In Thailand, the military-backed government has accelerated the push for economic growth, since it has become a priority in the country’s 20-year national strategy (2018-2037), Thailand 4.0 Policy and the 12th National Economic and Social Development Plan (2017–2021). Industrial expansion, the construction of big infrastructure projects, and the establishment of special economic zones (SEZs) and corridors are all envisaged as means of achieving this goal. Nevertheless, while these investments can contribute to economic development opportunities, the combination of weak land governance, corruption, and lack of transparency, has created an unrestricted setting for projects and business practices where local communities’ rights are overlooked, being excluded from projects’ consultations, silenced by companies and evicted from their land. As a result, their distinct dependence and connection to their land, as part of their identity and culture, are often not prioritized over profit-making development projects, leading to the infringement of numerous human rights, including their economic, social and cultural rights (e.g. right to a healthy environment, right to health, right to food security, right to work, right to sustain their livelihood) and civil and political rights (e.g. right to access information, right to be consulted, right to life).

During the 2nd UPR Cycle, Thailand received one recommendation specifically addressing the necessity to “monitor enforcement of environmental legislation to protect the rights of local communities and prevent environmental degradation,” made by the Maldives, which it supported. Moreover, the importance of addressing “the issue of human rights in the pursuit of economic growth in local areas” was addressed in the recommendation made by Nigeria, which the government also supported. The most prominent recommendation supported by the government and to which it paid careful attention over the past five years is the one made by Sweden related to “Develop, enact and implement a national action plan on business and human rights in order to implement the guiding Principles on Business and Human Rights”. In addition, the Thai government accepted all 14 recommendations on the protection of rights of vulnerable populations. Besides, the Thai government received eight recommendations on the protection of human rights defenders (HRDs), of which six were supported and two were noted. Nevertheless, it failed to implement all of the recommendations related to the protection of HRDs.

Despite Thailand’s adoption of a National Action Plan on Business and Human Rights (Thai NAP-BHR) on October 29, 2019, in line with Sweden’s recommendation during the 2nd UPR cycle, the Thai NAP-BHR does not provide for implementation through legally binding mandatory provisions, in order to hold the business sector and state-owned enterprises accountable for their abusive business conducts. The Thai NAP-BHR neither addresses violations of the rights of communities to land, natural resources, and the environment, nor provides protection from physical threats and judicial harassment against land, community, and environment human rights defenders. The Thai NAP-BHR only contains voluntary measures and promotes responsible business practices; thus not following the guidelines set by the UNWG on Business and Human Rights, encouraging NAP-BHRS to include a smart mix of mandatory and voluntary measures. Yet, over the past five years we have observed an increasing number of SLAPP cases, judicial harassment by companies against HRDs speaking truth to power, and standing up to protect their lands and livelihoods. Thailand must enact a legislation that would hold corporations into account and would effectively provide remedy to victims. With the third UPR cycle, the need for a mandatory human rights due diligence legislation that would guarantee corporate accountability and access to effective remedy has never been greater.
REALITIES ON THE GROUND

**Challenges**

**Challenge 1: Free, Prior, and Informed Consent (FPIC) of local communities and indigenous peoples in relation to development projects is not sought**

Section 78 of the 2017 Constitution guarantees the participation of people and communities in various aspects of the development of the country, in the provision of public services at both national and local levels, in the scrutiny of the exercise of State power, in combating against dishonest acts and wrongful conducts, as well as in decision making in politics and in all other matters that may affect them. Despite the explicit provision, lack of participation in decision-making and consultations of local communities and indigenous peoples affected by policies remain.

Although the Thai NAP-BHR discusses the right to “Free, Prior and Informed consent (FPIC)” and its use in the management of land, forests, and natural resources, it does not mention how it shall be implemented and it totally leaves out indigenous peoples who exercise this right.

Local communities and indigenous peoples are not informed of development projects which would impact their lives and the environment. Information about the potential negative impacts of development projects is usually withheld from local communities and indigenous peoples, resulting in the violation of their right to access information and to be informed about the project. Ultimately, their Free, Prior & Informed Consent (FPIC) is not sought, resulting in unfair land evictions and violation to their community rights. Their livelihoods are often impacted by policies and decisions they did not consent to or were not aware of.

