

4 August 2022

COMPLAINT FOR URGENT ACTION TO THE UNITED NATIONS  
FOR THE PROTECTION OF 14 SAB WAI VILLAGERS FACING  
HUMAN RIGHTS VIOLATIONS DUE TO THAILAND'S  
FALSE CLIMATE SOLUTIONS



**#SAVESABWAIVILLAGERS**  
**FROM FORCED EVICTIONS**  
**& EXTREME POVERTY!**



**#ClimateJustice** **#JustTransition**

**Stop Thailand's False Climate Solutions!**

## Complaint for Urgent Action for Protection of 14 Sab Wai Villagers, facing human rights violations due to Thailand's False Climate Solutions

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**Olivier De Schutter**

UN Special Rapporteur on extreme poverty and human rights

**Mr. Ian Fry**

UN Special Rapporteur on the promotion and protection of human rights in the context of climate change

**Mr. David Boyd**

UN Special Rapporteur on human rights and the environment

**Ms. Mary Lawlor**

UN Special Rapporteur on the situation of human rights defenders

**Mr. Balakrishnan Rajagopal**

UN Special Rapporteur on the right to adequate housing

**Mr. Michael Fakhri**

UN Special Rapporteur on the right to food

**Ms. Melissa Upreti, Ms. Elizabeth Broderick, Ms. Dorothy Estrada-Tanck, Ms. Ivana Radačić and Ms. Meskerem Geset Techane**

UN Working Group on discrimination against women and girls

**Ms. Tlaleng Mofokeng**

UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health

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Manushya Foundation

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# Table of Contents



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<b>1. Letter addressed to 8 UN Special Procedures submitting the Complaint for Urgent Action for Protection of the human rights rights of the 14 Sab Wai villagers</b>	<b>4</b>
<hr/>	
<b>2. Complaint for Urgent Action for Protection of the 14 Sab Wai Villagers facing human rights violations due to Thailand’s False Climate Solutions</b>	<b>8</b>
<hr/>	
<b>3. Annex 1 - Sab Wai Villagers (Multiple Members)</b>	<b>55</b>
<hr/>	
<b>4. Annex 2 – Summary Table of the Appeal Court Decisions: Criminal &amp; Civil Charges of the 14 HRDs, and Jail Time</b>	<b>56</b>
<hr/>	
<b>5. Annex 3 – Summary Table of the Supreme Court Verdicts: Criminal Sentences &amp; Civil Penalties of the 14 HRDs</b>	<b>58</b>
<hr/>	
<b>6. Annex 4 - Sab Wai Villagers Case Evidence</b>	<b>61</b>
<hr/>	
<b>7. Annex 5 - Additional Information related to Thailand’s False Climate Solutions and the Need for a Just Transition: a Just, Inclusive, Green and Feminist Transition!</b>	<b>83</b>

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# SUBJECT: UN COMPLAINT REGARDING THE HUMAN RIGHTS VIOLATIONS FACED BY 14 HUMAN RIGHTS DEFENDERS, THE SAB WAI VILLAGERS IN SAI THONG NATIONAL PARK, CHAIYAPHUM PROVINCE, THAILAND, CALLING FOR URGENT ACTION FOR THEIR PROTECTION FROM FORCED EVICTIONS AND EXTREME POVERTY DUE TO THAILAND'S FALSE CLIMATE SOLUTIONS

Bangkok, 4 August 2022

Dear Mr. De Schutter, Mr. Fry, Mr. Boyd, Ms. Lawlor, Mr. Rajagopal, Mr. Fakhri, Ms. Upreti, Ms. Broderick, Ms. Dorothy Estrada-Tanck, Ms. Radačić, Ms. Geset Techane, and Ms. Tlaleng Mofokeng,

