Financial Market Lobbying

A New Political Space for Activists

THE CORNER HOUSE

When Thailand's currency collapsed in 1997 and triggered an economic crisis that rippled through the rest of South-East Asia, Russia and Latin America, Mary Jo Paoni, a secretary from Cantrall, Illinois, had no reason to suspect that her pension would be affected. Unknown to Mary Jo, however, her future security rested on the success or failure of a housing development in Bangkok. Her US-based pension fund had bought shares in two investment funds, the Thai International Fund and the Thai Euro Fund; between them, these two funds had bought more than one million shares in Bangkok Land, a property company which had gone bankrupt in the wake of the currency collapse.

For the *New York Times*, Mary Jo Paoni's story illustrates the way in which globalisation gives "just about everybody some tiny financial stake in everybody else."[1] Exaggerated and Northern-centric as this claim is – only a tiny minority in the developing world and relatively few in the Northern industrialised countries have the pensions and investments that give them such a stake – it nonetheless highlights the growing inter-connectedness of world financial markets.

Such connections reflect profound structural changes within the global economy over the past two decades brought about by:

– new international trading rules, such as those of the WTO and regional trade agreements, including NAFTA and the South American Mercosur;

– deregulation of financial markets, particularly the lifting or easing of restrictions on capital moving in and out of countries;

– privatisation of state-owned and -run enterprises and subsequent greater private investment;

– increasing interdependence between companies through mergers and acquisitions; and

– new computer technologies enabling capital to move around the world instantly 24 hours a day.

These changes have altered the relationship between governments, communities and corporations – and dramatically reduced the political opportunities for public interest groups striving for social and environmental justice.

Increased use of private sector funding (*see* Box, p.2) has meant that lobbying governments or representatives of multilateral development banks to achieve social and environmental reform is often less effective than it used to be. Demands for governments to direct economic activity are often rebuffed with the argument that stricter controls on industry undermines corporate competitiveness. Many free trade

1. Kristof, N. D. and Sanger, D. E., "How US wooed Asia to let cash flow in", *The New York Times*, 16 February 1999.

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agreement rules restrict states from adopting progressive social, economic or environmental legislation, while the private sector, unlike many governments and multilateral development banks, generally does not have legally-binding standards requiring it to take account of the social and environmental impacts of its investments.

Human rights, environment and development groups the world over are lobbying for such standards and renewed government and public control. But, in this new political climate, they have also had to come up with new ways of influencing the social and environmental outcomes of private sector development projects and investment in both North and South.

Mary Jo Paoni's part ownership of a Bangkok housing development ironically provides them with one arena which they are proving increasingly adept at using: the financial markets themselves.

The Growing Power of the Private Sector

The private, for-profit sector has been one of the chief political beneficiaries of the deregulation of financial markets and the privatisation of state enterprises that have accompanied globalisation.

Mergers, acquisitions and corporate alliances have created new mega-corporations. The gap between the revenue of the largest firms and those of smaller nation-states, meanwhile, continues to grow. Today, the sales of the world's 10 biggest companies exceed the combined Gross National Product (GNP) of the world's 100 so-called "least developed" countries – including all countries in Africa.

With the state withdrawing from the provision of infrastructure and services in many Southern and Eastern European countries (often as a result of International Monetary Fund conditions), the private, for-profit sector is also playing an increasingly dominant role in development. And although the bulk of cross-border flows are among the rich industrialised countries, private investment to the most profitable sectors of the "emerging markets" in Asia, Latin America and Eastern Europe has surged – Africa has largely been sidetracked.

Roads, large-scale hydroelectric dams and power plants used to be largely planned and commissioned by public authorities and paid for with public money, often in the form of loans from Multilateral Development Banks (MDBs), such as the World Bank. Now, instead of funding projects through states, the MDBs are funding private companies directly or providing guarantees on their investments.

The change is reflected in the growth of private capital flows to developing and transition countries. In 1992, public financial flows to the South and Eastern Europe were still greater than private capital flows. But by 1996, private flows were more than five times larger. In the past decade, nearly US$2 trillion in private capital (as opposed to official development aid) has flowed from richer Northern countries to favoured Southern and Eastern European countries in the form of equity, bond investments and commercial loans. While the private sector financed about 10-15 per cent of infrastructure investments in the Third World in the mid-1990s, the World Bank predicted that private investors could soon be providing as much as 70 per cent. Today, private money funds industrial facilities, mines, dams, ports, toll roads, coal-fired power plants, nuclear facilities, plantations and dams. Many of these projects have considerable adverse social and environmental impacts.

Lack of Regulation

The growing power of the corporate sector has not been matched by efforts to regulate its environmental and social practices. In fact, the processes and policies associated with globalisation and free market reform have actually weakened the regulatory capacities of state institutions in many countries.

Few companies monitor the social and environmental impacts of their investments and most lack rudimentary environmental "due diligence" procedures – the background research that a prudent investor, lender or company should carry out before making a business decision.

Less than 50 per cent of the companies surveyed by the US National Wildlife Federation in its 1998 global survey of the financial services industry "always" or "usually" require that environmental due diligence be performed on lines of credit, project finance transactions or equipment financing. The survey found that banks' monitoring of a borrower's environmental performance had increased, but that the banks rarely did anything with the information they gained other than requesting the borrower to "fix the problem".

When environmental risks are considered, the focus is typically on the risks that the environment poses to the investment – not on the risks that the investment poses to the environment. The risks that an earthquake would pose to a chemical factory would be assessed, for instance – but not the risks that the factory's pollution would pose to the locality.

Lobbying Financial Markets

Lobbying financial markets has become a major tool for halting or lessening the impact of environmentally damaging and socially inequitable projects.

Financial markets value and price economic activity through share prices and interest rates, effectively determining a company's viability (*see* Box, p.4).[2] Players in this market include commercial and investment banks; institutional investors such as pension funds and insurance companies; financial analysts; fund managers; ethical investment funds and public finance institutions such as export credit agencies. All exercise immense power over the private sector. Through their shareholdings, financial institutions own most of the companies whose shares are publicly bought and sold on national stock exchanges.

Pension funds and insurance companies, for instance, together hold more than half the cash value of all UK shares.[3] Collectively, they can appoint company directors and even tell companies what to do – including requiring them to institute rules that would screen out environmentally and socially destructive projects. Such institutional investors are also sources of money that companies need to expand or undertake new projects.

Speculation frames the mentality of financial markets, giving rise to two prime motivators: greed and fear. The resulting preoccupation with weighing up financial risks provides a series of leverage points that campaigners can use to their advantage. Campaigns can highlight key risks – financial, political, legal and non-financial – and "translate" environmental and human rights concerns into arguments that exert pressure on investors. The arguments that count in financial markets are not those based directly on ethics or environmental self-interest ("investing in this company means that your children are more likely to get cancer"), but on financial risk ("law suits arising from cancer cases will cost this company a lot of money and reputation, so your investment won't earn as much as you thought").

When it comes to weighing up the pros and cons of a potential investment, number crunching, rather than political ideology or vested interest, is believed by many analysts to determine decisions. Politicians, too, find it hard to argue with supposedly neutral markets: to do so suggests a disregard for "sound" financial policies.

Bringing pressure to bear on financial institutions and markets can thus have a major influence over corporate behaviour, infrastructure development, and the environmental and social outcome of investments. Using a variety of tactics – from consumer boycotts to shareholder actions – public interest groups have used their power within the retail and financial markets to challenge damaging private sector projects. They have pressured companies to address environmental degradation, human rights, child labour and workers' rights.[4] Directing campaigns at major institutional investors such as pension funds, they have even succeeded in persuading some companies out of environmentally-destructive sectors such as large-scale hydroelectric dams.

