philosophies that can be grouped loosely under the category of Buddhist socialist thought in Thailand. Coupling Buddhism with socialism and bringing their marriage to bear on the construction of national ideologies was a common strategy of leaders in decolonizing, post-war Asia, including U Nu, the first prime minister of Burma, and S.W.R.D Bandaranaike, an impactful prime minister in the 1950s of then Ceylon. In Thailand, the advocacy of a return to the local, of communitarian models of development, of frugality, moderation and other ostensibly Buddhist virtues, as well as the analysis that capitalism inflames greed and

divisiveness were the pillars of this tradition, even if its various articulations did not express every one of these ideas.

Two of its most notable thinkers were Prawase Wasi and Buddhadhasa Bhikku. In 1987, a pamphlet written by Prawase, a prominent doctor who became a well-known activist and advocate of political reform in Thailand, offered ideas that would later be associated with sufficiency economics. Entitled "Buddhist Agriculture and the Tranquility of Thai Society," the pamphlet suggested that village life, the seat of truly Thai values, could be bolstered by a recommitment to Buddhist principles, especially in agricultural practices (Prawase 1987)[14]. Initiatives that came to be glossed as Buddhist agriculture include cooperatives, organic farming, and the implementation of growing standards based on the five precepts rather than international protocols. The idea was that practicing Buddhist agriculture could help cultivate virtuous farmers and communities. The King's speeches recycled these visions of pastoral localism, framing the renascence of peasant, village, Buddhist values as a bulwark against the ills of foreign influence, capitalism and economic crisis (Isager and Ivarsson 2010, McCargo 2001, Hewison 2002).

Prawase, like countless other Thais, had been influenced by the important scholar-monk, Buddhadhasa Bhikku (1906-1993). Among Buddhadhasa's contributions to Buddhist thought in Thailand was the concept of "dhammic socialism[15]." For Buddhadhasa, dhammic socialism

[14] In their valorization of village life, Prawase's ideas resonate with the Community School of thought in Thailand. The seminal figure of this school was Chaitthip Nartsupha. In 1984, Chaitthip, a leading economic historian, published his influential *The Thai Village Economy in the Past*, a history that valorized peasant production for its resilience and stability in the face of unfavorable treaty terms with neighboring colonial powers, then-Siam's integration into world markets as an exporter of rice and other staples and the attendant domestic shifts from an emphasis on subsistence to export and profit. Capitalism, in Chaitthip's account, was foreign and subsequent to real, sustainable Thai ways of life – features that can be discerned in the memories of Thai villagers and therefore recuperated (1999 [1984]).

[15] Swearer argues that dhammic socialism and Buddhist socialism are two distinct concepts. Referring to the many postcolonial nations in Southeast Asia that invoked Buddhist socialism as

described the original, ideal and true state of nature in which "all things exist in unity with one another even though we may not have the eyes to see this truth or the wisdom to comprehend it" (Buddhadasa 1986, 105). "Our forbearers knew this truth," Buddhadhasa wrote (ibid, 106). Restraint was the principle by which the unity of all things, co-existence, could be achieved (Swearer 1986). People should only use, take, and consume what they need and, in their original state, people do only use, take and consume what they need. Excess supply, resources, and wealth, in dhammic socialism, are redirected to the community, not acquired by the individual. Buddhadhasa writes, "If each person does not take in excess, there will be much left over…Excessive hoarding leads to scarcity and scarcity leads to poverty" (1986, 51). The failing of capitalism, in Buddhadhasa's reading, was that it encouraged people's attachment to excess and therein cultivated accumulating, competing individuals out of sync with the true (dhammic) state of affairs. Only a return to restraint and other dhammic values could save humanity from what Buddhadhasa called an "age of brutal stupidity" (113). If Buddhadhasa's theories about moderation and capitalism sound familiar, it is both because his ideas had attributed effects on the thinking of figures like Prawase and because of their resonances – obvious, I hope, by now – with the texts and turns of the family of discourses, including sufficiency and enoughness, that comprise Buddhist socialist thought in Thailand.

The King himself was a source of the Buddhist socialist position in Thailand. In 1967, he built a cooperative farm, along the seemingly dissonant lines of a kibbutz, near his palace grounds in Hua Hin, a seaside resort town close to Bangkok (Handley 2006, 190). Finding

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a political ideology, Swearer maintains that they combined western social theory focused in particular on egalitarianism and the equitable distribution of wealth with a nationalizing project and Buddhist values. He calls these attempts "superficial amalgams of Western political philosophy and Buddhism" (1986, 21). In contrast, Swearer reads dhammic socialism as a uniquely Buddhist philosophy, a program rooted entirely in Buddhist categories as opposed to the syncretism of Buddhist socialism.

lasting inspiration in the Kibbutz movement, the King then partnered with an Israeli businessman to scale up his palace farm throughout Thailand; while the scheme was not successful, its vision of communitarian agriculture was a lasting feature of alternative, not-capitalist imaginings in Thailand. In 1975, the King translated into Thai a chapter on Buddhist economics from E.F. Schumacher's bestselling book, *Small is Beautiful* (1973). The chapter is an exploration of the thesis that "Buddhist economics must be very different from the economics of modern materialism, since the Buddhist sees the essence of civilization not in a multiplication of wants but in the purification of the human character" (2006, 59). The king's translation of this chapter was influential to academics and reformers, including the renowned monk Phra Payutto[16], himself an important thinker who could be located within Buddhist socialist tradition, and Prawase. It became one of many texts, along with the King's agricultural ventures, that defined a Buddhist, socialist alternative to the way things were in Thailand.

Taken together, these ideas – from socialized agriculture to a push for village life, from a caution against excessive consumption to a call for a return to Buddhist values – bled together into a repertoire of social critique in Thailand. As exemplified by its authors (the soon to be wealthiest monarch in the world, a bourgeois thinker, and a monk, among many others), this was neither a radical politics nor a wholesale repudiation of capitalism (Handley 2006, Isager and Ivarrson 2010, McCargo 2001, Hewison 2002). Rather, it was a statement about the mismatch between capitalism and Thai culture and, more particularly, between capitalism and *dhamma* or truth or universal order[17] (Handley 2006, Isager and Ivarrson 2010). Anterior to real Thai ways

[16] Pertinent to the discussion here, Phra Payutto published *Buddhist Economics: A Middle-way for the Marketplace* in 1994.