In Southern Thailand, the Southern Development Plan has initiated 20 large-scale development projects, such as the Bara deep-sea port in Satul province in 2017, a coal-fired power plant in Chumphon province in 2018, and 150,000-Rai (240 square kilometres) industrial estate in Satun province. Although these projects have numerous negative environmental and health impacts on the local communities, they were neither informed about them nor engaged in the processes of decision-making.

**#SaveThepa**

Community members opposing development projects are oftentimes barred from entering public hearings, and most of them are not conducted in a language that local communities can understand, or are held at far locations. For example, in relation to the Thepa coal-fired power plant in Songkla Province, a project owned by the Electricity Generating Authority of Thailand (EGAT), a state-owned enterprise, the Thepa community reported that, in the first public hearing, they received very little explanation regarding the project and no information on its negative impacts. The community also reported that the second hearing was held in secret, without informing the opponents to the project nor the communities from Pattani Province, eight kilometres away from the project. Opponents were further barred from participating in the third public hearing held in July 2015. This case demonstrates the ineffective and detrimental impact of business conducts on human rights, as foreseen adverse impacts of the coal-fired power plant are loss of biodiversity and ecosystems, pollution, diseases and health issues, and loss of cultivation of land and traditional fishing as a way of living.

Similarly, in the case of Thai investments abroad, the communities affected by the Dawei Special Economic Zone (SEZ) developed by the Italian-Thai Development PCL (ITD) in Myanmar, were given only limited information about the project when the concession was granted to ITD in 2015, and many communities were displaced. Two-thirds of the 1,583 households surveyed were not provided with any information from government agencies or companies. 60% of those households who did receive information were only provided with a listing of benefits of the project.

**Challenge 2: Adequate environmental impact assessments (EIAs) or Environmental and Health Impact Assessments (EHIA)s are not conducted in relation to development projects**

Section 58 of the 2017 Constitution requires an impact assessment for activities that may severely affect natural resources, environmental quality, health, sanitation, quality of life, or any other essential interest of the people or the environment. Despite the explicit provision, the Thai government often exercises its power to allow development projects to proceed without having conducted adequate environmental impact assessments (EIAs) or Environmental and Health Impact Assessments (EHIA)s. In particular, the Thai government relaxed the process of EIAs or EHIA’s in certain cases and even during the COVID-19 pandemic.

The Thai government relaxed the process of EIAs or EHIA’s in certain cases. In 2016, the National Council for Peace and Order issued NCPO Order 9/2016 to speed up the review process for certain projects by allowing project approval to be sought from the Cabinet prior to EIA completion. Under the Eastern Special Development Zone Act of 2018, EIA reports are to be approved within 120 days of the completion of the report, which may be too short a period to carefully review the report.

As no proper EIAs or EHIA’s are conducted before development projects are pursued, these projects adversely affect the environment, natural resources, and livelihoods, health, and well-being of communities. Examples of negative impacts include pollution, threats to water supplies, and transformation of fertile farmlands into industrial areas.
The Thai NAP-BHR provides for impartial, independent, and transparent Environmental Impact Assessment (EIA), Environmental Health Impact Assessment (EHIA), and Strategic Environmental Assessment (SEA) process. However, without making it mandatory, companies rely on the weak constitutional provision, with government officials allowed to relax EIAs processes in the benefit of businesses.

The Thai NAP-BHR also does not include legally binding mandatory provisions to oblige companies to conduct a human rights impact assessment (HRIA), applying a gender lens, and hold the business sector and state-owned enterprises accountable. In many instances, community members opposing development projects have been excluded from the public hearings, resulting in EIAs completely flawed and only taking into account the voices of communities supportive of the projects, who often represent the minority voices among the overall community members to be impacted by the development projects.

The government further took advantage of the COVID-19 pandemic to restrict CHANA communities’ access to the decision-making processes, and obstructed them from attending public hearings on the construction of the Chana Industrial Zone. In July 2020, the government held the public hearing during Ramadan while COVID-19 travel restrictions remained in place, preventing communities from being informed and consulted. Therefore, despite protests from members of the Chana Rak Tin Network, the government moved forward with the implementation of its Southern Economic Corridor. Furthermore, based on a feasibility study report distributed by SBPAC, there is a significant risk of ecological damage, which would affect livelihoods and health of people in a vast area, such as by causing respiratory problems. However, in March 2021 it was announced by Deputy Prime Minister Wissanu Krea-ngam, that SBPAC would be allowed to continue with the project with the requirement of conducting an EIA, EHIA and public hearings. Due to weak EIA/EHIA legislations and the lack of actualisation of FPIC, the project continues to pose a threat to the environment, health and livelihoods of the local communities.