Public Interest Strengths and Financial Market Weaknesses

Many financial market campaigns have been successful because, although financial institutions and the corporations they own wield immense economic and political clout today, they are often weak and

2. Such pricing signals also influence and constrain the actions of governments: exchange rates, for example, send a strong signal to a government on the merit of its key economic policies, such as public spending.
3. Pension funds and life insurance companies tend to buy shares for long-term investment. They collectively own a large proportion of the shares of most major large companies. Michel Aglietta points out that "companies are controlled to an ever-diminishing extent by their own organization . . . and to an ever-increasing extent by pension funds". Pension funds alone now control assets equivalent to the total value of shares on the world's three leading stock exchanges (London, Tokyo and New York). Employees' pensions funds may be larger than the capital value of the employer for which the employees work. The pension fund assets of British Airways, for instance, are believed to be four times greater than the market capitalisation of the company itself. Pension funds are particularly important in the United States and Britain where legislation, particularly tax breaks, has allowed them to develop, but they are also significant in the Mercosur countries of South America (Argentina, Bolivia, Brazil, Chile, Paraguay and Uruguay), The Netherlands and Japan, and are beginning to make inroads into the main European economies. This financial system favours the top 100 or 500 companies in a stock exchange at the expense of the majority of medium and small companies. Small businesses – those employing fewer than 250 people – make up 95 per cent of Europe's companies and are responsible for the bulk of employment, yet find it hard to obtain finance. *See* Blackburn, R., "The New Collectivism: Pension Reform, Grey Capitalism and Complex Socialism", *New Left Review*, no. 233, January/February 1999, pp.3-65; Aglietta, M., "Capitalism at the Turn of the Century: Regulation Theory and the Challenge of Social change", *New Left Review*, no. 232, November-December 1998.
4. Consumer activism within the retail market has a long history: boycotts on sugar, for example, were a key feature of anti-slavery campaigns in the 19th century. By contrast, activism within financial markets dates back to the 1970s and 1980s, when the anti-apartheid movement developed shareholder campaigns to push for companies to disinvest from South Africa.

vulnerable in areas where public interest groups are strong.

The power of public interest groups lies primarily in their ability to reflect and influence public opinion. They tend to have better links to the public than many financial institutions, and are often organised to channel public pressure. The Internet and other new technologies have dramatically increased their ability to organise internationally and to build cross-sectoral alliances. Financial institutions, particularly investment banks and pension funds, remain relatively insulated from public opinion and frequently lack the political infrastructure to anticipate and assess interventions that NGOs are well-placed to organise.

Consumer boycotts are one example. In the past, such boycotts were largely aimed at denying markets to retail companies by reducing demand for branded products. The boycott of Nestlé products because

Financial Markets

Financial markets give companies who want money an opportunity to link up with potential investors – those who have money and are prepared to make it available in the expectation that they will get back more money at some point in the future. Financial markets thus always involve an element of gambling or speculation. The job of financial market activists is usually to persuade lenders and investors to place their money in one company rather than another, or to attach conditions to their investments.

Most large companies' funding comes from their "shares" or "common stock". In this system, ownership of a company is divided into shares. Usually, all shares are of equal value, which is why they are also called "equity". Shareholders thus own and control the company, at least nominally. They elect the directors and receive a share of the profits, in the form of dividends.

Company shares are bought and sold by financial institutions. The biggest shareholders tend to be investment institutions, such as pension funds and life insurance companies. They tend to buy shares for long-term investment, and collectively own a large proportion of the shares of most large major companies. Specific decisions about what shares to buy and sell, and when to buy and sell them, are generally made by fund managers – organisations and individuals specialising in equity market investment.

Stockbrokers and investment banks buy and sell company shares on a short-term basis, helping to establish the share price. Their analysts research companies, providing commentary for other investors. Stockbrokers and investment banks are closely involved when a company offers shares for sale to the public or is involved in a merger or acquisition. They "sponsor" companies when they are first listed on the stock exchange; market the company to investors; advise on financing strategy; and buy shares with the intention of selling them on.

Public Companies

Most large companies are "publicly listed" or "quoted" on a stock exchange. This means that:

- Their shares can be bought and sold by the general public (thus they are sometimes called "public companies", although this does not mean that they are state owned).
- Share prices change constantly.
- The companies have to abide by the rules of the stock market. Typically, this means that companies must disclose any information that could affect their value so that everyone can see the information at the same time and no one gets an unfair advantage.
- Companies have to produce a detailed annual report and accounts, as well as interim reports every three or six months.
- The company must hold an Annual General Meeting (AGM) open to shareholders, at which directors are elected, and reports and accounts put to a vote. This meeting can be used as a forum to question the management of the company.
- The company can raise extra finance by issuing extra shares – and can also buy back its shares if it wishes to.
- Although companies obtain their core capital in the form of shares, they can also raise money by borrowing from banks, or by issuing bonds. A bond is a tradable form of a loan whereby the company agrees to pay the buyer of the bond a certain amount of interest every year, and to repay the bond after a specified number of years (*see* Box, p.14)
- The company is vulnerable to takeovers. If another company or organisation can acquire more than 50 per cent of the company's shares, then it will have effective control.

Private Companies

Most small companies, but also some large ones, are private companies – they are *not* listed on the stock exchange and their shares cannot be bought and sold by the general public. This makes it harder to influence them via the financial market.

of the firm's continued violation of the WHO Code governing the marketing of baby milks is one of the longest-running.[5] Other boycotts have influenced investments in whole sectors of the market, not just specific companies or product lines, as witnessed by the rejection of genetically-engineered foods by consumers in Europe and elsewhere. Boycotts of financial institutions that depend on their reputation and "brand name", such as commercial or High Street banks and pension funds, can also be effective. The successful campaign by gay rights groups against the Bank of Scotland is a case in point (*see* Box, p.8).

Public interest groups have an additional advantage: their links with community groups in both North and South often give them insights into local conditions that are not available to most financial institutions. Deployed by alliances between local communities and NGO lobbyists, that privileged local knowledge can influence companies and investors alike. A company's reputation, for example, is of major concern to investors. Revelations that a company is involved in human rights abuses or complicit in degrading the environment can knock millions off the value of its shares. The financial analysts who advise shareholders generally lack the institutional capacity to ferret out such abuses by undertaking detailed research into the day-to-day, on-the-ground operations of the companies and projects in which they invest, relying instead on information garnered almost exclusively from within the financial sector itself.

Companies are often in a similarly disadvantaged position themselves, relying exclusively on assurances from plant managers or suppliers that pollution permits are being observed or that working conditions are not in breach of corporate commitments or of national and international law. They are thus vulnerable to well-documented case studies that bring the concerns of affected communities to the attention of financial analysts and the general public. As a spokeswoman for UK furniture store Heals remarked when confronted by Greenpeace research tracing timber sold by Heals to illegal logging operations in the Amazon, "I'm shocked. We don't want to be involved in this. Perhaps our due diligence is rubbish."[6]

In addition to enabling campaigners to place direct pressure on companies – not least by revealing deficiencies in their corporate governance – passing on local knowledge to analysts (assuming that this meets with the approval of partners in affected communities) can also help create potential allies within the investment community, leading to a two-way exchange of information that can benefit both parties.

"We still hear a lot about multinational companies, but these typically command fewer assets than – and in crucial respects are dependent upon – the pension and insurance funds and their managers."

Robin Blackburn,
"The New Collectivism: Pension Reform, Grey Capitalism and Complex Socialism",
New Left Review 233
January/February 1999.

Increasing Consumer Awareness

The free trade agenda may have brought companies and investors new markets, but it has also created more active consumers aware of environmental and social issues and prepared to demand that they be taken into account in commerce and investment. With governments unwilling or unable to regulate, says the director of the UK Consumers' Association, Sheila McKechnie, consumers are using their purchasing power to control corporate behaviour via the market – a trend also noted by the Henley Centre, a prestigious management think-tank.[7]

According to research conducted by accountants PriceWaterhouse-Cooper, four out of ten people around the world boycotted a company for ethical reasons during 1999.[8] In the UK, the figure was lower – 3 out of 10 – but, as the *Financial Times* notes, that still "equates to

5. For details of the Nestle boycott, *see* Baby Milk Action: http://www.babymilkaction.org/. *See also* CornerHouse Briefing 26, *Corporate Responsibility or Accountability?* February 2002.
6. Browne, A., "Trail of rainforest wood from the Amazon to the High Street", *The Observer*, 23 July 2000. "Due diligence" refers to the background research a prudent investor, lender or company should carry out before making a business decision.
7. Vidal, J., "Power to the people", *The Guardian*, 7 June 1999.
8. Ward, A., "Squirming in the ethical spotlight", *Financial Times*, 13 July 2000.

about 12 million consumers acting on their concerns".[9] In addition, while a majority of those polled thought that companies working in countries with poor human rights should use their influence to campaign for improvement, one in five believed that the companies should simply refuse to work in such countries. A recession may alter some of the dynamics of these concerns, but they are unlikely to go away.

Although such polls should be read with caution – making a decision to purchase ethically may amount to no more than, "Mmmm, I'll give that fair trade coffee a try to see what all the fuss is about" – they point to potential new opportunities to change corporate practice. Where the actions of individual consumers are coordinated – and with the Internet, they increasingly are – consumers have proved themselves highly effective at expressing their opposition to corporate practices that harm people or their environment.