[17] Collins defines dhamma as an "ensemble" of variations "on a timelessly given pattern of reality" (1998, 88). In Thai, it is glossed in a variety of ways, from religious teachings and truth to nature, justice and morals.

of life, capitalism, in what I characterize as the Buddhist socialist's analysis, produced synthetic, superfluous desire that distorted social relations, distracting people from the way of dhamma. The Communist Party of Thailand (CPT) and the Buddhist socialist thinker advanced seemingly similar proposals – local communitarian sociality, for example – but, for the CPT, these ideas were a repudiation of capitalism per se. For the Buddhist socialist in Thailand, on the other hand, communitarian commitments conformed to dhamma, bringing Thais in line with its truth. Whereas the communists' advocacy of moderation was both a statement and an antidote against capitalism's unsustainably relentless generation of new needs, the Buddhist socialist's take would be that the exercise of restraint – desiring neither excess nor more than what one needs to subsist – built dhammic societies. Even for someone who did not identify as a Buddhist socialist – or as a Buddhist or a socialist (there would be many Thais of the former camp but few of the latter) – this constellation of critiques, positions, statements, and experiments would resonate as a worthwhile orientation, a self-aware and ethical positioning to the world. It was within this milieu that satisfaction – being content with what one needs to live and not asking for more – was a valued affect for early 21st century Thais.

It could certainly be argued that satisfaction was also an important value for people from neighboring Myanmar. This was in part because of shared Theravadan dispositions, as I will suggest in the next two sections of this chapter, and in part because of Burma's own experiments with Buddhist socialist governance, starting from the late colonial period and continuing to the present. Early Burman nationalists attempted to assert a national community around reformed Buddhist practices – revived scripturalism and discipline among the religious community –

teachings, like the eightfold path[18], and ideas about social transformation[19] (Keyes 1993, Sarkisyanz 1965, Schober 2009). In the late colonial period, Burma's first students of Marxism drew from Buddhist philosophical terms, expressed in Pali, to translate Marxist teachings into Burmese (Sarkisyanz 1965). The resulting Buddhist-Marxist syncretism, as Sarkisyanz calls it, was an influential theme of Burman anti-colonial nationalism, because it asserted that Burmese culture (read rationalized Buddhism) was a natural antidote against the materialism and avarice of British colonialism. Marxism and Buddhism, for these practitioners of both, offered the same critiques of and solutions to empire, and could move Burma towards the same post-colonial ends.

From 1948, U Nu, Burma's first prime minister, promoted a Buddhist welfare state, in Schober's terms (2009, 79), alongside a push for a nationalistic Buddhist revival millennialism. U Nu posited that the newly post-colonial country's wealth should be directed not towards individual citizens but to a national community. This would be one step on the eightfold path towards enlightenment (Schober 2009). Even though he came to reject Marxism and to counter Burmese communists, U Nu cited Buddhist myths to oppose private property and to justify the establishment of a socialist state, asserting, "property is not to be saved, not for gains nor comfort. It is to be used by men to meet their needs in respect of clothing, food and habitation in their journey towards Nirvana" (U Nu quoted in Sarkiyanz 1965, 215). Both the anti-colonial and post-colonial formulations of Buddhist Marxism and Buddhist socialism, respectively, failed to develop Burma, but what is important to note here is that both of these projects enshrined as

[18] The eightfold path is a guide with which practitioners can follow the 'middle way' to attain salvation, defined by the extinguishing of desire. It refers to eight actions (right understanding, right thought, right speech, right action, right livelihood, right effort, right mindfulness, and right concentration) can lead to wisdom, morality and mental discipline, all of which are necessary to mastering the craving to which humans too often succumb.

[19] Refer to Sarkisyanz for a genealogy of Buddhist and Marxist understandings of revolution in Burma (1965; 166-179).

valuable to a Burmese future self-abnegation for the national good, consuming no more than what one needs and criticism of "foreign" concepts of property, possession and empire.

The policies of U Nu's successor, Ne Win, asserted yet another iteration of Burma as a Buddhist socialist state, as did the military juntas that succeeded his rule. Ne Win's vision, called the 'Burmese Way to Socialism,' promoted socialist workers' collectives, advocating a popular piety for this workforce around values like generosity, merit making, temperance and simplicity. When Ne Win's government collapsed in 1988, the nationalist military rulers that followed invoked familiar Buddhist tropes to legitimize their rule, with the prominent use of rituals like stupa construction and relic cults featuring centrally in their strategies to build Myanmar, a national community around a standardized civic religion[20].

Even opposition to the military junta was frequently expressed in Buddhist terms. Meditation, renunciation, and the necessity of suffering were all concepts through which the resistance articulated its own moral grounds. In her *Letters from Burma*, which were published while she was under house arrest, Aung San Suu Kyi wrote admiringly of the self-denial, sacrifice and striving of the eleventh Buddha, Sumedha, advising, "Lay down an investment in suffering and you will gain bliss" (1997). Given the poverty that most Burmese people experienced, moderation was not exactly a relevant exhortation. Rather, concepts of austerity, of not asking for too much too quickly, of accepting suffering as soteriology were rife, standing where moderation and sufficiency did in Thailand to control desire in the service of a more dhammic society.

Just as in Thailand, where attempts to create a new society demanded the recollection and revival of purportedly old values, so too in Burma did state actors, the sangha and other elites

[20] Please see Aung-Thwin and Thant Myint-U 1992, Silverstein 1964, Schober 2011 (82-85), and Mya Maung 1970 for more on this period.

imagine a more ideal society through the revitalization of purportedly Burmese Buddhist values. While this manifested in different terms in the two countries, both manifestations were shot through with the similar understandings of enoughness – of moderating ones needs, tempering ones desire, valorizing simplicity, locating greed as foreign and excisable[21].

In light of the above, it is possible to more deeply understand Oy's position and expectations in the vignette that opened this chapter. "What are your demands?" she asked the weavers once she learned that their employer was continuing to house and feed the group even though his factory, not receiving new orders, seemed to be failing. 'What more do you want?' was the subtext of Oy's question. No matter that the employer was in breach of the Labor Protection Office's decision. How could he reasonably be expected to follow its terms if he was not receiving new work? No matter that the employer had agreed to pay the weavers even if he did not take on new commissions. How could he reasonably be expected to pay them if he had no funds? By supplying the weavers with sustenance and shelter, he was doing what he could,

[21] My suggestion that Burmese migrants in Thailand thought in similar ways as did Thais about issues of satisfaction and enoughness because of the former's encounters with Buddhist socialist discourses in Burma is as yet speculative. This is because my interlocutors were often from Burma's geographic, cultural and political margins. Moreover, 'Burmanisation,' the attempt to build a national identity around ethnic Burman-ness to the exclusion of the country's other ethnicities, was caught up in attempts to establish Buddhism as a state religion. Migrants from Burma's Karen communities a majority of whom are Christian and who have been in an armed struggle against the central government for much of the country's postcolonial history, or migrants from other religious or ethnic minorities may not have had much engagement with the Burmese state's Buddhist discourses. I would need to do more research to ascertain whether the government's Buddhist socialist rhetoric meaningfully entered their lives. However, given the post-colonial state's emphasis on missionization as well as on conformity and reform within the sangha, whose reach in the temples and sermons of Buddhist Burma is unquestionable, in addition to the liberation theology of the opposition, I strongly suspect that satisfaction and "enoughness", in a Buddhist socialist valence, *did* hold sway as an idealized value for the migrant claimants who came to the clinic in Mae Sot. In an interview, a Karen Christian claimant once told me that Karen people mean it when they say they are satisfied with resolutions to case. He explained that, for Karen, fighting a case is embarrassing (naa aai/น่าอาย), virtuously adding, "…and I get satisfaction from God, *khrap* [participle that conveys politeness/ครับ].