Activist Kaireya Ramanyah, known as “Daughter of the Sea”, invited Prime Minister Prayut Chan-o-cha to her home where she can see dolphins swimming in the ocean; “You may realise that real development should be in line with safeguarding natural resources,” she said. “Your plan might generate huge profits, but it is not for locals.”

#SaveOmkoi
Coal use has expanded in Thailand’s industrial sector during the previous three decades, prompting mining corporations to look for new exploitation areas. Omkoi, Chiangmai, a district with no land rights for indigenous and ethnic minorities, has become a target of exploitation. In 1987, a private company bought a large plot of land in the Kaboebin Village, Omkoi District, and some locals sold their land under the threat of uncompensated land grabbing. In 2000, 99 Thuvanon Company Limited requested a coal mining concession certificate, and the Environmental Impact Assessment (EIA) began the same year, ending in 2011. However, its transparency is questionable due to a series of reasons: fake consents (illiterate Thais’ names on the EIA’s list of people consenting the project); company’s lies about the participants attending the hearing, disinformation; and lack of Free, Prior and Informed Consent (FPIC) sought. The coal mine poses serious environmental risks, such as contamination of natural water resources, loss of biodiversity, greenhouse gas emissions, and highly impacts local communities’ livelihoods, causing displacement and loss of food security, among others.

Challenge 3: Lands belonging to local communities and indigenous peoples are confiscated or ‘grabbed’ for economic development, such as the establishment of Special Economic Zones (SEZs) or Tourism resorts

Special Economic Zones (SEZs) are perfect examples of how the Thai Government favors Profit over People and the Planet. Land grabbing, land confiscations, and forced evictions in the name of economic development is a pervasive phenomenon in Thailand.

Land grabs in support of the Eastern Economic Corridor (EEC)
The EEC is supporting industrial sectors in three provinces: Rayong, Chon Buri, and Chachoengsao. The most essential watershed of Eastern Thailand, the low riverplain of the Bangpakong River, is located in the western part of Chachoengsao.
REALITIES ON THE GROUND

Challenges

One government policy that has gained much public attention is the creation of Special Economic Zones (SEZs). The government under PM Prayut Chan-o-cha has given this policy a strong push by offering generous incentives for investors in the hope it will enhance the linkages between Thailand and other ASEAN countries and increase Thailand’s competitiveness. In the case of large-scale development projects, including SEZs and in particular, for the Eastern Economic Corridor (EEC), businesses have been involved in illegal land grabs in provinces that are part of the EEC initiative. Local people living in the area also do not want this creation to take place due to the fact that 11,200,000 square meters of the green area must be sacrificed.

The EEC will pose risks to the Bangpakong River basin’s water and food security by 2030, which will lead to further consequences across the region. Local communities suffer from unfair allocation of water resources, as the Thai government prioritises providing water to the industrial sector over communities. In January 2020, the Thai government already reclaimed over 200,000 rai of land in Chanthaburi Province to build four reservoirs to supply the EEC project with 300 million cubic meters of water. The large water supply required is particularly problematic for communities, as Thailand is experiencing the worst drought in 40 years.

Furthermore, on occasions, land grabbing is a result of state action directly or indirectly through land brokers: farmers have received letters asking them to vacate their lands by the State and others have been threatened with eviction because they have no legal land titles over the land they have farmed for generations. For example, in Chachoengsao Province, which is part of the EEC, in 2018, 635 people were threatened with eviction from land totalling at least 1,580 acres that they have farmed for three generations, but have no legal title to, not realising that it has passed from one private owner to another, and eventually ending up in hands of the State.

In the case of the Mae Sot SEZ in Tak Province, lands belonging to local communities which were utilised for residential and farming purposes were expropriated for the development of the SEZ without consultation. In 2015, 93 villagers had their land confiscated by the government without prior warning. Though the government eventually provided them with compensation for the expropriated land, the amounts were found to be unfair and concluded without negotiation.