When governments are unwilling or unable to regulate, lobbying companies to behave socially can fill the vacuum in some cases.

Fast food chains; clothing stores; banks; medical research laboratories; oil, car, agribusiness and construction companies – all have been scrutinized. In Europe, concerns over food safety, tropical deforestation, child labour and climate change have prompted consumer boycotts which, combined with other lobbying efforts, have helped pave the way for bans, policy changes and new legislation.

Companies which fail to take account of increasing consumer activism can find that their markets evaporate and their share price nosedives. "What we fear most," a Shell executive said in 1998, "is not new legislation but consumer revolt."[10]

The consumer backlash against genetically-engineered foods, for example, helped cause the 11 per cent dive in Monsanto's share price between March to August 1999.[11] "Monsanto massively misconceived what sustainability is all about," said the director of environmental consultancy SustainAbility, John Elkington. "Corporations and financial institutions are now having to learn fast. And it's this which has the potential to profoundly reshape markets."[12]

Globalisation Increases Corporate Vulnerability

Globalisation and new computer technologies have brought new markets to companies – and have also made it harder for business to hide its violations of ethical standards or threats to the environment. Moreover, the very global inter-connectedness of companies means that a consumer backlash in one part of the world can be difficult to contain. Lean production strategies have also made companies more vulnerable: the more global that companies are in their operations, the more local outsourcing operations there are to "go wrong", sparking possible consumer revolts globally.

"If there's a problem in a company's global supply chain, all it takes is one modem in Indonesia to alert the world about it", says Aron Cramer, vice president of San Francisco's Business for Social Responsibility, which advises Gap, General Motors and other companies on their practices abroad. "People's expectations of the social and environmental role of businesses have absolutely changed in the past five years."[13]

That view is echoed by Rushworth Kidder, president of the US-based Institute for Global Ethics:

> "Increasingly there is no place to hide. What I see happening, especially in the US, is that every company that has any kind of international activity has attracted around its periphery a bunch of web sites devoted to exposing everything this company does."[14]

9. "Putting initiatives to the test", *Business in the community: A Financial Times Guide*, Financial Times, London, 1998, p.6.
10. quoted in Vidal, J., "Consumer power ready to take on corporations", *The Guardian*, 27 November 1999.
11. Other important factors included market fears that the company had overstretched itself financially through a massive spending spree buying up competitors. *See* Brown, P. and Vidal, J., "GM investors told to sell shares", *The Guardian*, 25 August 1999.
12. quoted in Henderson, C., "Pilgrim in the casino", *Green Futures*, March/April 2000, p.42.
13. quoted in *Business Week*, Global capitalism: can it be made to work better?", special report, 6 November 2000, p.45.
14. quoted in Maitland, A., "A code to export best practice", *Financial Times*, 29 January 1999.

According to a survey undertaken by the UK's Ashridge Centre for Business and Society, 36 per cent of the world's 500 biggest companies had abandoned a proposed investment because of human rights issues, while 19 per cent had disinvested from a country on human rights grounds.[15]

The Rise of Ethical Shareholding

Consumer-driven pressure for change on companies is mirrored within the investment community. Although the control of some assets remain concentrated in relatively few hands, more and more people in industrialised countries own shares in companies, albeit indirectly. In the US, nearly half of all households own shares directly or indirectly, through mutual funds or pension plans, a greater proportion than at any previous time in history.[16]

Small investors acting alone carry little weight in the boardroom; it is the big institutional investors such as pension funds which wield enough clout to change company policy. When united, however, small investors may have an influence disproportionate to their numbers. Professor Jo Lamb of Glasgow University coordinated the "Gas Greed" campaign in the mid-1990s, which mobilised a substantial number of

15. Maitland, A., "Human rights weigh heavier with investors", *Financial Times*, 6 April 2000.
16. Mutual funds (US), unit trusts (UK) and OEICs (Opened Ended Investment Companies, a newer UK and continental European structure) are investment vehicles for retail or small investors rather than institutional investors. The savings of a large number of individuals are pooled together and managed as a single investment portfolio. As investors put their money in or take it out, the portfolio is adjusted accordingly either by making extra investments or by selling shares. The percentage of families with some stake in the market rose from 31.6 per cent in 1989 to 48.8 per cent in 1998. *See* Hill, A., "Wall Street crush: the number of US citizens owning shares is higher than it has ever been but the image of the typical investor remains hard to pin down", *Financial Times*, 30 August 2000.

The Impact of Shareholder Activism in the US

No company has ever taken action because a resolution on environmental, human rights, worker and social issues received a majority vote from its shareholders at its Annual General Meeting (AGM). As a result, some critics argue that shareholder power cannot effectively influence corporate social behaviour.

The ultimate impact of shareholder activism, however, is difficult to determine. Companies may in fact make changes as a result of shareholder resolutions or dialogue, yet not cite shareholder concern and pressure as the impetus for making such changes.

Shareholder activism (primarily disinvestment) certainly played a part in dismantling apartheid in South Africa and persuading US hamburger giant McDonalds to phase out its use of polystyrene packaging. More recently, shareholders have contributed to public pressure on a large US retailer, Home Depot, to phase out wood sourced from endangered forests and other environmentally-sensitive areas, and on the logging company, Maxxam Corporation, to include more environmentally- and socially-conscious board members.

In December 1999, after years of shareholder dialogue and with new corporate leadership, the Ford motor company announced that it would pull out of the Global Climate Coalition, an industry lobby group opposed to cutting carbon dioxide emissions.

Even when shareholder activity does not produce immediate results, the actions of concerned and vocal shareholders are an important tool for social change. First, when shareholders communicate their values and concerns to the companies they own, they exercise ownership responsibility, one of their most important avenues toward making companies more accountable. When investors express their social as well as financial goals, they help make New York's Wall Street or London's City more democratic and responsive to societal concerns.

Second, experience shows that sustained, strategic shareholder activism has influenced corporate culture and social performance. To sustain a campaign, however, investor activists must have a strategy beyond simply filing shareholder resolutions. Experienced shareholder activists view filing resolutions as akin to ringing a doorbell. When you file a proposal, the company comes to the door. Once the door has been opened, the shareholder begins or continues a dialogue, which can create an avenue for corporate change. When a resolution receives a significant number of votes (10 per cent for example), well-governed companies usually feel a need to address the issue. This may ultimately lead to action.

To build a strategic campaign, activists must set realistic objectives for what shareholder activism can achieve. They must share information with and create or maintain an alliance with different social movements. Coordination is particularly important when collecting information for shareholder dialogues and to prevent companies from "dividing and conquering" individual activists through separate discussions.

Source: Friends of the Earth-US, *Guide to Shareholder Activism*, www.foe.org/international/shareholder.

Consumer Power Against Bigotry

It seemed a deal made in heaven. Scotland's biggest bank, the Bank of Scotland, wanted to establish itself in the US. To do so, it teamed up in 1999 with US television evangelist Pat Robertson to form an on-line banking operation that would be promoted via Robertson's 1.8 million-strong Christian Coalition network. For the bank, the deal seemed to offer the opportunity to establish a market at virtually no cost.

Many Bank of Scotland customers, however, were shocked. Robertson is known for his extreme right-wing, anti-women and anti-gay views. "Many of those people involved with Hitler were satanists", he has said. "Many of them were homosexuals. The two things seem to go together." Women have also come in for abuse. "The feminist agenda", Robertson wrote in 1992, "is a socialist, anti-family, political movement that encourages women to leave their husbands, kill their children, practice witchcraft, destroy capitalism and become lesbians."

Gay rights groups urged a boycott of the bank. Edinburgh University Students' Association, whose annual turnover is some £7 million, anounced that it was considering withdrawing its account from the bank. The Scottish Trade Union Congress threatened to withdraw the business of 100,000 members who held a Bank of Scotland affinity card. The ecumenical "Action for Churches Together in Scotland" said it was considering closing its account, stating that Robertson stood for everything its member churches were against.

Others who did not have accounts with the bank also found ways to bring pressure to bear. Edinburgh City Council wrote to the bank, deploring its actions. "People do not want the name of a major Scottish institution associated with the politics of bigotry", said Council leader Keith Geddes. Across the border in England, Duncan Lustig-Prean, a London-based property firm, said that it would not be involved with Bank of Scotland mortgages.