upholding his end of the dyadic obligation between boss and worker. With their basic needs met, what more could the workers desire, given their boss' finances? For Oy, the weavers' dissatisfaction was not a basis for the clinic's legal help; rather, it exposed the workers as wanting too much, as putting their own (excessive and unreasonable) demands above the good of everyone involved, as drifting into greediness. What might appear as callousness or an unwillingness to do her job, defined as providing legal assistance to migrant workers, was actually a refraction of an authoritative discourse in Thailand, one that criticized desire as greed and called on people to minimize their needs in the service of restoring an ideal society.

b. Enoughness[22] as a Semiotic Ideology

A few days before National Language Day (July 29) in 2008, Prem Tinsulanonda, a privy-councilor to King Bhumibol[23], delivered the opening remarks for a seminar called "Thai Language in the Era of Sufficiency." His speech was printed in the national Thai language daily, *Matichon*. In his brief comments, Prem stated that the Thai language can and should be brought in line with King's sufficiency philosophy. "Our language and actions must be sufficient," he asserted, continuing:

[22] I am indebted to Swearer's formulation of "enoughness." Swearer notes the concept of sufficiency was being appended to much more than economics in Thailand, suggesting to him that it be thought of as a worldview, in his terms. "Enoughness," for Swearer refers to this worldview (2011).

[23] The Privy Council of Thailand is a body of advisors to the monarch. Prem Tinsulanonda (1920) was appointed to the Privy Council in 1988, once his eight year un-elected prime minister-ship came to an end. For most of his career, Prem has been extremely close to the seat of power, having occupied various top positions in the Thai military, executive and royal elite. Seventy-eight years old at the time of the speech reference above, Prem was widely seen to be one of the most powerful men in the country.

> The development of [the Thai] language is the responsibility of philosophers of the Royal Institute who should be thinking about how the language can be developed. Perhaps they should set forth rules for the use of tone marks, the silencer and pronunciation so that the language can attain sufficiency.

In the rest of the speech, Prem outlined what analysts would call the pragmatics and metapragmatics of sufficiency, equating it with "correct" (ถูกต้อง) pronunciation and diction, sensitivity to the contextual appropriateness of one's speech, and avoidance both of mixing Thai and English as well as of fanciful (ฟุ้งเฟ้อ) speech. Language, as with all "sufficient" behavior, needs to be moderate, simple, proper and correct – neither excessive in its complexity nor vulnerable to heterogeneous interpretations. Prem's arguments – not to be ignored as they come from such a powerful source – suggest that enoughness was both a concept requiring philosophical definition and an appearance requiring cultivation. How does one signal satisfaction? How can one speak in a way that is appropriate to the sufficiency project? How can one's language use and behavior align oneself with dhamma? Prem's speech suggested how the Thai language might better allow Thais to do all of the above.

The language ideology outlined in Prem's "Thai Language in the Era of Sufficiency" talk was one aspect of a broader representational politics that mediated the relationship between satisfaction and law. In Mae Sot, one young man's statements prompted me to ponder this subject. During an interview, this young man, a 27-year old claimant from Burma, explained to me his response to a settlement that he had reached with a broker, who had given him fake and

incomplete documents[24]. Through a translator, the young man said, "I'm not very satisfied. There should be a system for us to cooperate. I must be satisfied (ต้องพอใจ)[25]."

I interviewed the young man on two consecutive October evenings in 2012, but I first met him in July of that year, when he came to the clinic with a group of similarly defrauded people. I had seen him many times since as clinic workers attempted to resolve his case. Yet, it was only in October, over the course of our conversation, that I learned the details of his story. The young man was from Kyauktaw in Rakhine state, Burma. With the expectation that a broker, a relative of his brother's girlfriend, would arrange the appropriate papers for him to work in Bangkok, the young man travelled from Burma's western border to its eastern border, arriving in Myawaddy in June. He paid the broker the agreed upon 14,000 THB and waited for the completion of his documents. In the weeks that followed, the broker repeatedly asked for more money. At first, the young man paid up, requesting a brother and sister-in-law in Bangkok to send him the funds. By early July, his total outlay was 17,500 THB. As his expenses and suspicions mounted, the young man crossed into Mae Sot to confront the broker at his office. Mollified by a face to face meeting with the broker, the young man agreed to give the broker a few more days and accepted the broker's offer to stay in the broker's house until the papers were processed. During this time, the young man was arrested, an incident that he believed was facilitated by the broker's coziness with the police. As a result of the arrest, he was deported. When he returned to Mae Sot, he sought a CBO's assistance. One of their employees was a clinic-trained 'paralegal,' a frequent face among Atisit the translator's many regular visitors. This employee brought the young man

[24] The young man remains unnamed because of the highly unusual accommodations that the police made to him, including allegedly providing him with a letter that allowed him to stay in a CBO's premises in Mae Sot.

[25] "I must be satisfied" (ต้องพอใจ/dtong phaawjai) is not a demand as in 'I must be satisfied or else.' Rather, the sentence carries with it the connotation of requirement, as in 'I am required to be satisfied' or 'I have no choice to be satisfied.'

to the legal aid office in July, and the clinic had been advocating on his behalf since. This kind CBO employee also offered to house the young man in the CBO's simple premises, a wooden stilt-house, in a small, walled compound in Mae Sot. The young man stayed there for the next three months, leaving only infrequently (and with trepidation) to visit the clinic office or to the market. During this time, he faced threats of arrest, deportation and physical violence, as well as mundane daily precarities, including, most pressingly, the problem of how to sustain himself as he worked for the return of his money. With the help of a translator who moonlighted with the law clinic during its trainings, my conversation with the young man took place in the main room of his refuge, the CBO's building.

A few hours before our conversation in October, the young man had finally reached, with the help of the clinic, a resolution to his case. He received 19,000 THB from the broker, a 17,500 THB reimbursement for the payments he had made and a meager 1,500 THB for the significant trouble he had encountered. After the final settlement was reached and the money handed over, the visibly pleased young man made small talk with the CBO worker who had supported him throughout his ordeal, Htoo Lay, a clinic translator, Oy, one of the clinic's officers, and me. With the help of Htoo Lay, the young man told us that he was satisfied (พอใจ) with the agreement. It was fair, he said. Htoo Lay used the adverbial phrase "fairly or in keeping with dhamma" (อย่างเป็นธรรม) to express the young man's characterization of the day's negotiations. Oy agreed, enthusiastically. She added that she too was satisfied (พอใจ) with the resolution, especially considering the short jail term that the broker would have faced (6 months or less) if the young man had pursued a case. "It is fair, really" she repeated (เป็นธรรมจริงๆ).

