

Globalization and Regulatory Character

Regulatory Reform after the
Kader Toy Factory Fire

Fiona Haines

ADVANCES IN CRIMINOLOGY

Globalization and Regulatory Character

Regulatory Reform after the Kader Toy Factory Fire

FIONA HAINES

Department of Criminology

University of Melbourne, Australia

ASHGATE

© Fiona Haines 2005

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the publisher.

Fiona Haines has asserted her right under the Copyright, Designs and Patents Act, 1988, to be identified as the author of this work.

Published by
Ashgate Publishing Limited
Gower House
Croft Road
Aldershot
Hampshire GU11 3HR
England

Ashgate Publishing Company
Suite 420
101 Cherry Street
Burlington, VT 05401-4405
USA

Ashgate website: http://www.ashgate.com
--

British Library Cataloguing in Publication Data

Haines, Fiona

Globalization and regulatory character : regulatory reform
after the Kader Toy Factory fire. - (Advances in
criminology)

1.Kader Industrial Toy Company - Fire 2.Factory laws and
legislation - Thailand 3.Industrial safety - Law and
legislation - Thailand 4.Globalization - Social aspects -
Thailand

I.Title
344.5'930465

Library of Congress Control Number: 2005929612

ISBN-10: 0 7546 2563 X

Printed and bound in Great Britain by MPG Books Ltd, Bodmin, Cornwall

GLOBALIZATION AND REGULATORY CHARACTER

Advances in Criminology
Series Editor: David Nelken

Titles in the Series

Power, Discourse and Resistance
A Genealogy of the Strangeways Prison Riot
Eamonn Carrabine

Migration, Culture, Conflict and Crime
*Edited by Joshua D. Freilich, Graeme Newman,
S. Giora Shoham and Moshe Addad*

Becoming Delinquent: British and European Youth, 1650-1950
Edited by Pamela Cox and Heather Shore

Informal Criminal Justice
Edited by Dermot Feenan

In Search of Transnational Policing
Towards a Sociology of Global Policing
J.W.E. Sheptycki

Hard Lessons
Reflections on Governance and Crime Control in Late Modernity
Edited by Richard Hil and Gordon Tait

Lists of Figures and Table

FIGURES

Figure 3.1	Dimensions of regulatory character	34
Figure 3.2	Generic dimensions of Thai regulatory character	53
Figure 3.3	Regulatory character (interpenetrative dimension)	54
Figure 3.4	Regulatory character (strategic dimension)	55
Figure 8.1	The intersections of globalization and regulatory character	166

TABLE

Table 3.1	Hood's (1998) four styles of public management organization: cultural theory applied	28
-----------	---	----

Author's Preface

The key research for this book is 'How has globalization affected safety standards in the rapidly industrializing context of Southeast Asia?' Researching this question brings together crucial debates on globalization and regulation. In particular, the book challenges regulatory scholarship to take account of the complexities of globalization and regulation in newly emerging industrial states. By necessity, it engages with competing debates on globalization and their often contradictory predictions about the future of safety standards in countries such as Thailand. While the impact of globalization would seem an obvious concern for scholars of regulation, most research and writing to date has focussed on advanced industrial and post-industrial states. Within the burgeoning regulatory literature solutions are prescribed and argued to be appropriate for raising standards. However, a significant number of countries exhorted to use the methods developed are *industrializing* rather than *industrialized*, and face their own quite different and unique economic, political and historical challenges. Few scholars have tried to explore the applicability of prescriptions widely accepted in the industrialized context to Southeast Asian countries. It is this gap that this research on the regulatory aftermath of the Kader Toy Factory fire in Thailand addresses. Reforms introduced after the Kader fire attest to the importance of context (or regulatory character) in any research and theory which assesses 'progress' in a country in terms of the international spread of laws and regulations. Pronouncements about *how* to regulate in the face of rapid economic, political and cultural change must be grounded in *where* the regulation is taking place – and *by what process* reform is achieved.