Threat of Land Grabbing for the development of Tourism Resort faced by Urak Lawoi Indigenous Women in Koh Sireh

The indigenous Urak Lawoi peoples of Koh Sireh Island, despite having lived on their ancestral grounds for almost a century, have experienced increasing issues as a result of the island's rapid business expansion and building, which is primarily tied to tourism and real estate projects. Due to a lack of proper land titles, the Urak Lawoi’s lands were sold to investors in 2012, and the community was served with an eviction notice. The Urak Lawoi have been fighting a long legal battle to keep their ancestral lands, with the Court of First Instance first ruling in their favour, in March 2013, but the Appeal Court ruling against them in September 2017. Despite the Supreme Court’s decision in their favour, in August 2019, the Urak Lawoi are still waiting for a practical solution to secure their land rights. The Urak Lawoi Women sought to participate actively in the preparation of their Appeal Court lawsuit, being the major voices raising concerns about malpractices of the legal proceedings. However, they were excluded from the consultative process as well as court proceedings in the case involving their fundamental rights, ancestral lands, and livelihoods. The Urak Lawoi case covers a complex set of issues, ranging from the lack of effective access to justice to the denial of their involvement and consultation, as indigenous women. To this, the pressure and stigmatisation they faced throughout the whole process have to be emphasised.

Challenge 4: The State fails to hold companies accountable for their adverse business conducts and to provide effective remedy and adequate compensation to victims

Thailand does not have any laws that require business enterprises to respect human rights, and it also fails to oversee business enterprises’ activities to meet their international human rights obligations, including those related to the respect of health, environment, and livelihood. Moreover, it fails to ensure effective access to remedy and to uphold the right to adequate compensation.

While the State is unsuccessful in protecting human rights in business contexts, the corporate responsibility of business enterprises to respect human rights is also unmet. Individual and community rights are frequently impacted when enterprises meddle with property ownership, partly because such impacts are not deemed human rights infractions and abuses, especially in the case of marginalised groups. This aspect is particularly relevant to land rights, because land issues are linked to the enjoyment of specific substantive human rights, such as the rights to adequate housing, food, water, health, work, and self-determination. Furthermore, most often, the affected communities are denied the access to effective remedy, having no meaning to receive any compensation.
On access to an effective remedy, the Thai NAP-BHR encourages businesses to organize consultations with HRDs, to collaborate to prevent, tackle, and provide a remedy against the negative impact of business activities on human rights. However, it does not adequately include state-based non-judicial grievance redress mechanisms; customary laws and practices of affected communities; and barriers to accessing remedy.

Challenge 5: Intimidation tactics, Judicial Harassment against Human Rights Defenders (HRDs)

Thailand neither recognizes Human Rights Defenders (HRDs) in its 2017 Constitution and national legislation nor has specific legislation comprehensively protecting whistleblowers and strengthening their rights. This aspect is partially covered by two relevant Acts: Organic Act on Counter Corruption of 1999 amended in 2011, and the Witness Protection Act of 2003 prescribing measures for protecting the person giving testimony or for whistleblowers, although they do not define the term “whistleblower”. Moreover, many provisions under the Witness Protection Act are vague and discretionary.

The Thai NAP-BHR promotes the rights of HRDs by exchanging good practices to promote freedom of expression, building the capacity of communities, HRDs, and law enforcement officials on their rights; by providing knowledge to HRDs on government services available to assist them; and by creating a list of lawyers and legal advisors with expertise on addressing human rights violations. To remedy violations against HRDs, it promotes mediation at all levels and alternative dispute resolution mechanisms; as well as physical, mental, social, and professional assistance.

As a result of weak legal protections, HRDs and whistleblowers are frequently subjected to judicial harassment, which prohibits them from carrying out their legitimate actions. As Strategic Lawsuit Against Public Participation (SLAPP) is often employed to deter potential dissidents and opponents of the government from speaking out, it results in the creation of an environment that lacks a democratic space for environmental human rights defenders to voice the concerns of the local communities in cases of adverse business conducts inside Thailand and for the rights violations caused by Thai outbound investments.

Environmental Human Rights Defenders are the most at risk of threats, physical attacks and extra-judicial killings

In 2016, the Special Rapporteur on the Situation of Human Rights Defenders considered Thailand as one of the most dangerous countries for environmental rights defenders, a finding of which is continuously reiterated by the UN Environment Programme and Global Witness. In 2020, Global Witness found that at least 2 environmental defenders were killed in Thailand. Recently, the danger faced by many environmental rights defenders is both growing and spreading, who more often face violent threats, as well as the criminalization of their activities in order to be silenced. Further, the report indicates that environmental defenders have been targeted for safeguarding particular ecosystems, with 71% trying to protect the world’s forests from deforestation and industrial development.