I'm satisfied. I'm not very satisfied. I must be satisfied. There are a couple of ways to think about the young man's statements. Jackson (2004) offers one direction. Identifying a

common analysis in a handful of influential ethnographies of Thailand[26], Jackson maintains that power in Thailand is uniquely concerned with the superficial. It "operates laterally across surfaces" (2004, 182), agnostic to a correspondence with inner states. Jackson writes:

> …the distinctiveness of Thai power lies in an intense concern to monitor and police effects, images, public behaviors and representations combined with a relative disinterest in controlling the private domain of life" (181).

This is a "regime of images," in Jackson's terms, in which the formal appropriateness of speech and other semiotic processes, as well as their performative effects are privileged over inner realities or private truths – notably in public settings. For Jackson, the regime of images has a history, traceable from Siamese responses in the 19th century to Western imperialism and from injunctions against public criticisms of the monarchy to a current cultural logic that favors presentation over depth, form over essence. Over this history, Thai political culture came to be defined by an "overinvestment in appearances" (Morris 2000, 5 qtd. in Jackson 2004, 181).

Where this regime meets ideas about "sufficient" language is in a signifying economy in which people publically perform certain values – moderation, a suppression of individual needs in favor of interpersonal amity, satisfaction – because the performance of those values qualify people to be recognized as valid, meritorious actors. Processes of subject formation are at stake here. The self that is asserted through these performances is oriented outward – towards interactional, contextual effects that are pleasing from the perspective of the processes of power. In this context, people emphasize the visible announcement, assertion, and portrayal of

[26] The ethnographies that Jackson cites include Bishop and Robinson's *Night Market: Sexual Cultures and the Thai Economic Miracle* (1998); Davis's *Tolerance and Intolerance of Ambiguity in Northern Thai Myth and Ritual* (1974); Klima's *The Funeral Casino: Meditation, Massacre and Exchange with the Dead in Thailand* (2002); Morris's *In the Place of Origins: Modernity and its Mediums in Northern Thailand* (2000); Mulder's *Everyday Life in Thailand: An Interpretation* (1985); and Van Esterik's *Materializing Thailand* (2000).

authoritative values. Whether one is or is not satisfied in private or in the interiority of one's thoughts is immaterial. Hence, the young man's declaration, in our conversation after his settlement had been reached, that he was not very satisfied and that he must be satisfied. In public, once the handover of the money was done, he had been satisfied, but during our frank conversation later that day, he presented a more ambivalent perspective: he had no choice – he was compelled – to be satisfied. This, I suggest, was the semiotic ideology of satisfaction at work.

Let me acknowledge one possible critique of the regime of images interpretation of the young man's statements. Could the young man, after a mere four months of being in Thailand, be so capable in a semiotics of satisfaction? Perhaps. This is where doing political anthropology on the margins of a polity is most vexed because questions of ideological interpellation – who is recruited into dominant state ideologies, or what the reach is of a powerful national culture – are most slippery. Nevertheless, I argue that migrants are conversant in the semiotic practices around enoughness, if not only because they are produced as subjects through the so-called regimes of images but also because, as I will explain further, of their belief in broad conceptions of causality that transcend national borders.

c. Causality and the performance of satisfaction

I'm satisfied. I'm not very satisfied. I must be satisfied. A parallel avenue to think about the young man's statements is to consider the way in which the attribution of cause and effect – specifically the uncertainty and indeterminacy of attempts to do so – enforces the call to satisfaction.

It is common knowledge that gaam (กรรม Sanskrit *karma*), a theory of causality and action that holds that events in this and future lives are effected by past actions in this or previous lives, is a concept with which Thais theorize misfortune (and their worlds more broadly). The same is true for Buddhists from other Theravadan majority societies, including Myanmar. The Thai aphorism, "Do good, receive good; Do bad; receive bad[27]," encapsulates the logic of gaam. In the textual and popular traditions of Theravadan Asia, gaam has been interpreted as influencing the status to which one is born and the adversities to which one is subject (Obeysekere 1966; Gombrich 1971; Keyes 1983a and 1983b; Daniel 1983; Spiro 1970; Tambiah 1968; eg. *The Three Worlds According to King Ruang: A Thai Buddhist Cosmology*, 1982, translated by Frank E. and Mani B. Reynolds). This has led scholars to suggest that gaam is a concept that naturalizes inequality – of fortune, luck, and even looks – within Theravadan societies (for Southeast Asia, Keyes 1983a; for Thailand in particular, Engel and Jaruwan 2010; Jackson 2002; Hanks 1962; Reynolds 1976; F.E Reynolds and M.B Reynolds 1982). At the same time, the worlds of most Burmese and Thai people are heavily populated with non-human actors, from spirits and ghosts, whose various agencies might also be responsible for the circumstances in which people find themselves. The work of non-human agents is especially common in accidents and injuries, as Engel and Jaruwan (2010) show in their revealing analysis of tort claims in Chiang Mai.

For Thais and Burmese, to understand the causes of one's misfortunes is to know how to respond to one's misfortunes. Of the complexity of causal attribution in their field site in

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Northern Thailand, Engel and Jaruwan write, "each causal explanation suggests a different framework for understanding the nature of the injury and how it should be remedied" (2010, 28). To pursue a legal remedy when the issue may be a matter of karma or to quest for compensation when the problem may stem from a wayward ghost or a displeased spirit represents not only a failed etiology but also an unproductive mismatch between problem and fix. (Merit making or a spirit propitiation ritual, respectively, may constitute a more effective response.)

Given this heterogeneity of causes and remedies, the pursuit of a resolution within the legal system risks worsening the situation for claimants. This is because it implicates claimants in the perpetuation of interpersonal conflict, suggesting that they are too attached to false understandings of reality or to their needs to be moral actors. "A more efficacious form of action discerns the deeper causes of suffering and addresses them directly through more compassionate and meritorious responses" (Engel and Jaruwan 2010, 137). An antagonistic, uncontended self hazards being an unvirtuous, unwise self, a person engaged in actions that undermine his or her karmic standing, aggravating rather than ameliorating his or her problems in this and future lives. In the case of the young man who had been fleeced by the document broker and then victimized by the police, his insistence on the fairness of the deal – the return of his outlay plus a nominal 1,500 THB for the trouble – was an act of canny self-calibration in a multi-causal, morally ambiguous moment. It was a performative act that both signaled and improved his virtue.

I'm satisfied. I'm not very satisfied. I must be satisfied. The young man's statements positioned him within a matrix of values around enoughness, satisfaction and social unity that defined postwar Burma and Thailand. The young man showed himself to be satisfied – indeed, he must be satisfied, as he said – because being satisfied rendered him virtuous and socially constructive, as opposed to selfish and socially destructive. The sense of compulsion articulated

by the young man arose from the fact that these virtues were discursively freighted, endorsed and enforced by the powerful, as well as pragmatic, given the multifactorial etiology of suffering in Buddhist Southeast Asia. The discourse of enoughness was so entangled with the complexity of causal attribution as to be almost conspiratorial in the valorization of the satisfied subject, one who was to be content with little even as new avenues were opening up to ask for more.