Acknowledgements

This book and the research that underpins it underscores both the privilege and the challenge of academic research. For me, the question about how we play our part in protecting and enriching the lives of all on this small planet found expression through understanding the Kader fire and its aftermath. This book is the culmination of that journey. I certainly did not travel alone, either physically or intellectually, and I owe a debt of gratitude to many.

This was the proverbial research on a shoestring. I am indebted to the University of Melbourne in providing some 'seed money' for that elusive major grant that would solve all my budget woes. It was not forthcoming and so I leant on friends, colleagues and acquaintances to a far greater degree than is decent. First and foremost amongst these was my research assistant and friend Cate Lewis, who gave enormously to the project with her time, intellect, understanding and emotional support. Not satisfied with her friendship alone, I also drew on the resources of her husband, David Lewis, whose knowledge and contacts in Thailand were invaluable. My sincerest thanks are owed to them both. I am also indebted to Peter and Sandy Renew for their kind hospitality and to all at the Christoffel-Blindenmission in Bangkok.

This research would not have been possible without the generous time of those who explained what had happened since the fire and provided me with the information and insight that forms the basis of this research. Many of these people have found their way directly into the book. In particular, I would like to thank Voravidh Charoenloet, Bundit Thanachaisethavut, Jaded Chouwilai, Dr Chaiyuth Chavalitnitikul, Phil Robertson, Waradom Sucharitakul, Tom Kanathat Chantirsiri, Somyot Pruksakasemsuk and Apo Leong for their participation in this research. Grateful thanks must go also to Roong Poomipug, not only for her skills of language and cultural interpretation, but also her considerable insight into the challenges faced by Thai workers.

Many contributed to the intellectual development of work outside of the field. In particular, I would like to thank David Nelken, whose enthusiasm for the book and critical comments were both most welcome. Also, to those at the Southeast Asia Research Centre at the City University of Hong Kong, in particular Kevin Hewison and Stephen Frost, many thanks. Kevin's comments on earlier drafts of the manuscript were much appreciated, as were those of Kit Carson. Asking extremely busy colleagues to read a whole manuscript places considerable extra pressure on them, and yet their comments have made real improvements to the work; I offer my thanks to them both. I would also like to thank Richard Mitchell, Sean Cooney and members of the Centre for Employment and Labour Relations Law at the University of Melbourne for their support whilst writing up this research, and members of the Asian Law Centre at the University of Melbourne for their helpful feedback. Any remaining errors, of course, remain my own.

There are also formal acknowledgements that need to be made. I am grateful for the permission of both Christopher Hood and Oxford University Press for allowing the reproduction of Table 1.1 (p. 9), 'Four styles of public management organization: Cultural theory applied', from Christopher Hood's (1998) work *The Art of the State: Culture, Rhetoric and Public Management*, Clarendon Press, Oxford. I am also most grateful to Sage for permission to draw on my work published in *Social and Legal Studies* in 2003 as 'Regulatory Reform in Light of Regulatory Character: Assessing Industrial Safety Change in the Aftermath of the Kader Toy Factory Fire in Bangkok, Thailand' (Vol. 12, No. 4, pp. 461–87). My thanks too, to both Cate Lewis and the Sydney Institute of Criminology for permission to draw on 'Kader, compensation and justice: the need for a comprehensive analysis' in Sharon Pickering and Caroline Lambert (eds) (2004), *Global Issues, Women and Justice*, Sydney Institute of Criminology Series No 19, Institute of Criminology, pp. 230–58, in the introductory chapter of this book.

I have been most fortunate with assistance in the publication of this book. This assistance was made possible through a publication grant from the University of Melbourne. This allowed me to obtain the valuable editorial services of Kerry Biram (kerry.biram@bigpond.com). To both parties my grateful thanks.