Justice delayed is justice denied: Villagers have undertaken numerous attempts over the years to find an effective solution for the harmful effects they are experiencing, and to hold the company accountable for the damage it has caused. While the government closed the mine in 2017, no remedy or compensation was provided to them. In October 2019, the Ratchada Civil Court accepted a class-action lawsuit brought by 362 villagers in May 2016, and the case is still underway. Due to COVID-19, the first scheduled date has been postponed to 18 November 2021, and villagers are worried it would further be delayed.

In the case of the construction of the Pak Mun Dam, in the Isaan Northeastern region of Thailand, which caused severe ecological damage destroying villagers’ livelihoods, families, and ties to their culture and land, the affected communities were neither informed nor included in the decision-making process. The Electricity Generating Authority of Thailand (EGAT) started construction of Pak Mun dam in June 1990, and has been operating Pak Mun as a run-of-the-river hydropower project since 1994. Because the authorities claimed they did not understand the Lao Isaan dialect, communities were denied adequate compensation for their loss and did not receive full restoration of their livelihoods, for more than 26 years now.

#JusticeforPhichit

In 2001, Akara Resources Public Company Limited, a gold mining company, started commercial operations in Phichit and Phetchabun provinces, affecting the livelihood of over 6,000 villagers. Since then, the villagers’ living conditions have deteriorated significantly in terms of both physical and mental health, as the area in which they live and the natural resources on which they rely have been extensively polluted. Moreover, the mining operations resulted in a water deficit as well as contamination of available water sources and their land, making it impossible for them to cultivate their land and sustain their livelihoods. The villagers have also suffered from severe rashes and itchiness as well as respiratory difficulties, nausea, and excessive levels of heavy metals have been found in the blood of some of them. For over a decade, the villagers have fought back against the gold mine, conducting peaceful protests, sending complaints to relevant governmental agencies, and raising awareness on social media. However, the local police of the Tab Klor District filed charges against 27 out of 100 of the villagers who participated in the protests in 2016, on the grounds of having violated the Public Assembly Act B.E. 2558 (2015).

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In 2016, 14 migrant workers from Myanmar complained to the National Human Rights Commission of Thailand (NHRCT) that Thammakaset Farm violated the Labour Protection Act by paying workers less than minimum wage, failing to pay overtime wages, and confiscating their passports. In response, Thammakaset Farm filed a criminal defamation case against these migrant workers in October 2016, claiming that their allegations were false. In July 2018, the migrant workers were acquitted of criminal defamation charges.

In 2017, the journalist Suchanee Cloitre reported about the alleged labour rights violations at a chicken farm operated by Thammakaset in Lopburi Province, and in March 2019, Thammakaset filed a criminal complaint against her. Lopburi Provincial Court convicted and sentenced her to a non-probationary sentence of two years in prison.

Others were killed as a result of their efforts to safeguard rivers, coastlines, and oceans, while nearly a third of the attacks were allegedly linked to resource exploitation, such as logging, mining, and large-scale farming, as well as hydroelectric dams and other infrastructure. Also, indigenous peoples, the agents of climate conservation, paid a heavy price, being the target of 5 of the 7 mass killings recorded in 2020. The growing tide of force and violence is influenced by an intensifying focus on disputes over land and natural resources. For instance, in October 2020, Dam Onmuang, a land rights defender was nearly killed by shots fired at him by Somphon Chimrueng, a former employee of a private oil company in dispute with the Santi Pattani community. In August 2021, Somphon Chimrueng has been found guilty of the attempted murder and sentenced to 13 years and 16 months of imprisonment.

Increasing SLAPP Cases: despite the adoption of the Thai NAP-BHR, corporations have increasingly judicially harassed HRDs, community members, human rights researchers and activists denouncing rights violations.