In this chapter thus far, I developed a genealogy of "satisfaction," relating it to an discourse of enoughness that took root in post war Thailand and Burma as a means of bridling desire in the service of a more perfect – defined as dhammic – society. I suggested that enoughness be understood in relation to Buddhist socialist discourse *and* to a semiotic ideology that marked a sign's surface as separate from and more important than its depths. In my discussion of enoughness, I adopted a materialist's premise that ideas respond to the material conditions in which they were conceived. One especially relevant condition is the population of the world by highly agentive non-human actors, like ghosts and spirits, and, relatedly, the difficulty of parsing the visible world as an outcome of causal relationships. Conceptions of causality acted as a nudge, I argued, towards satisfaction. The chapter now takes a turn back to Mae Sot, considering the conjuncture between satisfaction and law in the town.

II. Satisfaction: An Anti-Categorial Rationale

Recounting stories about previous bosses and her favorite job, Ma Aung[28] related her work history to me during an interview in her house one afternoon. Her experiences were rife

[28] Ma Aung had come to Mae Sot in 2003. Almost ten years later, Ma Aung was 30 years old. She was aware of the fact that Thai law entitled her and her fellow workers to a minimum wage and to safety standards in their workplaces. She was a practiced striker, having participated in three strike actions during her time in Thailand. Ma Aung's husband, Daniel, also a migrant worker, had a scholar's interest in the Thai legal system. Before coming to Thailand, he earned an undergraduate degree in law, but never had the opportunity to become licensed or to practice.

with the difficulties commonplace to migrant work in Mae Sot: underpayment, overwork, confinement, unfeeling or menacing bosses, measly rations, and inadequate housing. In one factory, where she worked in quality control, workers were allocated bunks in a dormitory. Gesturing with her hands, Ma Aung indicated that the beds were no more than two feet wide, clearly too small for anyone to sleep comfortably. The manager of that factory was unrelenting. He knew that she could only check thirty pieces per hour, but demanded that she increase her pace to an impossible fifty pieces per hour. When, exhausted and overtaxed, she would fail to meet his unreasonable quotas, he would shout and curse at her, forcing her to work overtime until the early hours of the morning. At another garment factory, Ma Aung was permitted to leave the factory compound only once a week. Outside of this shore leave, communication with people outside the factory had to be conducted via a hole in the factory's compound wall. The sense of imprisonment was too much for her and she left after 5 or 6 months. Even under these and other equally grinding conditions, Ma Aung managed to send money back to her parents, her frugality making it possible for her to remit up to two thirds of her wages.

Ma Aung met her husband, Daniel, at M Apparel factory in 2011. It was here that Ma Aung said that she felt most satisfied. In some respects, M Apparel factory was like most others in Mae Sot: the wages were below minimum[29]; workers were mandated to work too much overtime –they were required routinely to work until 11PM; and monthly payments were neither timely nor regular. In other respects, however, M Apparel was, for Ma Aung, meaningfully

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Daniel was conversant in the Labor Protection Act of 1998, which had been translated into Burmese and distributed by a CBO. Both Ma Aung and her husband had been on the frontlines of a strike in their most recent job. This was the context in which I met them both. A fellow anthropologist who worked closely with the striking workers introduced me to Ma Aung and her husband. My conversation with Ma Aung took place shortly after that first meeting, translated by my friend.

[29] The minimum wage was then 162THB/day. At M Apparel, Ma Aung was paid 80 THB/day.

different: there were no enforced quotas; she could freely come and go from the factory; she made enough to send 3000 THB every month to her family; and she liked her supervisor, who was polite to workers and did not harass her, as other overseers had. For all these reasons, Ma Aung said that she was not stressed at this job. Even though the pay was less than at another comparably sized factory at which she had worked, she was satisfied at M Apparel. In describing what made the job there so good, Ma Aung acknowledged the factory's breach of labor law on almost every front, from the subpar wages it paid to the excessive overtime it demanded. Yet, she was content at the job because her sense of satisfaction was contingent not on legal standards but on other registers: enough income; freedom to leave the factory premises; good relations with her supervisor. These were the factors that made Ma Aung, who was aware of labor law and had even made a claim in front of the Labor Protection Office, happy at M Apparel.

Where Ma Aung suggested that an amicable relationship with her supervisor contributed to her satisfaction with her job, numerous other interlocutors suggested that being satisfied fostered amicable relationships. I once asked a Labor Protection Officer why workers, evincing satisfaction, so often accepted LPO agreements with terms that deviated from the law or that were less than legal minimums. The officer answered philosophically, "Everything must be negotiated. To live together, people must have shared ideas (ความคิด). People are satisfied because it ends the matter. Good, no?" I posed a version of the same question to one of the clinic's original legal aid officers. She shrugged off the implied critique of my question and argued that satisfaction, in such cases, was about an understanding between two people. It was also about the fact that migrants do not have a lot of time to wait for legal resolutions. Law, in this former clinic worker's analysis, could deal neither with migrant temporalities (as also discussed in Chapter 1) nor with compromise, whereas an agreement that was to the satisfaction

of both parties could. When in an interview I raised the topic of satisfaction with Sutinan, a lawyer who consulted on cases and conducted trainings for the clinic, he answered, "Satisfaction is a principle. It's about solving problems. It's not like the legal system. It's a win-win. There are no losers [when both parties are satisfied]." What unified these perspectives was an implied contrast between the social relations entailed, on the one hand, by an agreement between two satisfied parties and, on the other, by a legal resolution. Harmony versus sustained antagonism. Common ground versus antimony between a winner and a loser.

In this contrast, it was possible to discern how satisfaction, a frame that invoked the host of normative understandings about desire and ideal behavior elaborated in the first part of this chapter, was entangled with the anti-categorical effects that defined Mae Sot. Recall from my discussion in the introduction, Chapter 1 and Chapter 4 that a hallmark of anti-categoricality was that people invoked the law, but avoided its categorical logics and classifying potential. What I referred to as the anti-categorical impulse was the tendency for legal actors – legal aid officers and their clients alike – to refrain from classifying practice according to legal concepts. As a logic that encouraged people to reign in their needs, avert disharmony, and individualize suffering, locating the burden for its amelioration not on the social order but on the self, satisfaction discourse reinforced the anti-categorical impulse. It validated people's circumvention of legal process and remedies, identifying this avoidance as both morally superior and socially fruitful.

Talk and ideas about satisfaction also intersected with legal work in Mae Sot around the problem of uncertainty so rife in the latter. As I've argued in this dissertation, law in the context of anti-categorical forces was undergoing a process of ornamentalization, in which its status derived from its use as a decorative object, not from its efficacy as an epistemological project of

order and regulation. It might be announced on billboards and pamphlets all over town or indexed by educated NGO workers or even mentioned by government bureaucrats, but these citations did little to bring social life in line with its pronouncements. This led to widespread confusion, even among legal aid workers and lawyers, about what the regulations were, how they were to be applied, and whether (and how) remedies for broken laws should be sought. Underway was what I characterized earlier in the dissertation as a hollowing out of the epistemological promise of law to produce predictability and order. As a broker, who was a one-time client of the clinic then a friend and always a fount of clear-eyed observations, once said to me about why workers say they are satisfied with less than that which they are legally entitled, "Law. Government. Nothing is sure with law and government." In contrast, satisfaction worked. Even in the context of an agreement, or a job, or a Labor Protection decision that did not conform to legal standards, one could be sure about the performative effects of satisfaction in terms of producing a virtuous self and restored social ties, howsoever unknowable (vis a vis karma) and ephemeral these effects might be. This is the sense in which I argue that, as it related to legal work in Mae Sot, the discourse of satisfaction, as well as its performance, provided a grounds extrinsic to law to manage the contingency produced by law.