It is often said that academic research relies on the support of families. This research and this book are no exception. The love, support and forbearance of Bruce, Chris and Tim are all anyone could wish for. International research holds particular challenges for those at home, and I am very grateful for their emails, thoughts, hugs, banter and everything else that they did whilst I worked on this book.

This book is dedicated to the families of those affected by the Kader Fire.

List of Abbreviations

ADB – Asian Development Bank

ADPC – Asian Disaster Preparedness Centre

AFL-CIO – American Federation of Labor – Congress of Industrial Organizations.
Peak US Union body

AMRC – Asia Monitor Resource Centre. International NGO based in Hong Kong

APPELL – Awareness and Preparedness for Emergency at the Local Level

BMA – Bangkok Municipal Authority

BOI – Bureau of Investment (in Thailand)

BVQI – Bureau Veritas Quality International. Accreditation and auditing company
with specialization in safety

CCHSW – Campaigning Committee for the Health and Safety of Workers

CP – Charoen Pokphand Group. Thai-based conglomerate

CSKW – Campaign for the Support of Kader Workers

DIW – Department of Industrial Works (Thailand)

DNV – Det Norske Veritas. Accreditation and auditing company with
specialization in safety

DOI – Department of Industry (Thailand)

EGAT – Electricity Generating Authority of Thailand

FES – Freidrich Ebert Stiftung. Peak German union body

GTZ – Gesellschaft für Technische Zusammenarbeit (Society for Technical Co-
operation)

ILO – International Labour Organisation

IMF – International Monetary Fund

INGO – international non-governmental organization

ISO – International Organization for Standardization

ISO 9000 series (includes ISO 9001 and 9002) – Family of International
Organization for Standardization standards for quality of products and services.
Includes model for quality assurance in design, development, production,

installation and servicing, also the model for quality assurance in production, installation and servicing.

ISO 14000 series – Family of International Organization for Standardization standards related to quality management for the environment

MASCI – Management System Certification Institute (Thailand)

MLSW – Ministry of Labour and Social Welfare (Thailand)

MNC – multi-national corporation

MOI – Ministry of Industry (Thailand)

NFPA – National Fire Prevention Association. US-based NGO that develops standards related to fire prevention

NGO – non-governmental organization

NICE – National Institute for the Improvement of Working Conditions and Environment (Thailand)

NSC – National Safety Council (Thailand)

OECD – Organisation for Economic Co-operation and Development

OHS – occupational health and safety

PFT – Peasants' Federation of Thailand

SA 8000 – Social Accountability standard aimed to support fair working conditions. Standard of SAI

SAI – Social Accountability International. NGO aimed to support fair labour standards

SME – small and medium-sized enterprises

TIS 18001 – Thai Safety Management Standard

TISI – Thai Industrial Standards Institute

WIND – Work Improvement in Neighbourhood Development. ILO programme aimed to increase safety in agriculture

WISE – Work Improvement for Small Enterprises. ILO programme to increase safety in small and medium-sized enterprises

WTO – World Trade Organization

Series Preface

Fiona Haines is a leading writer on the subject of business crime and the regulation of safety. Having made important contributions to these topics here she turns her attention to a more difficult task. How far is the literature of white-collar crime and regulation applicable also to the understanding and resolution of such problems in the setting of rapidly developing countries like Thailand? Are the de-contextualized 'best practices' this literature recommends equally applicable – or feasible – in these situations? Is globalization the problem or the solution? In a globalizing world, problems of environment, health and safety and the human costs of economic development can no longer be circumscribed by place. The recent terrible tragedies caused by the Tsunami in Southeast Asia, in which many Western tourists also lost their lives, show, if such further proof were needed, the implications of this increasing interdependence. It is likely that with appropriate preventive measures and a different type of economic infrastructure thousands of lives could have been saved. But technical know-how alone is not enough; insight into the social realities that make change possible is also essential.