This [Complaint](#) is respectfully submitted for consideration under your mandates, requesting urgent action to stop the ongoing human rights violations committed against prominent woman human rights defender, community leader and a member of the Sai Thong Rak Pah Network, Ms. Nittaya Muangklang, who has been found guilty by the Supreme Court in relation to her legitimate human rights actions and along with 13 other villagers of the Sab Wai Village, in Thailand, all members of the Sai Thong Rak Pah Network, who all face imminent danger of forced evictions and a situation of extreme poverty.[1] The other villagers are: Mrs. Seenuan Phasang; Ms. Pattama Komet; Ms. Sunee Nalin; Mrs. Sakl Prakit; Ms. Narisara Muangklang; Mrs. Thongpan Muangklang; Ms. Suwalee Phongam; Mrs. Suphaphorn Seesuk; Mr. Suwit Rattanachaisi; Mr. Samon Somchitr; Mr. Put Sukbongkot; Mr. Wanchai Arphonkaeo, and Mr. Sompitr Taennok. Ms. Nittaya leads her community, including the 13 villagers, in their resistance against the Royal Thai Government's push for eviction from their lands that is based on the misuse of the military government's false climate solution, known as the 'forest reclamation policy' adopted in 2014, and unfair forest conservation laws. The criminalization of the 14 Sab Wai villagers in the Sai Thong National Park is a representative case of the false climate solution adopted by Thailand and the misuse of the Forest Reclamation Policy and NCPO orders related to its enforcement (NCPO Orders No. 64/2014 and 66/2014)[2], as well as unfair forest conservation laws, targeting poor communities, indigenous peoples and forest-dependent communities to evict them from their lands,[3] rather than recognizing them as legitimate agents of climate change mitigation and adaptation action.

This [UN Complaint](#) is a follow-up to our initial [UN Submission for urgent action for protection](#) of the 14 Sab Wai villagers made on 23 June 2019 to seven UN Special Procedures,[4] the related [Joint UN Communication](#) by four UN Special Rapporteurs of 19 August 2019[5], and the Royal Thai government's [reply](#) of 10 June 2020.[6]

Thailand's false climate solution, represented by unfair forest conservation laws, fails to recognize indigenous peoples and forest-dependent communities as 'Protectors of the Forest', and instead casts them as criminals, destroyers of the forest. The goal of the government is to portray indigenous peoples and forest-dependent communities as the first drivers of deforestation.[7] The Thai government weaponizes its commitment to the Paris Agreement and the need to reduce carbon emissions, and criminalizes poor villagers, while indigenous peoples and forest-dependent communities actually contribute to forest protection through their traditional ways of living and cultivating. The international community is being fooled, with indigenous peoples and forest-dependent communities being at the very end of this injustice.

The 14 Sab Wai villagers have been unfairly convicted of trespassing, encroaching, and clearing land belonging to Sai Thong National Park area under Thailand's unfair forest conservation laws, in particular, the Forestry Act (1941), National Park Act (1961), and National Reserved Forests Act (1964), enforced through the severe Forest Reclamation Policy of 2014, and the aforementioned National Council for Peace and Order (NCPO) Orders 64/2014 and 66/2014. [8] The villagers have been criminalized even though they are protectors of the forest, making a living through sustainable farming activities, and have been living in the area since the 1970s, prior to its declaration as a national park.

However, in 2018, the Court of First Instance found all 14 villagers guilty, and between May and July 2019 the Chaiphum Appeals Court confirmed the judgments of the Court of First Instance. The villagers were then imprisoned, ordered to pay high fines and to evict from their land.[9] However, the 14 Sab Wai villagers have resisted eviction and submitted an appeal to the Supreme Court, being the first villagers to challenge Thailand's false climate solution. But between March and May 2021, the Supreme Court sentenced 11 villagers to suspended jail terms and 3 villagers to prison terms. All of them received significant civil charges for alleged damage of the forest and community service.

The combination of imprisonment, civil penalties, and community service has a devastating effect on the lives of the 14 Sab Wai villagers who, as farmers, are on the brink of poverty. Hardship as a result of the convictions is not suffered by the villagers alone but also by their families, who lose their main financial source while the convicted villagers are in jail. Six of the women human rights defenders take care of their children or elderly parents. Detailed information on the 14 Sab Wai villagers' charges imposed by the Appeal Court is provided in the template for the submission of a Complaint provided by OHCHR. A Summary table of the Supreme Court verdicts, and criminal and civil charges faced by the 14 villagers is provided in Annex 3.