Ethical investors, charities with credit card ties with the bank, and ordinary Bank of Scotland customers joined the campaign, selling shares, withdrawing investments and closing saving accounts. The Edinburgh-based Ethical Investment Co-Operative sold its shares in the bank, which had until this point a favourable rating amongst socially-responsible investors.

Stockbrokers Rathbone announced that they would sell their holdings if the bank responded to its concerns with "purely commercial justifications".

As the boycott began to bite, the Bank of Scotland's share price rapidly tumbled. The crunch came when Robertson himself responded to critics by lambasting Scotland for "tolerating" homosexuals.

The ensuing outcry compelled the bank to cancel the deal, by which time over 500 customers had moved their accounts.

The bank's board survived a heated Annual General Meeting, but the bank's reputation had been severely dented. Many financial analysts argue that restoring that reputation will take intense effort.

small shareholders to support a resolution challenging high pay awards to the executives of the UK's privatised national gas company, British Gas. Companies are also fearful of small investors acting together to disinvest rapidly from one sector because of adverse publicity or a sudden volatility in the market.

Many members of public interest groups and trade unions are themselves shareholders in major companies with poor environmental or social rights records, via their occupational or employer's pension funds. Mobilised into effective shareholder action groups, they can exert considerable political power within financial markets. Indeed, shareholders overall are a largely disorganised and untapped constituency that could prove a potent political force for progressive social activism.

Unsurprisingly, major financial institutions are increasingly preoccupied with the state of mind, behaviour and even the identity of the average US retail investor. Research into the behaviour of today's investors consistently reveals that they are concerned about the environmental impacts of their investments. In the UK, for example, a National Opinion Poll survey conducted in August 2000 revealed that three-quarters of occupational pension holders want pension funds to use their influence to encourage socially responsible behaviour by companies. One-third of those interviewed were prepared to accept socially responsible investments even if they damaged their pension's financial performance.[17]

17. Ward, A., "Pension holders back green funds", *Financial Times*, 23 August 2000.

Although such findings have yet to work their way into mainstream investment practice among pension fund managers – and are resisted by many – they are evidence of a demand for socially responsible investment. Indeed, the value of the UK's 44 ethical investment funds rose from almost nothing in 1980 to £370 million just over a decade later in 1992 before leaping to more than £2.8 billion in 2000,[18] a rise of 35 per cent from the previous year, according to the Co-Operative Insurance Society.[19] Studies by an investment management company, Bank Sarasin, conclude that returns from such investments are "at least comparable with those of more traditional equity investment".[20] Many analysts confidently predict ethical investments to triple again by 2005.

Shareholder actions demanding corporate responsibility are also on the rise. In the US, shareholder resolutions calling for companies to address social and environmental criteria doubled in the early 1990s, reaching 300 by 1996.[21] The value of the investments controlled by investors who have filed or supported such resolutions has also grown from US$473 billion in 1995 to $736 billion in 1997. In the US, moreover, up to $1 in every $10 invested is managed according to socially responsible investment principles.

Socially responsible investment means investing only in companies that meet certain standards of environmental, ethical and social responsibility.

Although socially responsible investments constitute just a fraction of the total investments made globally every year – just five per cent of all funds under management in the UK employ socially responsible investment criteria – such trends suggest fertile ground to press pension funds and other institutional investors, such as insurance companies and unit trusts, to change their investment policies. Because many ethical investors take a long-term view, stock market declines may not affect ethical funds as much as conventional ones.

A Changing Institutional Culture

The cultures of financial institutions are also shifting, not least in response to the successes and failures of campaigns aimed at pushing them in new directions, which can be to the advantage of public interest groups. Although the business of financial institutions is to make money, the major players in the financial markets are well aware that this business has its social and political limits. Stretch those limits too far, and the institutions of money-making become vulnerable to a public backlash that can threaten their very existence. When popular unease over particular institutional practices becomes sufficiently vocal and widespread, financial institutions have historically shown themselves willing to change in order to survive.

Companies and institutional investors have long ignored environmental and social considerations in their investments, but are beginning to respond to growing public concern about environmentally damaging and socially oppressive investment. Anti-capitalist protests – specifically protests against deregulation and privatisation – may be perplexing to many in the business community, but have prompted many executives to rethink their approach to globalisation.

Discussions of the backlash against globalisation are no longer confined to whispered coffee-break conversations in business seminars: whole sessions are now devoted to their implications for future business strategy. As *Business Week* recently commented:

> "Many of the radicals leading the protests may be on the political fringe. But they have helped to kick-start a profound rethinking about globalisation amongst governments, mainstream economists and corporations that, until recently, was carried on mostly

18. Ward, A., "Ethical investing: companies come under pressure to alter course", *Financial Times*, 8-9 July 2000.
19. Jones, R., "What to look for if you go ethical", *The Guardian*, 18 March 2000.
20. quoted in Ward, A., op. cit. 18.
21. Tanner, J., *Statement to ABB shareholders' AGM*, Zurich, 1 April 1998.

> in obscure think tanks and academic seminars. This assessment is badly overdue."[22]

Shortly after demonstrations in Prague during the annual World Bank-IMF meeting, the magazine declared:

> "There is no denying that multinationals have contributed to labour, environmental and human-rights abuses as they pursue profit around the globe . . . The global economy is still pretty much still in the robber-baron age. If global capitalism's flaws aren't addressed, the backlash could grow more severe."

Internally, too, companies and financial institutions are facing pressures to take on board environmental and social issues in their investments. No one likes to be employed by a company that is viewed by the public as a pariah. "The desire to be part of the solution rather than part of the problem is a powerful incentive for change", says one business executive in a major mining corporation. "One is used to taking flak from activists. It is a different matter when one's own children start badgering you over breakfast, lunch and dinner."[23]

Moreover, for a younger generation of middle managers, environmental concerns are increasingly accepted as part of everyday culture. A decade ago, ethical investment staff were seen by financial institutions as "lowly cheap staff to stick in a back room out of the way"[24] and raising questions about the environmental and social impacts of an investment spelled exile from the fast track. Today, however, expertise in ethical investing is no longer such a barrier to career prospects, and may even enhance them.

Such internal cultural shifts have yet to translate into significant change on the trading floor, but some progress is already apparent. Although the vast majority of financial analysts[25] still show a macho disdain for environmental and human rights concerns, a 1997 poll revealed that one in three analysts and institutional investors believe that a company's contribution to society and the communities in which it operates affects its financial performance.[26] Almost half the institutional investors and 38 per cent of the analysts polled also stated that knowing about a company's contribution to society and the community affected their opinion of it.

As for the companies themselves, a survey commissioned by Control Risks, the London-based international business risk consultancy, found that 71 per cent of businesses believe social and ethical factors have become a more important part of their agenda over the past five years. At the same time, 77 per cent say they believe that such factors will be even more important over the next five years.[27]

New Regulations

Despite the lack of legally-binding regulation on companies, some new measures have enabled public interest groups to push for environmental and social considerations to be taken into account in investment decisions.

In the UK, new regulations governing pension funds substantially redefine the framework in which investors will operate in the future. From July 2000, pension funds have been legally required to state:

> "the extent (if at all) to which social, environmental or ethical considerations are taken into account in the selection, retention

22. *Business Week*, op. cit. 13, p.42.
23. Personal communication, June 2000. The executive requested anonymity.
24. MacKenzie, C., Director of the Ethics Unit at Friends Ivory and Sime, quoted in Ward, A., "City funds added value in green credentials", *Financial Times*, 31 August 2000.
25. The analysts' job is to understand businesses and projects, to value them using various models and then to provide fund managers and traders with recommendations as to which shares to buy and which to sell. Without the work of analysts, the financial markets would be guessing even more than they do about the value of the companies. Analysts are employed by a range of institutions. The main activity of those employed by stockbrokers and investment banks is researching and publishing reports on companies which are distributed to their employer's clients and to the press. Many of the larger fund managers, such as pension funds, employ their own in-house analysts. Bank analysts have a different area of expertise: assessing companies' and projects' credit risks.
26. *Financial Times*, op. cit. 9, p.6.
27. Burns, J., "Pressure groups 'have influence on investors'", *Financial Times*, 22 May 2000.

Lobbying Financial Analysts to Halt the Bakun Dam

In the mid-1990s, environment and human rights' groups in Malaysia and elsewhere campaigned to stop construction of the Bakun hydroelectric dam on the Balui river in Sarawak, Malaysia. The dam involved the involuntary relocation of some 10,000 indigenous people and the flooding of 70,000 hectares of land.