Natural Fruit vs. Andy Hall: judicial harassment vs. migrant rights activist denouncing labour rights violations

In January 2013, British HRD Andy Hall released a report related to the violation of international labour standards in the food production industry for export in Thailand, which contained details regarding Natural Fruit Company’s abuse of migrant workers. The Bangkok South Criminal Court subsequently received a complaint from the Natural Fruit Company, who filed a lawsuit against Andy Hall for publicising false information. Natural Fruit Company filed altogether four criminal and civil cases against Andy Hall. In September 2016, Andy was found guilty of criminal defamation and computer crime charges and was to be sentenced to four years in prison and fined THB 200,000. However, Andy’s testimony reduced his sentence to three years, and a fine of THB 150,000. After a three-and-a-half-year legal battle and in the face of additional criminal charges, Andy Hall decided to flee Thailand in November 2016. In the same month, the Supreme Court dismissed criminal defamation charges against Andy Hall in respect of the interview he gave to Aljazeera. It was only in May 2018 that the Appeals Court overturned the guilty verdict by the Bangkok South Criminal Court, ruling that Andy Hall had not acted unlawfully. In June 2020, the Supreme Court upheld the Appeals Court’s acquittal of Andy Hall on criminal defamation and computer crime charges. In October 2020, Natural Fruit Company withdrew the civil defamation case against Andy Hall in respect of the Supreme Court’s decision on related charges. In May 2021, the Supreme Court upheld the Appeals Court’s acquittal of Andy Hall on civil defamation charges in respect of the interview he gave to Aljazeera. Throughout all these years, Andy Hall had to experience tiring SLAPP cases and fled Thailand for his safety and freedoms.

Thammakaset Farm and the abusive use of SLAPPs against at least 22 individuals for alleged defamation of the company

Since 2016, Thammakaset Farm has filed at least 37 criminal and civil cases against human rights defenders, journalists and workers to silence criticism of their abusive labour practices.

- In 2016, 14 migrant workers from Myanmar complained to the National Human Rights Commission of Thailand (NHRCT) that Thammakaset Farm violated the Labour Protection Act by paying workers less than minimum wage, failing to pay overtime wages, and confiscating their passports. In response, Thammakaset Farm filed a criminal defamation case against these migrant workers in October 2016, claiming that their allegations were false. In July 2018, the migrant workers were acquitted of criminal defamation charges.

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On October 27, 2020, the Lopburi Court of Appeal overturned the conviction, ruling that Ms. Suchanee’s statement was made in good faith and constituted “fair comment” on issues that were subject of public criticism.

- In October 2018, two criminal defamation charges were filed by Thammakaset Farm against Nan Win, a former Thammakaset employee, and Sutharee Wannasiri, a human rights defender. On one hand, Nan Win was accused of reporting alleged labour abuses against the 14 former employees in a film produced by Fortify Rights, during a Facebook-live press conference organised by the same organisation. On the other hand, the case against Sutharee Wannasiri was initiated for sharing on Twitter the video containing the comments made by Nan Win during the press conference. In June 2020, both Nan Win and Sutharee Wannasiri were acquitted of criminal defamation charges.
- Ngamsuk Ruttanasatian, lecturer at Mahidol University and HRD, was accused of defaming Thammakaset by sharing a Fortify Rights news release on IHRP’s Facebook page on March 12, 2019. In 2019, preliminary hearings took place, and the case was dismissed owing to a lack of evidence. The complaint was further dismissed by the Bangkok Criminal Court and the Court of Appeals. Thammakaset, on the other hand, has filed a new appeal with the Supreme Court, with a hearing set for September 22, 2021.
- To date, the criminal defamation cases Thammakaset Farm filed in October 2019 and March 2020 against three women human rights defenders, namely Angkhana Neelapaijit, human rights defender and former Commissioner of the NHRCT, Puttanee Kangkun, Fortify Rights Senior Human Rights Specialist, and Thanaporn Saleephol, former Fortify Rights Communications Associate, for having allegedly defamed Thammakaset by expressing support on social media for other HRDs facing lawsuits brought by the company, remain pending. A preliminary hearing for the combined case is scheduled for Bangkok South Criminal Court on December 27, 2021. Besides, Angkana Neelapaijit also faces a separate complaint filed by Thammakaset for two other social media engagements. On August 16, 2021, the Bangkok South Criminal Court ruled to proceed with a trial in this case, granting her bail and setting October 26, 2021, for the first hearing.

**RECOMMENDATIONS**

**1. On Challenge 1: Free, Prior, and Informed Consent (FPIC) of local communities and indigenous peoples in relation to development projects is not sought**

**1.1.** In line with the 2015 CESCR’s Concluding Observations to Thailand, adopt a human rights-based approach in its development projects and establish participatory mechanisms in order to seek the free, prior and informed consent (FPIC) of affected communities.