While so far only one writ of execution has been issued, in recent months, the Sab Wai villagers have started experiencing growing pressure from the local police and national park authorities and fear of the soon enforcement of the Supreme Court verdicts. As an example, officials have visited the villagers' land to inspect it or came into the villagers' houses. In one such house visit, a DNA sample was requested from Ms. Pattama Komet. In May 2022, the villagers also learned from the Sai Thong National Park chief about the pending royal decree for the enforcement of the National Park Act 2019, after whose enactment they will need to move out of their lands.

**We urge you to consider the unfair criminalization of the 14 Sab Wai villagers and the seriousness of the resulting exacerbation of poverty, which is in violation of Thailand's human rights obligations, and to:**

1. Request the Royal Thai Government to exercise its powers to not enforce the Supreme Court judgments in the case of the 14 Sab Wai villagers, to halt the forced evictions and order a suspension of the villagers' civil penalties, considering their status as 'poor', recognized by the Ministry of Natural Resources and the Environment on 14 November 2019, so as to ensure the villagers' and their dependents' ongoing enjoyment of the rights stipulated in Articles 11, 12, 13 of ICESCR and Articles 6 and 17 of ICCPR.
2. Request the Department of National Parks, Wildlife, and Plant Conservation to sign a Memorandum of Understanding with the villagers to guarantee the non-eviction from their lands.

3. Request the governmental bodies, in case the Sab Wai villagers are being evicted from their lands, to fully comply with International Human Rights Law and standards on forced evictions such as the Basic Principles and Guidelines on Development-based Evictions and Displacement based on the ICESCR and General Comments 4 and 7 of CESCR. Such evictions must provide a full restoration of livelihoods and compensation. New land titles must be allocated under the name of the villagers to ensure tenure security and avoid any future land evictions. The villagers shall not depend on authorities' good faith or weak administrative measures as these could be arbitrarily reversed in the future.

4. In line with its commitment taken during the third Universal Periodic Review of Thailand (2021) to ensure a rights-based approach in climate change mitigation and its endorsement of the Glasgow Leaders' Declaration on Forests and Land Use, request the Royal Thai Government to work with communities on the ground to search for the best solution to stop the unfair criminalization and land evictions of forest-dependent communities and indigenous peoples, in particular, by reforming forest conservation laws and ensuring that any future climate mitigation and adaptation strategies are compliant with Thailand's obligations under international human rights law and are in line with the need for a Just, Inclusive, Green and Feminist transition, with local communities at its forefront.

**We also urge you to take into account the record of the Royal Thai Government in relation to their obligations for advancing human rights in the country while examining this complaint. Violations of the human rights of marginalized groups, particularly forest-dependent communities, peasants and indigenous groups, have been acknowledged and addressed during Thailand's recent UN-backed human rights reviews, such as the CERD Review<sup>[10]</sup> and Thailand's Third Universal Periodic Review.<sup>[11]</sup>**

These UN Human Rights Monitoring Mechanisms confirmed that human rights violations in Thailand are taking place in a widespread manner, particularly in the course of enforcing domestic legislation and implementing projects in the name of forest conservation, without taking into account the significant impact these have on the rights of the affected communities', on their livelihoods, and their well-being. Those who oppose such legislations and projects are also often subjected to the violation of their civil and political rights through the usage of domestic legislation that contravenes international human rights standards, that Thailand is a State Party to.<sup>[12]</sup>

Equally concerning is the continued use of judicial measures by powerful State and non-State actors that see Thailand's growing environmental and human rights movement as a threat to their economic and political interests. The Thai authorities also have a poor record of disappearances and killings of human rights defenders, particularly those engaged in defending the land and environmental rights of communities.<sup>[13]</sup> For instance, recent advocacy actions conducted by Sab Wai villagers in June and July 2022 in Bangkok caused the dissatisfaction of the local and national park authorities. However, at the same time, the issue being raised on the national and international level brought renewed visibility to the case. The Sab Wai villagers remain hopeful that their situation will be resolved before any forceful action evicting them from their lands. Hence, we hereby submit this [Complaint for Urgent Action](#) to you, to call the attention of the government towards respecting, protecting, and fulfilling human rights, and engaging constructively with human rights defenders. In case you require additional information, please do not hesitate to contact [Ms. Emilie Pradichit, Founder and Executive Director of Manushya Foundation](#), whose contact details have been provided following your template for submission of a Complaint. Your attention and action on this urgent matter will be highly appreciated.