The project was abandoned in 1997, although residents of the proposed reservoir area were still moved and are currently living in appalling conditions in resettlement camps. Key to the campaign to halt the dam, at least the originally-planned larger version, was lobbying potential investors and their financial analysts.

The Bakun Dam

Originally planned by the Malaysian government in the early 1980s, the Bakun dam was first shelved in 1990 after a campaign by local indigenous communities and a downturn in the Malaysian economy. In 1993, however, Malaysian Prime Minister Mahathir Mohammed revived it, announcing that the $6 billion project would be privatised and transferred to Ekran Bhd, a Sarawak-based company with strong political connections to the ruling political party. The contract was awarded without tender and apparently without proper costing. The job of clearing the reservoir area of forest and much of the ancillary construction work was subcontracted to companies controlled by Ekran's chair, Ting Pek Khiing.

Several international construction companies bid for the main sub-contract or for parts of it. Besides the 205-metre-high dam, the project also involved laying 1,500 kilometres of overland cable and three or four 650-kilometre-long undersea cables to transmit the power generated from Sarawak to Peninsular Malaysia.

The Swedish-Swiss engineering company, ABB, and the Brazilian construction company, Companhia Brasileira de Projectos e Obras (CBPO), were awarded the main construction package, including the generator contract. In early September 1997, ABB and Ekran fell into dispute over who would pay for cost overruns, and ABB was sacked from the project. Subsequently, Malaysian Energy Minister Leo Moggie announced negotiations between Ekran and a new construction consortium including German company Siemens and Alcatel of France. Negotiations came to nothing, however, as the project soon collapsed in financial ruin.

Lack of Finance

Finance was Bakun's Achilles' heel. From the outset, Ekran was unable to raise the necessary finance on the international markets. Initially, this was overcome by getting state-controlled companies and the Sarawak state government to take major shares in the project, despite assurances from Ekran's chair, Ting, that the project would not rely on government money.

Publication of a report by London-based financial analysts Delphi International highlighting the "abnormal" and "uncontrollable" financial risks associated with the dam fuelled doubts about the project's financial viability. Delphi calculated that the likely returns to investors would be substantially lower than the 11.5 per cent claimed by Ekran. The risks included:

- likely cost overruns;
- possible long-term technical problems with the dam structure;
- reservoir sedimentation and possible shortening of the life of the dam;
- limited insurance cover in the event of a dam failure;
- outstanding legal issues relating to the lack of consultation with affected communities;
- unresolved issues relating to decommissioning; and
- a "substantial risk" that the dam would produce less power than forecast, partly because of uncertainties in future rainfall as a result of global warming.

Investor Campaign

NGOs in Europe and the US, in close consultation with communities in Sarawak affected by the dam and Malaysian NGOs, had already begun to lobby potential investors to reject the project. The NGOs alerted Ekran shareholders to the concerns of environmental and human rights groups in Malaysia about Bakun. They sent letters to 120 major European pension funds, banks and insurance companies urging them not to back the project, tailoring each letter to the specific financial institution. Banks who were signatories to the UNEP Statement on Environment and Sustainable Development, for example, received letters drawing their attention to how the project conflicted with the UNEP statement.

Each new development in the project – for example, a court ruling that the Environmental Impact Assessment had been conducted illegally – was relayed to potential investors, in this instance with a warning that the ruling could carry legal implications for investors.

Initially, NGOs stressed the risks that investment in Bakun posed to the reputation of investors. With the publication of the Delphi report, however, greater stress was laid on the financial risks of the project. The campaign brought the report's conclusions to the attention of key financial analysts, potential investors and journalists.

Cancellation – For Now

In June 1997, investor doubts led Ekran to cancel a share issue to help pay for its stake in Bakun. In September, just hours after Ekran dismissed ABB from the project, Mahathir announced the "indefinite postponement" of the project. The subsequent government bail-out of the project cost Malaysia an estimated M$950 million, including M$390 million to Ekran, M$436 million to financial backers, M$24 million to construction firm Dong Ah and M$100 million to the Bakun Hydroelectric Corporation. In 1999, Ibrahim Anwar, who had been Deputy Prime Minister at the time, testified to a Malaysian court that Mahathir had instructed him "to use Treasury funds to compensate the company [Ekran] without going though proper audit and account."

In 1999, the Malaysian government announced that it would go ahead with a scaled-down version of the dam. All those in the reservoir area of the original dam have already been relocated or are in the process of being moved to a resettlement site 300 miles away. According to a 1999 report by the Malaysian Coalition of Concerned NGOs on Bakun, the resettlement site is grossly inadequate. The new houses are poorly built and culturally inappropriate and none of those relocated have been compensated for the loss of their old homes. A recent report by the Coalition says:

> "It is difficult to adequately capture in words the utter desperation and dislocation being experienced by the indigenous communities forcibly resettled because of the Bakun project."

The revival of the project underlies the limits of financial market campaigning. It tends to be effective in undermining projects only when they do not add up financially.

HydroElectric Dams – High Risk, Low Return

The Bakun campaign did help, however, to persuade ABB to pull out of hydropower in March 2000 because of the significant environmental, human rights and social impacts of large-scale dams. ABB has supplied some 2,200 generators for hydroelectric dams – generating approximately one-fifth of the world's installed hydropower capacity.

Following the investor-focused campaign against the Bakun dam, the Berne Declaration, a Swiss NGO, and the Swedish Society for Nature Conservation (SSNC) commissioned a report in 1997 from Eco-Asia (Consultants) Ltd, a UK-based consultancy, to review the long-term financial viability of ABB's power sector strategy. Entitled *High Risk–Low Return,* the report forecast a shrinking hydropower market for companies such as ABB due to social and environmental protests and a lack of private and public finance.

The Berne Declaration and SSNC ensured that the report's findings were circulated to key ABB analysts, major ABB shareholders and financial journalists. The groups also mounted a shareholder resolution at ABB's 1998 Annual General Meeting, calling on ABB to reconsider its power sector strategy. The resolution was supported by several socially-responsible investors, but rejected by the vast majority of shareholders.

ABB said that its decision to sell its hydropower division was taken on the basis of an overall market analysis, but that it took the growing sensitivity of major shareholders regarding social and environmental concerns "very seriously".

> and realisation of investments; and their policy (if any) directing the exercise of rights (including voting rights) attaching to investments."[28]

As then Pensions Minister Stephen Timms told *Pensions Week* in July 1999:

> "The issues that [the socially responsible investment movement] raise cannot be ignored in a world in which ordinary people, many of whom will be members of occupational pension schemes, are becoming increasingly concerned about the conduct of companies and the ways in which investments are made on their behalf. People want to know how their savings are applied, and I think they are right to do so."[29]

Comments Matthew Harragin, ethical investment director at stockbrokers Rathbones:

> "The ethical dimension now has to be discussed, and once it is officially on the agenda, it is far harder to ignore. Pension trustees who go hell for leather for companies causing pollution or selling arms to all and sundry may have some explaining to do."[30]

Given that pension funds, together with insurance companies, currently own more than half of all UK shares in terms of value, the potential implications of this regulation are profound. As *Green Futures*, a UK business and environment magazine, notes, pension funds and insurance companies have:

28. 1995 Pensions Act, London, The Stationery Office, www.hmso.gov.uk/acts. The legislation is now being copied in Australia and monitored in other parts of the world.
29. *Pensions Week*, July 1999.
30. quoted in "Rise of the green factor", *The Guardian*, 3 June 2000.
31. Henderson, C., op. cit. 12, p.41.
32. Turnbull Committee, *Internal controls: Guidance for directors on the combined code*, Institute of Chartered Accountants, London, 1999. The code updates previous advice to company directors on the measures they should adopt to ensure that shareholders' investments and company assets are properly safeguarded. The code is not legally-binding, but has the backing of the Stock Exchange. Any company wishing to list itself on the Stock Exchange has to abide by it. Publicly-listed companies had to comply with it by the end of 2000. The code can also be seen as pre-emptive move to avoid legislation. A study by the Institute of Chartered Accountants comments, "If companies and the professions do not take a lead in developing realistic and understandable measures for non-financial information, regulators may well force their own ideas on them in the name of the public interest." *See* Houlder, V., "Assurance Mechanisms", *Responsible Business in the Global Economy*, A Financial Times Guide, October 2001, p.20.