**1.2.** In line with the 2017 Concluding Observations of the Human Rights Committee to Thailand, revise the 2017 Constitution to explicitly recognise indigenous peoples to be in line with international human rights standards for the rights of indigenous peoples.

**2. On Challenge 2: Adequate environmental impact assessments (EIAs) or Environmental and Health Impact Assessments (EHIAs) are not conducted in relation to development projects**

**2.1.** In accordance with the 2015 CESCR’s Concluding Observations to Thailand, take steps to comprehensively regulate environmental protection and ensure strict enforcement of its environmental legislation, so as to prevent harmful effects on the health of communities.

**2.2.** Expand the NAP-BHR to enact mandatory corporate human rights due diligence (HRDD) legislation regulating business activities to ensure companies are held into account for their adverse business conducts, and respect human rights and the environment inside Thailand, and for Thai companies to respect human rights and the environment abroad. Companies must exercise HRDD along their entire corporate structure and supply chains, and the HRDD must include assessment of the negative impact of business activities on human rights through Human Rights Impact Assessments (HRIs), Community Human Rights Impact Assessments (CHRIs), Social Impact Assessment; and on specific groups on individuals through Gender Impact Assessments (GIAs).
3. On Challenge 3: Lands belonging to local communities and indigenous peoples are fenced off or ‘grabbed’ for economic development, such as the establishment of Special Economic Zones (SEZs) or Tourism resorts

3.1. In line with the 2015 CESCR’s Concluding Observations to Thailand, legally prevent forced and arbitrary land grabbing and eviction of local communities, including cases for the purpose of development projects, whether public or private.

3.2. In line with the 2015 Concluding Observations of CESCR to Thailand, ensure that forced evictions are only used as a measure of last resort and persons forcibly evicted are provided with adequate compensation and/or relocation.

3.3. Enact a constitutional provision or an Act recognising and providing indigenous peoples’ rights to ownership of their ancestral land, in order to prevent invasion of corporate exploitation and protect indigenous minorities from eviction.

3.4. Revise Forest Conservation Laws, including the National Park Act 1992, to ensure Indigenous Peoples and Forest Dependent Communities are considered Guardians of the Forest and are not criminalised as Capitalist Investors, and refrain from using the Forest Reclamation Policy as Thailand’s Climate Solution to evict them from Forest area.

3.5. Amend the NAP-BHR to address violations of the rights of communities to land, natural resources, and the environment.

4. On Challenge 4: The State fails to hold companies accountable for their adverse business conduct and to provide effective remedy and adequate compensation to victims

4.1. In line with the 2015 CESCR’s Concluding Observations to Thailand, establish a clear regulatory framework to ensure companies are legally accountable regarding violations of economic, social and cultural rights in their projects, including in cross-border development projects. The corporate human rights due diligence law must establish the company’s civil liability for the harm caused by companies under their direct or indirect control when these have infringed human rights or environmental standards. The Law must also ensure disclosure of evidence rules establishing a fair distribution of the burden of proof, making sure that it is the company that would have to, at least, clarify its relationship with the entities involved in the harm, and whether it acted with due care and took all reasonable due diligence measures.

4.2. Remove barriers to access effective judicial remedies for communities that experience violations of their rights by companies, and ensure effective and adequate compensation is provided for the adverse business impacts on community rights, their health, livelihood and the environment.

5. On Challenge 5: Mitigation tactics, Judicial Harassment against Human Rights Defenders (HRDs)

5.1. In accordance with the 2015 CESCR’s Concluding Observations to Thailand, adopt all measures necessary to protect human rights defenders, from any and all acts of intimidation, harassment and killings and ensure that perpetrators of such acts are brought to justice. Effectively protect and define ‘human rights defenders’ under the Constitution, in line with the UN Declaration on HRDs.

5.2. Decriminalise defamation by repealing sections 326 to 333 of the Criminal Code and enact a standalone anti-SLAPP law to ensure legal protections against Strategic Lawsuits against Public Participation (SLAPP) aiming at silencing dissent, and protect individuals from judicial harassment by the state and corporations. In the meantime, enforce Sections 161/1 and 165/2 of the Criminal Procedure Code and publish statistics on its use to assess its effectiveness in addressing SLAPP cases.