Sincerely,

Sai Thong Rak Pah Network  
Manushya Foundation

## ENDNOTES

1. Manushya Foundation, *#SaveSabWaiVillagers from Forced Evictions & Extreme Poverty! The Unfair Criminalization of 14 Villagers under Thailand's "Forest Reclamation Policy", Defending our Land is not a Crime*, available at: <https://www.manushyafoundation.org/campaign-savesabwaivillagers-intro>
2. Manushya Foundation, *#SaveSabWaiVillagers from Forced Evictions & Extreme Poverty! The Unfair Criminalization of 14 Villagers under Thailand's "Forest Reclamation Policy", Defending our Land is not a Crime*, available at: <https://www.manushyafoundation.org/campaign-savesabwaivillagers-intro>; and Manushya Foundation, *#SaveSabWaiVillagers from Forced Evictions & Extreme Poverty! The Unfair Criminalization of 14 Villagers under Thailand's "Forest Reclamation Policy", Legal Analysis of the Case, Section 4*, available at: <https://www.manushyafoundation.org/campaign-savesabwaivillagers-our-analysis-of-the-case>
3. Manushya Foundation, *UPR Factsheet: Thailand's False Climate Solutions with Bad Forest Conservation Laws: Thailand's Third Universal Periodic Review Cycle*, (13 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-false-climate-solutions-with-bad-forest-conservation-laws>
4. Manushya Foundation and the Working Group in support of the 14 Sab Wai Villagers in the Sai Thong National Park Case, *Joint Submission to the UN Special Rapporteur on the Situation of Human Rights Defenders and Relevant Special Procedure Mandates Re: Human rights violations of woman human rights defender Ms. Nittaya Muangklang and thirteen other villagers in Sai Thong National Park, Chaiyaphum Province, Thailand, calling for urgent actions for their protection*, (23 June 2019), available at: <https://www.manushyafoundation.org/unsr-submission-sai-thong-np-case>
5. Office of the High Commissioner for Human Rights, *UN Communication to the Thai Foreign Ministry on the The Sai Thong National Park Case*, Reference: AL THA 7/2019. (19 August 2019), available at: <https://www.manushyafoundation.org/un-communication-sai-thong-national>
6. Permanent Mission of Thailand in Geneva, No. 52101/153, *Thailand's response to the Joint Communication from HRC Special Procedures No. AL THA 7/2019 dated 19 August 2019*, available at: [https://www.manushyafoundation.org/\\_files/ugd/a0db76\\_8510570e0a9d4483b345acc689e67c41.pdf](https://www.manushyafoundation.org/_files/ugd/a0db76_8510570e0a9d4483b345acc689e67c41.pdf)
7. Manushya Foundation, *#FightRacism How we denounced racism in Thailand before the UN*, (22 June 2022), available at: <https://www.manushyafoundation.org/post/how-we-denounced-racism-in-thailand-before-the-un>
8. Manushya Foundation, *#SaveSabWaiVillagers from Forced Evictions & Extreme Poverty! The Unfair Criminalization of 14 Villagers under Thailand's "Forest Reclamation Policy", Legal Analysis of the Case, Section 4*, available at: <https://www.manushyafoundation.org/campaign-savesabwaivillagers-our-analysis-of-the-case>
9. Manushya Foundation, *Profiles & Summary of the Convictions Against 14 Land Rights Defenders of Sab Wai Village*, available at: [https://www.manushyafoundation.org/\\_files/ugd/a0db76\\_a88eb59ede9e4d61913ba04c36f02764.pdf](https://www.manushyafoundation.org/_files/ugd/a0db76_a88eb59ede9e4d61913ba04c36f02764.pdf)
10. Manushya Foundation, *#FightRacism How we denounced racism in Thailand before the UN*, (22 June 2022), available at: <https://www.manushyafoundation.org/post/how-we-denounced-racism-in-thailand-before-the-un>
11. Manushya Foundation, *Thailand's Third UPR Outcome: We Must Not Congratulate the Thai Government!*, (23 March 2022), available at: <https://www.manushyafoundation.org/post/thailand-s-third-upr-outcome-we-must-not-congratulate-the-thai-government>
12. Manushya Foundation, Sai Thong Rak Pah Network, Indigenous Women's Network of Thailand, Thai Business & Human Rights Network and the Thai CSOs Coalition for the UPR, *Joint UPR Submission on Land-Related Rights, Forest Conservation Laws & Climate Change Policies: Thailand's Third Universal Periodic Review Cycle*, (25 March 2021), available at: <https://www.manushyafoundation.org/joint-upr-submission-landrights>
13. Manushya Foundation, *UPR Factsheet: Torture and Enforced Disappearance in Thailand: Thailand's Third Universal Periodic Review Cycle*, (9 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-torture-and-enforced-disappearance>