> "a key role in making environmental issues a mainstream investment consideration. Both have liabilities that are very long-term in nature, so they should have a strong interest in long-term market performance. And this is even more so given that they have substantial assets invested in index funds, which 'locks them into' their shareholdings."[31]

A further regulatory shift in favour of socially responsible investment comes in the form of a new code of practice issued by the Institute of Chartered Accountants of England and Wales in 1999.[32] The code obliges company directors of companies listed on the UK Stock Exchange to take account of all "significant risks" which could damage the company – and for the first time in a document of this kind, it lists environmental and social risks in addition to strictly financial ones. The code requires directors to put in place internal controls to manage these risks and to review them regularly to ensure their effectiveness. Directors are also required to identify these risks in the company's annual report and to describe the measures taken to address them.[33]

Senior industry figures say that the code might well transform environmental reporting from a PR-driven exercise to a corporate governance issue. And with corporate governance increasingly a major focus of shareholder concerns – the UK Shareholders' Association lists it as its primary concern – shareholder resolutions questioning a company's environmental impact will thus be much more effective.[34]

In October 2001, the British Association of British Insurers (ABI), an umbrella group whose members control one-quarter of the UK stock market, followed suit and announced that its members should identify in their annual reports significant risks to their company's share value arising from social, environmental and ethical factors, and should seek independent verification of their disclosures. Companies ignoring the ABI guidelines would be likely to come under pressure from the large institutional investors. ABI's research points out the risks to shareholder value from human rights abuses and poor treatment of workers, suppliers and customers. This development, again, is new. ABI head of investment affairs Peter Montagnon admitted that "two years ago . . . our members weren't very converned with corporate social responsbility. [It was] seen as extraneous and a distraction".[35]

Institutional Willingness to Change

The more politically-astute financial institutions are aware of the need to adapt. The new pension regulations, combined with public pressure, have already begun to shift practice within UK pension funds. According to research by the consultancy Environmental Resources Management (ERM), 21 of the 25 largest UK pension funds (which between them own one-third of the UK stock market) are intending to vet at least part of their portfolios against socially responsible investment criteria.[36]

Four pension funds – including British Telecom's £29 billion fund and the university lecturers' Universities Superannuation Scheme (USS) – have announced that they will apply a socially responsible investment policy across their portfolios. Others are taking up a new style of pro-active shareholding: fund managers are using their power as large shareholders to engage in "constructive dialogue" with companies, pressing for change from within. If companies fail to address the fund managers' concerns, disinvestment is likely.

33. Henderson, C., op. cit. 12, p.39.
34. A publicly-quoted company must hold an Annual General Meeting (AGM) open to shareholders, at which directors are elected, and reports and accounts put to a vote. Shareholders can question a company's management at an AGM. A shareholder resolution is a motion voted on at a company's AGM by shareholders who either attend in person or vote by post. A resolution places an issue clearly on the company's agenda and informs all shareholders about the issue. It is a means for initiating debate among investors and gathering support.
    Barely half of the UK's 200 largest companies have produced social and environmental reports. Still, UK companies produce more of these reports than other countries. US and German companies are in second and third place respectively. *See* Corporate Register, a directory of published corporate and environmental reports: http://www.corporate-register.com.
    The UK government's current Company Law Review proposes that directors should be required to consider the wider social and long-term implications of their business decisions and that companies should be required to report on social and environmental issues in their annual reports. The Review falls far short of what is needed to make companies more generally accountable to society, but would nonetheless create an opening in the law to challenge companies that fail to take account of wider issues in their business decisions. In October 2001, a government minister suggested that the requirements might be made mandatory for the "most economically significant" companies. *See* Department of Trade and Industry, *Modern company law for a competitive economy*, London, July 2001; Targett, S., "Big investors press for social responsibility", *Financial Times*, 24 October 2001, p.8.
35. quoted in Targett, S., op. cit. 34. A Danish study published in 2001 suggests that the forthcoming Global Reporting Initiative, sponsored by the United Nations Environment Programme and to be launched in 2002, which aims to make environmental and social reporting as rigorous as financial reporting, is taking companies into "de facto non-statutory regulatory environments". *See* Zadek, S., Hojensgard, N. and Raynard, P., *Perspectives on the New Economy of Corporate Citizenship*, The Copenhagen Centre, 2001, cited in Responsible Business in the Global Economy", *A Financial Times Guide*, October 2001, p.5.
36. Crowe, R., "Start of quiet revolution in pension funds", *The Guardian*, 30 June 2000.
37. Chitty, G., "Climate of change", *Green Futures*, November/December 2000, p.21.
38. Ibid.
39. quoted in Crowe, R., op. cit. 36.

Challenging Bonds for China's Three Gorges Dam

In 1997, China turned to the international capital markets to raise funds for the massive Three Gorges dam, which has become a symbol not just of environmentally and socially destructive development but also of the silencing of dissent. This move has triggered an international campaign to persuade Western banks not to back the project.

The dam's huge 400-kilometre long reservoir on the Yangtze river would drown 13 cities, 1,711 villages, 116 towns and 1,600 factories. A minimum of 1.3 million people (latest estimates put the figure at 1.9 million) would be forced to leave their homes. Local farmers claim that they are being cheated of government resettlement funds.

Other critics charge that Chinese authorities have underestimated the land available for resettlement, and that much of the land that is available is unsuitable for farming – concerns that have been acknowledged by China's Prime Minister Zhu Rongji. There are also worries that the tight construction schedule, coupled with shoddy construction work, could lead to the collapse of the dam, risking the lives of millions downstream.

Raising International Capital

Three Gorges is expected to cost at least US$24.5 billion — although some unofficial estimates put the figure at $75 billion. Hesitant to commit its own money, the Chinese Government has sought funding from Western private sector sources through the sale of bonds issued by the China Development Bank (formerly the State Development Bank–SDB).

Initially, the Three Gorges Project Development Corporation in charge of constructing the dam tried to raise money by issuing bonds itself. Its three bond issues failed in the international capital markets, however, because the project was not viewed as commercially viable.

In 1996, however, the then State Development Bank (SDB), whose largest borrower is the Three Gorges Development Corporation, issued general-purpose bonds, only part of which would be used to fund the dam. Nomura Securities from Japan helped underwrite one such bond issue; it withdrew from a second after a leading Japanese critic of Three Gorges, Professor Kazuo Sumi, pointed out to the Japanese Ministry of Finance that Nomura had violated Japanese securities law by not disclosing SDB's relationship with the Three Gorges Project Development Corporation.

In January 1997, a group of six US and European investment banks – Lehman Brothers, Credit Suisse First Boston, J.P. Morgan, Morgan Stanley, Smith Barney and BankAmerica Securities – underwrote a $330 million bond issue for the SDB. Later that year, the announcement that these banks were considering a second bond issue prompted a storm of protest.

Lobbying US Banks

In November 1997, some 46 non-governmental organisations wrote to the US banks urging them to stop underwriting the bonds.

The groups pointed out that the dam's ultimate costs were grossly underestimated as they did not include the costs of resettlement. SDB was committed to lending $3.6 billion to Three Gorges, but there was a strong possibility that it would lose money on the project and not be able to repay bond-holders.

Many of the financial institutions involved in the bond issue are signatories to the United Nations Environment Programme's Statement by Banks on Environment and Sustainable Development. The statement recognises that "sustainable development is . . . an integral part of [the] pursuit of good corporate citizenship" and the need to ensure "openness and dialogue relating to environmental management with all relevant audiences." Supporting the project cast doubts on the banks' commitment to sustainable development and thus their integrity, argued campaigners.

They pointed out that underwriting the bonds would send a symbolic message to the public that the banks were prepared to support the SDB regardless of the social, environmental, technical and economic merit of its borrowers' projects. The damage to the banks' corporate reputation would be profound, as suggested by the wide publicity the campaign was attracting in the financial press.

The second bond issue never materialised, in part due to the financial collapse in South-East Asia in 1997. BankAmerica subsequently adopted a policy to avoid providing direct support to the Three Gorges Project, while Morgan Stanley Dean Witter is considering a similar policy. A boycott of Morgan Stanley Dean Witter's Discover credit card is underway to pressure the bank to implement environmental and social criteria.

Lessons Learned

Peter Bosshard of the Berne Declaration, the Swiss NGO at the forefront of lobbying Credit Suisse, says that:

> "The fact that the Chinese authorities resorted to using an indirect conduit for funding Three Gorges demonstrates that they are sensitive to the impacts which public criticisms can have on private funders."