This book provides us with this sort of understanding, which is made to emerge from the story of a massive fire in the multinational Kader toy factory in Thailand. We are given an original and detailed examination of what the author calls 'Thai regulatory character' as it influences the efforts at reform that follow the fire. We see how culture is shaped by – and itself shapes – the larger Thai context as well as its effects on Thailand's role in the world economy. This book shows the considerable effort that must be made in order to understand the relevance to regulatory processes and outcomes of social, economic, political and cultural differences. The author is careful at all points to steer a course between assuming similarities and exaggerating differences. Some parts of the account may seem familiar to those who know about the early stages of factory or environmental regulation in the industrialized West: the role of scandals, the passing of legislation without much in the way of enforcement, inter-organizational conflicts and special interests, the connection between regulation and state building, even tripartism – the negotiated relationship between government, business and unions. Other parts of the account will be strange, unexpected and even counter-intuitive: the place of the military, the importance of patriarchal norms, both for good and ill, the special role of women, the contrast between ideologically-motivated bureaucrats and others, the significance of self-reliance in Thai culture.

But this book's arguments and ambitions go well beyond providing a satisfactory description of scandal and reform in a foreign culture (which would be an achievement in its own right). It develops a key concept – that of 'regulatory character' – which transcends the present study and promises to be relevant to the increasing number of comparative socio-legal studies and research on legal transfers which come up against the vexing question of deciding what importance

to be given to 'culture' as an explanation. For Haines (drawing on the work of Christopher Hood and Mary Douglas), regulatory character is framed by an understanding of the form authority takes within a particular place, the interaction between norms and laws set against an understanding of the rationale underpinning the relationship between individual and institution, and the subjective and objective reality of a given regulatory context. The ideal-typical elements she identifies as central to Thai regulatory character (albeit in tension and subject to change) may in many respects be specific to that context or at least to Southeast Asia more generally. But the idea itself is not.

As with all successful comparative enquiries, greater understanding of how matters go together elsewhere also provides invaluable insight into what is taken for granted 'at home' (though it would be equally important to see how scholars based outside the G8 countries explained the local 'cultural' and other causes of the difficulties developed capitalist countries have in dealing with business crime). Fiona Haines' excellent study may come to be seen as a pioneer in qualitative research into the nexus between comparative regulation and comparative criminology. I hope that it will stimulate more scholars to face up to the challenge of thinking globally whilst acting locally.

David Nelken
Series Editor

Contents

<i>List of Figures and Table</i>	vi
<i>Author's Preface</i>	vii
<i>Acknowledgements</i>	viii
<i>List of Abbreviations</i>	x
<i>Series Preface</i>	xii
1 The Tragedy of Kader	1
2 Industrial Disasters, Regulatory Change and Globalization	13
3 Regulatory Character	27
4 Ripples in a Pond: The Response to Kader	61
5 Regulatory Character and Response: Patriarchalism and Self-reliance	71
6 Regulatory Character and Response: Protest and Law Reform	101
7 Globalization, Self-reliance and Global Rationalism	127
8 Globalization, Sovereignty and Activism	151
9 Conclusions	169
<i>Appendix 1: Reflections on Research Methods</i>	181
<i>Appendix 2: Tsunami Postscript</i>	185
<i>Bibliography</i>	189
<i>Index</i>	199

Chapter 1

The Tragedy of Kader

At 8.00 a.m. on 10 May 1993,¹ over 3000 workers began their day's shift at the Kader Industrial (Thailand) Company's soft toy factory in an industrial zone in Nakhon Pathon province near Bangkok. Nearly 1500 workers took their places in Building Number 1, one of a factory complex of four buildings. The factory produced a range of toys: everything from 'stuffed toys to plastic Father Christmases,' under licence for a range of toy companies. These included world-famous brands such as Arco, Hasbro, Toys-R-Us, Fisher-Price and Tyco. Kader itself was no 'hole-in-the-wall' enterprise. The Bangkok factory was part of a joint venture between the Hong Kong-based, Chinese-owned Kader Company and the Thai-based CP (Charoen Pokphand) Group, largely controlled by the powerful Thai Chaeravanot family.² CP remains one of the largest Southeast Asian conglomerates.