III. Conclusion

In recent years, renewed attention has been paid to Carl Schmitt's argument that the political is constituted through the secularization of theological concerns (Derrida 2002; Agamben 2005; Sullivan, Yelle, Taussig-Rubbo 2011)[30]. Legal anthropologists have transposed

[30] It is widely known that Schmitt's anti-Semitism and his unrepentant support of Nazism translated into praxis aspects of his philosophical arguments, including and most especially the friend/enemy distinction. Nevertheless, Schmitt's work remains relevant precisely for its insights

this question into the study of law, asking about the politics of "secular law" or about the imbrication of the legal and the religious (Agrama 2010; Asad 2003; Engel 2011; Comaroff 2009; Sullivan, Yelle, Taussig-Rubbo 2011). Two interventions emerge from this literature. One is perhaps more intuitive: that modern law has never been secular. Assertions of its autonomy or transition from the religious were themselves wrapped up in the fictions of secularizing political projects (Fitzpatrick 1992; Sullivan, Yelle, Taussig-Rubbo 2011). The second points to a growing "mutual infusion" of law and religion, in which law "appears to be ever more suffused with the sacral" (Comaroff 2009, 193; See also Keebet and Franz von Benda Beckmann, 2008). Comaroff calls this the "Rise of Legal Theology".

From the perspective of Thailand, the questions raised by anthropologists about the relationship of the theological to the legal suggest different answers. First, the critical corrective was to show not that Thai law has always been Buddhist (for this is nationalist and royalist dogma) but to highlight its secular, internationalist origins (Loos 2006; Pasuk and Baker 2002). Second – and this is where my research intervenes in this literature – my analysis of the confluence of satisfaction discourse, anti-categoricality and legal practice in Mae Sot suggests not exactly a bleed between the religious and the legal, but an expanding structure of dependence of the latter on the former: anti-categorical practices rendered law into a carapace, a façade that satisfaction discourse helped to rationalize and support. It is not that the juridical was being steeped in the theological, but that law, understood as a surface of an increasingly hollow object, was being propped up – even given form – by the religious.

This relationship had numerous effects, one of which I emphasize by way of a conclusion to this chapter. By constituting a limit around the ways in which people could

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about political theology, which have been revealed to be especially anticipatory of the fissures of liberalism that have characterized the post 9-11 world.

contemplate relief, sustenance and care from the social order of which they are a part, satisfaction discourse was impoverishing to those who could least afford it. It affected workers more than their bosses, clients more than their lawyers, and applicants more than government bureaucrats. It led workers, clients and applicants to accept low wages, extreme work hours and other deleterious conditions. In this respect, satisfaction logics were a mechanism of structural violence in Mae Sot (Gupta 2012; Farmer 1996),[31] guaranteed to preserve the inequalities and danger that characterize migrant work. They were a mechanism through which the form of capitalism that predominated in Mae Sot -- the supply chain (Tsing 2009) -- was articulated, its particular forms of exploitation naturalized, with the post-war history and religious surround of Thailand and Myanmar.

Of the many people with whom I spoke about satisfaction, only one interlocutor, a former legal aid officer who was no longer affiliated with the clinic, voiced these concerns. He said that he did not think that migrant workers were actually satisfied when they said they were and that they were afraid to say otherwise. The call to satisfaction, from his perspective, was maximally coercive in that it forced people to perform in ways opposed from their real feelings and interests. The power of the discourse of satisfaction, however, was that this critique was internal, already assimilated and irrelevant, to its logics. Recall the semiotic ideology of satisfaction already privileged surface performance over interior truths, awarding, because of a conjuncture with theories of karma and causality, people for acting satisfied regardless of whether they were or not. In so doing, satisfaction discourse helped to neuter the only alternative discursive

[31] I find Gupta's definition of structural violence useful. He draws from Galtung in arguing that all violence prevents a person from reaching their capacities and that structural violence is a distinct type of violence because it is "impersonal, built into the structure of power" (2012, 20). Please see Gupta for a fuller discussion of the term (2012, 19-26).

formation on the scene in Mae Sot that had the capacity to address the structural inequalities that beset migrant lives in the town -- law.

Conclusion:
Uncertainty In and Of Law in Mae Sot

Max Gluckman's *The Judicial Process among the Barotse of Northern Rhodesia* (1955) was an important, if only spectral, interlocutor to my arguments over the past five chapters. The ghost of Gluckman past haunted my analysis because of his influential analysis of uncertainty in law, a topic of central concern in this dissertation, in part because of the unsettled relationship between law and knowledge in Mae Sot. Recall May's statement that she did know how to do her job at the legal clinic. Her uncertainty about how law was done in light of other normative orders was typical of many of my informants. My purpose in these last pages is to deal with the relationships among law, uncertainty and anti-categorical formations in Mae Sot. From this vantage point, I consider the ways in which much-cited strains of social and anthropological theory on capitalism might overdetermine law, blinding it to the true political sites and stakes of capitalist relations.

Gluckman's contribution on the topic of uncertainty in judicial process came by way both of an ethnographic account of Lozi judicial reasoning and an intervention in debates that theorists of law had long been having about the ambiguity of legal concepts. According to Gluckman, some of these debates, particularly among jurists and early legal realists, found scholars pathologizing uncertainty and ambiguity; they argued that the general concepts of law needed to be specified further, their vagueness corrected, in order to discipline their application and minimize uncertainty (for example, Cordozo as qtd. in Gluckman 1955, 336). Gluckman disagreed with this analysis, arguing that the vagueness of concepts was what made the judicial process work.

He staged this argument via his ethnography of Lozi courts, where he found that judges used a "reasonable man" standard, a constellation of role specific behavioral norms, as a basis for judging witnesses and litigants. Reasonability must be situationally defined according to the particular case being argued in front of the court. Gluckman's argument was that Lozi norms were of varying specificity. It was both this variation, from highly determinate to more general normative precepts, and the fact that general normative precepts were "permeable," "absorbent," "unspecific," "flexible," and "general" (293) which enabled judges and litigants to apply differing arrangements of norms to a plethora of cases. The underdetermined relationship of norm to situation under consideration was the root of "flexible uncertainty," the concept that Gluckman develops to theorize the centrality of uncertainty to Lozi jurisprudence. Thus, Gluckman makes the following conclusions: "….the uncertainty of legal concepts has social value in the certainty of law" (294-295); or, put differently, "the 'certainty' of law resides in the 'uncertainty' of its basic concepts (326)." For Gluckman, uncertainty in the space between normative principles, their specification and their arrangement in instances of adjudication is a necessary condition of legal process. This spacing is productive. Uncertainty, in this reading, makes legal judgment possible -- and, Gluckman conjectures, not just in Lozi courts; it is partner generally of the ability to arrange principles to match facts[1].