Doris Shen of the International Rivers Network concludes:

> "Investment firms can no longer abdicate the impacts of their underwriting and financing. Three Gorges Dam is one litmus test for any environmental or social policies they claim to have in place. It is unlikely the firms will change their behaviour until they feel the impacts on their bottom line."

For further information, contact International Rivers Network, Tel: + 1 510 848 1155; Email: **threegorges@irn.org** *Web*: **www.floodwallstreet.org** and **www.irn.org**

All told, the value of UK investment now subject to some form of social and environmental scrutiny has mushroomed from £3 billion a few years ago to £500 billion today.[37]

Moreover, as financial adviser Giles Chitty notes:

> "The nature of [socially responsible investment] has changed. Research has become wider in scope, deeper in penetration and better at identifying themes, which helps make investment policy more strategic and focuses the search for suitable investment."[38]

A number of UK institutional investors are now moving beyond screening out "bad" companies to selecting shares in companies that are best in their sector when measured against specific social and environmental criteria.

The extent to which such policies are transforming financial institutions should not be exaggerated, however. A narrow, short-term focus is still evident in the vast majority of institutional investors. ERM's survey, for example, revealed that many funds do not have the specialist staff to undertake socially responsible investment policies – and that "when questioned further about what their policy of engagement means, many of them didn't know."[39] Nonetheless, the new regulations are a useful first step towards reforming corporate behaviour. The commitment to undertake even minimal screening offers space which public interest groups can use to leverage change, ratchet up standards and publicise their concerns.

Unless business can demonstrate more than fear and greed, they will lose public trust – and not be able to operate.

The Limits of Financial Market Activism

Numerous case studies show that lobbying the major players in financial markets – from banks to pension funds to financial analysts – can enhance the effectiveness and reach of public interest campaigns and thus bring about change.

Many corporate campaigns, for instance, have often been directed primarily at consumers, politicians and the media only. If letters have been written to the company or financial community, they are generally directed just to the company's top management. Considerably more pressure can be exerted by informing and lobbying the company's major shareholders as well. As the chair of one major UK company recently remarked:

> "Sticks and stones may break my bones, but institutional shareholders can fire me. Give me ten nutters throwing eggs at me any time rather than one institution casting its votes against re-electing one of my directors."[40]

A company's name and share price can be seriously damaged if it is perceived by society to be involved in serious wrongdoing.

Financial market campaigning will not completely change the world, but it can bear interesting fruit. It can change the practices of individual companies and private sector-financed infrastructure projects. It can reduce the flow of investments to particular sectors of industry and redirect it to more sustainable sectors. And it can press for financial institutions to adopt new rules that would place sustainability at the heart of their investment decisions.

However, campaigns to pressure companies via their institutional investors also have clear limits and disadvantages. For instance:

- They leave unchallenged the underlying fundamentals of the free market agenda, and may deflect efforts to achieve deeper structural change.

40. quoted in Sharma, A., "Ensuring corporate responsibility: Beyond sticks and stones", *Higher Values*, 11, February 1997, p.17.

Mobilising British Petroleum Investors for Change

Specific or General Recommendations?

Pushing a major global conglomerate to move out of fossil fuels is no small task. But increasing climate instability, linked to the burning of fossil fuels, makes the transformation of oil companies a major international priority.

British Petroleum Amoco is one company that UK Greenpeace has focused on. The value of BP's shares account for approximately seven per cent of the total value of the London stock market, and almost every UK institutional investor is a shareholder.

Many sympathetic financial analysts thought that it would be impossible to gain significant shareholder support for any resolution demanding more than small changes in the company's energy strategy – the more so since BP has gained a reputation as an environmental leader in the oil and gas sector. It has pulled out of the climate-skeptic Global Climate Coalition and introduced a range of environmental initiatives such as investment in solar energy and internal targets for reducing carbon dioxide emissions.

Undeterred, Greenpeace put forward a resolution to BP's April 2000 Annual General Meeting (AGM) calling on the company not only to abandon its half-completed development of the Northstar oil field in Alaska, the world's first offshore Arctic oil field, but also to reinvest the money in solar power.

BP's development of Northstar, estimated to cost between US$0.5-1.5 billion, would not only increase oil industry access to currently inaccessible reserves of oil but would also "increase the rate and magnitude of impacts to Arctic wildlife from the anthropogenic greenhouse effect." Retreating sea ice, the group pointed out in its shareholder resolution, "is already threatening the existence of several Arctic species, including walrus and polar bears."

Greenpeace's resolution emphasised BP's reputation; its past statements on climate change; confusion over the company's investment strategy; technical problems with the Northstar field; and the long-term financial profitability of moving out of oil and into solar.

The Financial Markets Respond

The shareholder resolution met with a mixed reaction from the financial world. Many were dismissive. Others thought it contained important points to consider, although they were uncomfortable with the resolution's wording. The resolution won the support of Pensions Investment Research Consultants (PIRC), the corporate governance watchdog. Prior to BP's AGM, PIRC sent a report to fund managers, urging its client funds to vote for the resolution.

PIRC criticised BP for taking too passive an approach to the need to shift away from fossil fuels and countered BP's claim that there is insufficient demand to justify more investment in solar energy: "A company with the resources and scale of BP Amoco can play an important role in creating the conditions for increased demand."

PIRC acknowledged that there would be a short-term cost in moving away from oil, but insisted that there would be "compensatory gains" for shareholders, principally in BP being able to reposition itself to take advantage of a huge future market in solar.

The Resolution Prompts Action

Greenpeace hoped the resolution would gain the support of at least five per cent of shareholders – it won 13 per cent. It is widely acknowledged that the resolution and its institutional support sent BP a major signal that change was necessary. BP has since been consulting widely with its major shareholders.

Clearly, having a reputation as an environmental leader does not put a company off-limits to shareholder actions. On the contrary, the fact that BP was viewed as environmentally-forward-looking, yet was acting in an environmentally damaging way, meant that its own words could be used against it – in essence, that the company could be accused of hypocrisy. An "unreconstructed" company could more easily deny the relevance of the issues raised.

Yet this strategy also carries a number of risks. The targeted company may abandon its tentative efforts to embrace reform. Other companies may see no point in changing if those who have done so are still targeted.

The resolution might have obtained more votes from shareholders if its wording had been less specific. Because the resolution spelled out what the company should do in one particular area, many shareholders viewed it as usurping the role of management, amounting in effect in a vote of no confidence. This was a step too far for many shareholders. More consultation with leading shareholders before agreeing on the resolution's wording would have generated wider support at the AGM.

Some City commentators argue that the resolution would have attracted still more support if it had called on the management to develop a general policy on biodiversity and against the opening up of wilderness areas rather than a specific pull-out from Northstar. Similarly, a call on the company to develop a complete carbon transition strategy might have fared better than one calling for investment in specific areas.

- Most companies will not respond unless there is already external or internal pressure for change. Even the most successful campaign can only achieve so much unless governments and international bodies are prepared to step in and lay down and enforce legally-binding international rules. As Greenpeace remarks of the campaign for more responsible use of timber: "Logging companies may . . . seek to open up markets which do not demand green products and they may try to supplement losses made by increasing logging rates."[41]
- It is hard to campaign effectively when financing is private or comes from offshore institutions that have no obligation to disclose the names of investors, rather than from public companies whose shares are traded on a stock exchange or from mainstream institutions such as retail banks.
- If the involvement of investors is routine or minor, lobbying them is that much harder. It is also harder if a project appears financially attrractive. Potential investors are most likely to be persuaded to abandon a project when it appears marginal on conventional financial grounds, as long as concerns about social or environmental damage can be "translated" into financial arguments.
- Financial market campaigns often use up resources which could be put to better use elsewhere. Other tactics and strategies – such as consumer boycotts, political lobbying, legal actions or public demonstrations – may be more effective and appropriate depending on a whole range of circumstances.

Pragmatism, if not principles, means institutional investors cannot ignore socially responsible investment.

First, Do No Harm

Financial market campaigns can offer the opportunity for building alliances and coalitions across different countries and communities. Many financial market campaigns arise out of local community opposition to specific projects or out of the experiences of oppressed groups, such as women and minorities. Moreover, although a campaign may not be overtly about such oppression, it can create a means to raise and challenge related issues and to create political space for oppressed groups.

The most successful financial market campaigns are those where groups unite or work in close contact, each creating opportunities for the other. In some cases, several campaigns may focus on a single company. In Britain, for example, construction company Balfour Beatty has been the focus of groups opposed to its dam building and its involvement in privatised rail networks and road building, and of groups campaigning on health and safety issues.