Most of the workers who took up their positions at machines or on the factory floor that day were women and girls; some were underage, having borrowed ID cards to get a job at the factory. A number were from the remote and poverty-stricken north-eastern provinces. Traditionally, daughters in Thailand contribute to family income, so it is common for young women from rural families to migrate to areas of employment and repatriate money (Busakom, 1993; Ungpakorn, 1999). Many of the women at the factory were the main or essential wage earners for their

¹ I am indebted to Cate Lewis for her assistance with the narrative of the Kader Fire. There are several sources for the description of the factory and the fire, including Voravith Charoenloet, (April 1998) 'The situation of health and safety in Thailand', Dossier no. 5, Asia Monitor Resource Centre Toy Campaign; International Confederation of Free Trade Unions, (undated) *From the Ashes: A Toy Factory Fire in Thailand: An Expose of the Toy Industry*, Belgium: ICFTU; Casey Cavanagh Grant and Thomas J. Klem (1994) 'Toy Factory Fire in Thailand Kills 188 Workers', *National Fire Prevention Authority Journal*, January/February: 42-9. Peter Symonds (1997) *Industrial Inferno: The Story of the Thai Toy Factory Fire*, Bankstown Australia: Labour Press Books; T. Chua and W. Wei Ling (1993) 'Help! Is there a way out?', *Asian Labour Update*, 12:1-8; Asia Monitor Resource Center (1997) Report on Regional Meeting 'Remembering Kader: Promoting Occupational Health and Safety, Workers Rights and the Rights of Industrial Accident Victims in Asia', Bangkok, May 10-13 1997; Asia Monitor Resource Center (1998) 'Toy Campaign: The People United will never be Defeated', April, Dossier No. 5 Compiled by the Hong Kong Toy Coalition and the Asia Monitor Resource Center.

² CP's relationship to Kader is not direct nor entirely clear. There were a number of intermediary companies between the interests of the Chaeravanot family and the Kader factory; see Symonds, 1997, pp. 46-7.

extended family, either as single parents or with dependent or poorly-paid husbands or relatives. There were also a number of school and university students, working to earn extra money for their education costs.

Women such as the Kader workers seek employment in factories because it offers real advantages. Factory work can result in a progressive development of women's lives from their traditional situation, with greater personal freedoms (Foo and Lim, 1989). Many choose factory work because they wish to save and to contribute to family income, thus increasing their personal economic independence (Porpora, Lim and Prommas cited in Ungpakorn, 1999). Factories offer the companionship of fellow workers and an environment that appears safer than the dangerous and more physically demanding alternatives of construction, scrap metal collection, domestic work or street vending. Further, factory work is better paid than these alternatives with the possibility, in some factories at least, of increases in payment as skills and output improve (Symonds, 1997; Ungpakorn, 1999).

Nonetheless, conditions at Kader were still harsh. Only a minority of workers enjoyed full-time employee status under Thai legislation, entitling them to receive the minimum wage. The rest were contract labour, with many earning less than the minimum wage. This was not uncommon in Thailand, with official government figures showing that, in 1989, 47 per cent of employers did not pay the minimum wage (Symonds, 1997). Compulsory overtime until midnight and even up to 5.00 a.m. was common when orders had to be filled. Supervisors could set quotas for the day, with pay docked if workers could not meet the quotas. Conditions inside the factory were basic; for example, on the fourth floor there were only eight toilets for the 800 workers, and requests to leave due to sickness were often met with shouting and harassment, while lint, fabric, dust and animal hair filled the air in the production room. Critically, flammable materials were ubiquitous.