[1] In the course of making broader arguments about the relationship between rules and process, Comaroff and Roberts extend and specify this observation (1981, 72-79). They make not only the general point that the normative repertoires of their informants include norms of varying generalities, allowing the "flexibility uncertainty" required to match precepts to situations, but that there are two levels of potential normative conflict at which this flexibility becomes instrumental. The first concerns "situational" conflict around the applicability of norms and the second relates to "logical" conflict around the applicability of norms. In conflicts over the former, opponents may invoke opposing normative principles to contest, frame and claim the nature of the conflict itself. "Situational [normative] conflict, then, derives from the politics of the everyday, not from the intrinsic contents of the particular norms involved" (1981, 75). Logical conflict arises from the invocation of norms that are contradictory or antithetical. While

In this dissertation, however, I have been circling around a different relationship between uncertainty and law, wherein uncertainty about legal concepts has social value, as Gluckman would say, but not in the certainty of law. Rather, the interpretive processes that brought legal concepts to bear on social life produced law, understood as a collection of normative principles, as uncertain, unstable and weak. Consider my arguments in Chapter 4 about identity documents and how they circulate in Mae Sot. As I discussed in that chapter, the presentation of an identity document at checkpoints in and around Mae Sot was the most common legal encounter that migrants and non-migrants alike undergo in the town. These encounters were mediated by a relationship between two modes of documentary practice. Users of documents in the first mode presumed that a document could link a person to authenticating markers on the document, on the one hand, and to a status, on the other. This mode has ideological resonance as it was pushed by the state, by international organizations, including the UN, and by NGOs as a necessary condition of modern mobility. Users of documents in the second mode presumed that documents were subject to fraud, "stereo-typos" and other mistakes, and that, therefore, their ability to effectuate the links assumed by the former mode was dubious. These two modes existed in a relationship, a feedback loop, in which it was ever more necessary for migrants to have a piece of paper attest to their status and ever more impossible for them to have a piece of paper attest to their status. These two modes clashed, their contradictions expressed in the simultaneous necessity and instability of documents.

Comaroff and Robert's analysis goes on to consider how norms relate to processes, their observations about the logical and substantive conflicts inherent to the invocation of norms resonate with Gluckman's. Both texts identify sites of indetermination internal to and logically constitutive of normative order. Particularly in a political moment in the United States in which jurists are increasingly pressured to offer so-called originalist readings of founding texts, these insights -- that the ambiguity and underdetermination of normative precepts is a condition of possibility for interpretation in legal process, for law to work -- are now more than ever essential.

These conflicts were born of the following entropic tension. Identity encounters cited a general concept -- that certain classes of people have a thing called legal status that can allow people to determine who someone is and whether they are or are not allowed to be in Thailand. The particular implementations, extensions, interpretations of that general concept -- the space of its flexible uncertainty, for Gluckman -- undermined not only the general concept but also the idea that legal concepts (and, central to my arguments, their objective instantiations) could work in predictable ways. Put another way, a general principle was unmade in the particularities of its invocation. From this, actors produced a metadiscursive skepticism towards law. The uncertainty of the concept and the uncertainty of law were therein connected.

My discussion in Chapter 3 of the problematic of translation and legal aid offers a second example with which to consider this relationship. A crux of the issue in that chapter was the dual figure of the clinics' translators. On the one hand, translators were responsible, in infrequent trainings, of extending to Burmese participants the knowledge that they have rights. The translators did so by translating to the assembled trainees general normative precepts, like 'all workers have rights' or 'Thai law protects Thai and foreign workers equally.' The complexity and variability of methods of translation themselves challenged the transmission of knowledge about these general legal concepts. On the other hand, in the regular life of the office, translators traded on the specific -- social connections in town, experience, insights into how best to phrase claims, charisma -- to work for solutions to clients' cases. Taken together, the translators attempted to talk legal concepts into being in certain situations but marginalized them, as useless to the actual work of the clinic, in the bulk of others. While not occurring on a case by case basis, the pattern of only evoking general precepts in limited contexts and not using them in others was a form of rhetorical management -- a metadiscursive ordering of norms -- in which translators, in

particular, marked general principles as being situation specific, peripheral to daily use, not generalizable.

As with identity documents, the mechanics of making then marginalizing, asserting then disregarding characterized the ways in which translators ordered legal norms. That these norms were underdetermined, as Gluckman would aver, was true. "All workers have rights" was a concept with much scope for flexibility and specification in its use. However, the management of concepts like this -- the fact that they were sequestered to an occasional part of clinic staff's working lives -- entailed their irrelevance to legal aid work, rendering more broadly doubtful the idea that law could order social life. Between the possibility of legal certainty and the practices through which norms were articulated and ordered -- in this case as with the last -- there existed a mutually corrosive tension; this was the entropy of law in Mae Sot in another iteration.

In Barotseland of the late 1930s-1940s, substantive law appeared hegemonic, in Gluckman's telling. If not hegemonic, it was at least a dominant epistemology, supple *and* authoritative enough to match the gamut of peculiar, individual, random situations that came up in social life. *This*, perhaps more than its "flexible uncertainty," accounts for the claims that Gluckman makes about the legal system as an epistemology of sureity. In Mae Sot, as in all of Thailand, law was not hegemonic, as I have maintained over the course of the past five chapters (see also Loos 2006, Engel and Jaruwan 2010)[2]. And, actors were keen, for various reasons, to maintain its position as a subordinate normative order. This in turn relates to the fact that law failed in Mae Sot to produce categorical knowledge and certainty; its claim to epistemology was not robust. If it could be called an epistemology, it would be one of uncertainty, unknowing and confusion. While readers rightfully may object that the comparison of Barotseland in the colonial

[2] See also Comaroff and Roberts for a critique of the idea that law is an autonomous sphere and that " 'law' must be regarded as no less than an irreducible phenomenal category" (1981, 10).

period to a border town in Southeast Asia seventy years later is too arbitrary as to be meaningful, I pursue it only to make stark the following point: uncertainty in and of legal concepts does not necessarily enable certainty in law.