But because financial market campaigns are likely to be focused on Northern institutions probably far removed from the local communities affected, there is an acute risk of metropolitan groups substituting their own agenda and voice for that of grassroots groups (particularly those directly affected by projects), thereby excluding them from campaign decision-making and robbing them of the initiative.

Conflicting agendas can quickly emerge that can do considerable damage to movement-building at both local and international levels. One area of potential conflict lies in the pressure financial market campaigns generate to "engage" with companies. Indeed, pressing a company to negotiate is often a prime aim of campaigns. Institutional investors are unlikely to support the concerns raised by a public interest group unless the investors have discussed the issue with the company itself and satisfied themselves that the company has a case to answer.

41. Greenpeace, *Re-source: Market alternatives to ancient forest destruction*, Greenpeace, London, 1999, p.19.

Local communities, however, may be actively opposed to "dialogue" – either because they have already tried this avenue without success or because they believe it undermines other strategies they and other colleagues are pursuing. They may feel, for example, that civil disobedience would bring greater political gains.[42]

Thus, a key maxim is: "First, do no harm". It is critical that conflicting agendas are fully discussed before launching a financial market campaign. Ideas and strategies should be shared with partner groups, particularly those at the grassroots such as local community groups or trade unions. Where groups opt to lobby investors, it is vital that the campaign remains firmly rooted in the concerns and political realities of those it is intended to support. NGOs also need to be aware that many projects which local communities seek help in opposing require long-term campaign work which can create problems when NGO staff turnover is high or when the focus of work shifts in response to donor fashions.

Although cultural traditions of advocacy and support work vary widely around the world, ensuring a democratic and mutually accountable relationship between public interest groups and affected groups is vital to maintaining trust and good communications, and to ensuring that affected people maintain the initiative. Where a resolution

42. *See* CornerHouse Briefing 26, op. cit. 5

Some Dilemmas of Direct Action

In February 2000, shares in Huntingdon Life Sciences (HLS), Europe's largest contract medical research laboratory, plummeted after institutional investors were lobbied by animal rights' campaigners angered by the company's cruelty to animals. The collapse began when fund managers Philips and Drew, the company's biggest institutional investor, decided to sell its 11 per cent stake in the company. Other investors quickly followed, halving HLS's share price in just one day.

Subsequently, the Royal Bank of Scotland announced that it was pulling the plug on HLS' bank overdraft. Germany's banking group, WestLB Panmure, also severed its ties with the company, resigning as HLS's broker in June 2000. By October 2001, Merrill Lynch, Barclays, HSBC and Credit Suisse First Boston had all sold up.

That same month, HLS planned to relocate to the US and restructure under a US-based shell company, Life Sciences Research, because, by law, investors with less than a 5 per cent stake remain anonymous while the names of those with bigger stakes are disclosed only to other major investors.

Persuasion or Intimidation?

The HLS campaign achieved its aim of deterring investors, at least in the short-term. But the tactics used have caused considerable controversy, not least amongst other pressure groups.

A key feature of the campaign was activists' targeting individual shareholders and fund managers. In most instances, this was peaceful. The British Union for the Abolition of Vivisection Reform Group, for example, wrote to 1,700 investors in HLS, letting them know that, unless they sold their shares within a week, their members would visit them. Several hundred investors sold up: many had been unaware of HLS's use of animals in research and were shocked to learn of its activities.

But the HLS campaign has also been accused of trying to intimidate shareholders. Fund managers at Phillips and Drew and their clients, whose home addresses and telephone numbers had been published by Stop Huntingdon Animal Cruelty (SHAC), received abusive telephone calls, including death threats. The Phillips and Drew building had to be evacuated following hoax bomb calls. SHAC denied that the calls had been made by its members, but did not condemn the practice. "We condemn terrorism. But a bomb hoax is not terrorism."

Naming and Shaming

As John Vidal, environment editor of *The Guardian*, notes, it was probably inevitable that fund managers would sooner or later be targeted personally by direct action groups. Not only do they constitute "one weak link in the chain between companies and unethical behaviour" but, equally important, "there are very few people involved" – just 30 individual fund managers control hundreds of billions of pounds worth of investment.

"Naming and shaming" has a long and effective history. It is part of most campaigns. Without naming the companies involved in a destructive project, there is little prospect of putting public pressure on them to withdraw from it or to change its direction. Likewise, without knowing the names of institutional investors backing such companies, would-be ethical investors are denied the acceptable to local activists is impossible, a financial market campaign should be rejected.

Conclusion

A campaign directed at financial institutions is just one of many options available to activists. Many are rightly sceptical of the extent to which such a campaign can bring about lasting change. There is a strong case, however, backed by experience, to argue that financial markets can and do provide some useful political space.

The case for the growing importance of financial institution campaigning has been made – unintentionally – by one of those most opposed to socially responsible investment. *Financial Times*' journalist Martin Wolf writes that "corporate social responsibility . . . is not merely undesirable but potentially quite dangerous".[43] He points out that implementing the "triple bottom line" of the three aspects of sustainable development – economic, social and environmental – would transform the way businesses operate, and involve deep shifts in corporate culture, values, decision-making processes and behaviour. As a result, he says, it would also transform the market system.

43. Woolf, M., "Sleep-walking with the enemy", *Financial Times*, 17 May 2001.

information that would enable them to act on their investments.

There is a strong case, too, for making private investors and directors of companies personally aware of the impacts of their investments. As John Vidal reports:

> "The head of a large Japanese corporation which was responsible for much deforestation in the Far East was reportedly so shocked about the scale of what his company was doing that he immediately changed the policy."

Dangerous Ground

But in crossing the line between "public" and "private", the "naming and shaming" of individuals rather than institutions courts a dangerous politics. Instead of protest being a means of engaged persuasion, it can rapidly descend into the intimidatory intolerance of the lynch mob. A letter to one HLS employee read:

> "Do you want a petrol bomb shoved through your letter box? Do you want to have the living shit kicked out of you? If the answer to these questions is 'no', you had better quit HLS."

Such intimidation "works" because it affects not only the targeted individuals but also others in their immediate circle: children, neighbours and relatives are affected even though they have no involvement in the activities being challenged. In the process, opportunities for debate and reasoning are closed down. Fear becomes the basis for action and democracy loses out.

Focusing on individuals rather than institutions also runs the risk of trivialising the issue. HLS does not abuse animals because its directors are depraved. It abuses animals because there are no institutional rules to prevent it from doing so; because many conditions support making money out of the practice; and because a wider culture tacitly approves. Bringing in new rules to change the framework in which companies and investors operate requires campaigns that seek to change not only personal behaviour but also national laws and the institutional culture of financial and other institutions. Tactics that lead to socially-responsible investment's being identified with extremism are, at best, unhelpful to such efforts, and at worst, counter-productive. Not only do they scare off potential allies within financial institutions. They also justify resistance by the old financial guard.

Undermining Other Campaigns

Non-violent direct action, which uses the theatre of dissent in innovative ways to attract attention to a cause and draw in support, has long proved its effectiveness as a tool for change.

But where direct action encourages violence – or is effective only because it is violent – it is invariably socially regressive, not least because it invites repressive responses which close down the opportunities for peaceful democratic protest. In the wake of the HLS campaign, for example, the pharmaceutical industry called for new legislation to clamp down on what it called "economic terrorism". HLS has urged the British governemnt to bring "extremist animal rights groups" within the remit of national terrorist legislation. Company law may also be changed to make it harder to obtain information about shareholders and directors.

The lesson may be not that direct action achieves what "moderates" fail to achieve, but that violence tends to play into the hands of reactionaries.

This briefing is an edited extract from *The Campaigners' Guide to Financial Markets: Effective Lobbying of Companies and Financial Institutions* by Nicholas Hildyard and Mark Mansley, published by The Corner House, October 2001.

The *Guide* focuses on the financial institutions that dominate the UK and US markets. It summarises the arguments that are most likely to influence these institutions; the approaches to campaigning that have proved most effective; and the areas in which engagement is most productive. It provides a range of case studies of investor campaigns on issues ranging from dams and oil to human rights and genetic engineering. The *Guide* also contains an 80-page guide to researching companies and industrial sectors, including a comprehensive list of the best web sites and library resources.

Available from The CornerHouse
A4, 204 pages, October 2001
Not-for-profit groups: £20/$30 printed paper copies;
zipped PDF files (707KB) free
Companies and institutions: £60/$90
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