Soon after 4.00 p.m. workers heard cries of 'Fire! Fire!' Supervisors ordered that work continue, insisting that it was a false alarm. When workers finally began running towards the exits, they found the doors blocked by raw materials and other people trying to get out. By then, the lights had gone out and all was 'commotion and confusion'. As they crowded the stairs to the single exit and clambered over the bodies of those piled up behind the exit door, the building collapsed. Desperate workers trapped in the upper levels began leaping from the third and fourth floor windows onto the cement below. 'I didn't know what to do,' a survivor said. 'Finally I had no other choice but to join others and jump out of the window. I saw many of my friends lying dead on the ground beside me. I injured my legs but I came out alive.'³ Another described the horror of the situation: 'In desperation ... I went back and forth looking down below. The smoke was so thick and I picked the best place to jump in a pile of boxes. My sister jumped too. She died.'⁴

³ Tumthong Padthirum, quoted in International Confederation of Free Trade Unions (Undated), *From the Ashes; A Toy Factory Fire in Thailand: An Expose of the Toy Industry*, p. 10.

⁴ Laman Taptim, quoted in International Confederation of Free Trade Unions (Undated) *From the Ashes; A Toy Factory Fire in Thailand: An Expose of the Toy Industry*, p. 8.

Officially, 174 women and 14 men died that day and 469 were injured. Many of the survivors owed their lives to the fact that the bodies of co-workers broke their fall. However, casualties were possibly much higher. It took rescue workers 20 days to clear debris and pull out human remains and bodies. For a chaotic two weeks after the fire, relatives faced the task of identifying decomposing bodies, many burnt beyond recognition. Kader refused to release a list of workers, so many relatives, particularly those from the provinces, did not know if their loved ones were at the factory or not.

Kader was the worst industrial fire globally of the twentieth century. A government inquiry found that the extent of the tragedy was exacerbated by many factors, all utterly preventable.⁵ Building 1 collapsed within 20 minutes of the fire starting, giving little chance to escape. The steel framework of the building was not fireproofed, so that in the extreme heat generated by the fire the steel melted, causing the collapse. Highly flammable raw materials stored to ceiling level gave off poisonous fumes that compounded the hazard of the fire. Fire protection was rudimentary, with limited fire protection equipment and fire fighting water distributors available on each floor. There were no sprinkler systems and the fire alarms in Building Number 1 did not work. The building lacked separate fire exits, so many workers were trapped, while stairwells and freight elevators acted as channels for heat, smoke and fumes. Further, the lack of fire drills or training in fire fighting led to panic. Local firefighters had to get water from a nearby ditch because there was no water inside the factory. The horrific nature of the fire resulted from multiple elements, which, when combined, escalated the severity of the fire and compounded the suffering of all those involved.

In June 1993, I heard a first-hand account of the fire from one of the survivors, who was travelling with a group of activists in order to garner support for a campaign against Kader, a campaign aimed at ensuring the company paid adequate compensation to victims and their families. Hers was a harrowing experience. At 15 years of age, she had left work on a road construction crew to work at the Kader Toy Factory as she felt that such work would be safer than working on the roads out in the heat of the day. She had only been working at the factory a short while when the fire occurred. Her life was one of those saved by the bodies of co-workers, which broke her fall when she jumped from a fourth-storey window to escape the fire. At the end of her short talk, a discussion arose as to how to help. A boycott seemed obvious, yet the target was unclear, since nowhere on the product

⁵ Illustrated by the fact that there had been three fires at the factory prior to the tragic event, yet nothing had changed to prevent future fires or to stop the spread of fires beyond their ignition point. To claim ignorance about how this tragedy could have been prevented was not possible, since it was not an event without precedent. Accounts of the Kader fire comment on its eerie similarity to the Triangle Shirtwaist Factory fire in New York nearly a century earlier (Symonds, 1997; Grant *et al.*, 1994, pp. 45–7). The Triangle fire had generated considerable knowledge about fire prevention, knowledge that could and should have been in place at Kader. In a fire prevention sense, there was nothing new about Kader. Each element that acted as a catalyst to the spread of the Kader fire (lack of fire exits, poor housekeeping and lack of adequate fire fighting equipment) was well understood.