All the same, the uncertainties, confusions, doubts, and ambiguities produced through the use (and marginalization) of law in Mae Sot were productive. They had "social value," in Gluckman's terms. This was because of the way in which actors used law and located it relative to other normative orders in the town, including race, karma, duty, 'satisfaction', manners, and exchange. Its ability to regulate, classify or categorize practice was undermined, but it became a prop. It provided an atmosphere, not a *corpus juris*, for negotiation, dispute resolution, exchange and even place-making. It signaled a connection with state discourse and with other prominent modernizing agencies in town. A person's association with its luster, whether in mediation with their employer or in a precarious interaction between the police and clinic clients, could help resolve conflict. The prominent semblances of a legal regime in Mae Sot -- the signs, the bridge, the checkpoints, the customs house -- were chronotopic, as suggested in the introduction, navigating present and future configurations of place, law and capital. In this sense, law was caught up in dramatic scene-making even if it was not efficacious in its own substantive terms. This was the face of law as it became part of the anti-categorical, a formation that was itself straddling instance and norm. Seen from this perspective, where the regularizing capacity of law was devalued and atmospheric qualities were prioritized, and then nested within a broader "normative repertoire" (Comaroff and Roberts 1981), the flexible uncertainty latent to this interpretative process -- evident both in the definition of law and in the nesting of it -- *did* allow for the construction of predictability. It was the certainty of anti-categoricality, not of law per se, that was validated in these instances.

For anthropologists of law, some of the turns articulated here may feel familiar. After all, Bohannan, writing soon after and in some ways against Gluckman, disagreed with the idea that law was distinct from other norms (1957). Comaroff and Roberts write that we can understand how different normative frameworks are "systematically related," "transformations of a single logic, whose varying realizations are expressed in the articulation of the relations and intentions that shape any particular action" (1981, 244). I followed this mandate throughout the dissertation, situating the "legal" not as an autonomous domain, but one that is in dynamic relation with other forces and norms that organize social life. This was what allowed me to see the anti-categorical -- "a single logic" "with various realizations."

I've rehearsed these arguments in order to emphasize the role of instability, uncertainty and ambiguity in the outcomes of normative processes and, particularly, in the experience of these processes as fixed or not, determinative or arbitrary, functional or confusing. I've zoomed in on zones of uncertainty in order to close this dissertation with a critical reflection on one mode of theorizing capitalism, the state and law and to discuss my analysis vis a vis this critique. This mode starts from a transcendent concept or process -- neoliberalism, for example, governmentality, sovereignty or some combination thereof -- that, in its theorization, is attributed its own momentums and logics. It then considers how the mandates of the concept or process restructure and rework political possibility and social relations from the point of view of these mandates.

Harvey's work on neoliberalism is exemplary of this approach (Harvey 2002, 2005). He writes, "neoliberalism has swept across the world like a vast tidal wave of institutional reform and discursive adjustment" (2002, 23). It asserts freedom as the necessary condition for markets to work and as an ideological pretext for its political-economic policies. The tidal wave metaphor

is useful to Harvey because it allows him to tell a global history about the way in which neoliberalism "creatively destructs" that which it encounters (ibid., 33). In its wake, states *are* restructured (ibid., 26, emphasis added) and a global set of rules *is* imposed (ibid., 23, emphasis added). Harvey grants that politics, history and culture influence how neoliberalism unfolds (see 2005, 31, 13), but ultimately subsumes politics, history and culture under the "evolutionary dynamic of neoliberalism," and concludes that the real business of neoliberalism in any case is to restore "class power" (2002, 29-32; 2005, 31). From this perspective, neoliberalism has internal mechanics and motivations that are extended in time and space. These extensions may hit roadblocks, in the form of various political conditions, but are not substantively defined or interrupted by them.

Ong's work offers a seemingly different tack to theorize neoliberalism, but nonetheless recoups aspects of the approach described above (2000, 2006, 2007). Ong argues that neoliberalism remakes citizenship and sovereignty, both of which make it possible to mediate new market relations. Towards a redefinition of the former, neoliberalism, for Ong, appears as a biopolitical mode of governing, one that aims to produce populations who discipline themselves in line with market requirements of predictability and efficiency (2006). At the same time, neoliberalism appears as a mode of sovereignty, in which the power of the exception to banish some and to include others gives states (and corporations) the authority to mark parts of the population and the national geo-body in line with neoliberal requirements (2000, 2006).

While Harvey and Ong may not recognize themselves as carrying out the same broad approach, they both nevertheless implicitly theorize a managerial, ordering, agenda setting role

for capital and the state[3], respectively. Harvey declares that neoliberal restructuring imposes rules. Ong declares that states recognize different segments of its worker-population and its national territory according to neoliberal principles. Because law, policy, and other normative or regulatory orders either are designed to or tend to fall in line with the neoliberal imperative in these accounts, it is all too easy to conclude that what neoliberalism wants, neoliberalism gets; what it mandates, happens; what its logics enunciate is what is promulgated. Ingrained here is an anti-historical theory of cause and effect smuggled into an epochal theory of capital.

In the space between 'creative destruction' and the imposition of new neoliberal norms or between the government and apparatuses that parse people and space, Harvey and Ong do acknowledge a space for unpredictability, agency and politics. However, in their emphasis on the effects of neoliberal forces and logics, they flatten this space, reducing its definitional import, while circularly noting the depoliticizing effect of neoliberalism. Ingrained here is also an implicit stance on critical inquiry that says that critiques of capitalism are best apprehended through a study of its abstracted logics and transcendent processes --- through its own ideologies, oddly.

This dissertation adopted an entirely different starting point. For law, policy, and other normative and regulatory orders are never inert prostheses to other projects, nothing is totalizing

[3] Relying on notions of assemblage (as opposed to structure), unfolding and contingency, Ong insists that her work does not make a "claim of determination by a global form" (2007, 4). This, for Ong, sets her theory apart from those of scholars like Harvey. Yet, Ong's reliance on phrases like "neoliberal logic" and "neoliberal strategy" and her repeated definition of both in terms of calculative logics that produce self-governing subjects and populations that can be managed in the service of capitalism belies her claims about the theory. If calculation and optimization characterize neoliberalism a priori, it is hard to see how Ong can completely disavow its determinism. It might be more reasonable to embrace a measure of determinism and to argue instead that neoliberalism is not overdetermined. After all, she convincingly argues that neoliberal logics are highly adaptable and are insinuated or taken up in myriad political, geographical and cultural contexts.

or totalized and agency does not stop where structuring processes end[4]. At the very least, in this conclusion, we've seen from Gluckman and others that uncertainty and indeterminacy are at the heart of the possibility of applying rules to matters. This calls for interpretation and adjudication -- a hermeneutics -- to *produce* order. Furthermore, from my description of Mae Sot, it should be clear that uncertainty, confusion and ambiguity were created through the citation and management of legal rules, which recursively unmade them, evacuating them of their propositional capacities. In the life of law in Mae Sot, these moments of indeterminancy intersected with historical trajectories, coercion, hierarchy, capital investment and ideologies of capital, other normative structures, theories of change and causality, agency, and projects of place -- all sites and stakes through which (capitalist *and* other) order, politics and inequality were articulated or reproduced, howsoever partial and fragmentarily. This may not be a satisfying narrative of capitalist logics or dialectics working themselves out consuming and mediating all in their path, but it captures the heteroglossia that characterized my research object. And, this was what I sought to depict in this dissertation.

[4] I borrow this phrasing, with thanks, from John Kelly.

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