**Details on the #SaveSabWaiVillagers Case following the OHCHR template for submission of a Complaint**

1. Submission Type: COMPLAINT FOR URGENT ACTION	
To what issues/themes/areas is your submission related?	
<p>Please select the primary area of concern (the following are a general categorization of concerns. Therefore, in case of doubt please use the option "Human rights violation"): *</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> <b>Human rights violation</b></li> <li><input type="checkbox"/> Bill, legislation or policy</li> <li><input type="checkbox"/> Add information to previous submission</li> </ul>
<p>Please select 1 to 5 issue(s) of concern to which your submission is related to in the list, then reply to the consent question at the bottom of the screen. Once you have confirmed consent you can continue to the next step. *</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> African Descent</li> <li><input type="checkbox"/> albinism</li> <li><input type="checkbox"/> arbitrary Detention</li> <li><input type="checkbox"/> business</li> <li><input type="checkbox"/> <b>climate change</b></li> <li><input type="checkbox"/> cultural rights</li> <li><input type="checkbox"/> development</li> <li><input type="checkbox"/> disability</li> <li><input type="checkbox"/> disappearances</li> <li><input type="checkbox"/> education</li> <li><input type="checkbox"/> <b>environment</b></li> <li><input type="checkbox"/> executions</li> <li><input type="checkbox"/> <b>food</b></li> <li><input type="checkbox"/> foreign debt</li> <li><input type="checkbox"/> <b>freedom of opinion and expression</b></li> <li><input type="checkbox"/> freedom of peaceful assembly and of association</li> <li><input type="checkbox"/> <b>health</b></li> <li><input type="checkbox"/> <b>housing</b></li> <li><input type="checkbox"/> <b>human rights defenders</b></li> <li><input type="checkbox"/> independence of judges and lawyers</li> <li><input type="checkbox"/> indigenous peoples</li> <li><input type="checkbox"/> internally displaced persons</li> <li><input type="checkbox"/> international order</li> <li><input type="checkbox"/> international solidarity</li> <li><input type="checkbox"/> leprosy</li> <li><input type="checkbox"/> mercenaries</li> <li><input type="checkbox"/> migrants</li> <li><input type="checkbox"/> minority issues</li> <li><input type="checkbox"/> older persons</li> <li><input type="checkbox"/> <b>poverty</b></li> <li><input type="checkbox"/> privacy</li> <li><input type="checkbox"/> <b>racism</b></li> <li><input type="checkbox"/> religion or belief</li> <li><input type="checkbox"/> sale of children</li> <li><input type="checkbox"/> sexual orientation and gender identity</li> <li><input type="checkbox"/> slavery</li> <li><input type="checkbox"/> terrorism</li> <li><input type="checkbox"/> torture</li> <li><input type="checkbox"/> toxics and human rights</li> <li><input type="checkbox"/> trafficking in persons</li> <li><input type="checkbox"/> truth, justice, reparation and guarantees of non-recurrence</li> </ul>

- unilateral coercive measures
- violence against women
- water and sanitation
- women and girls**
- Afghanistan
- Belarus
- Burundi
- Burundi
- Cambodia
- Central African Republic
- Democratic People's Republic of Korea
- Eritrea
- Islamic Republic of Iran
- Mali
- Myanmar
- Palestinian territories occupied since 1967
- Somalia
- Syrian Arab Republic

#### Consent

You must check the box below to indicate you have the consent of the alleged victim to make a submission to Special Procedures. \*

- I am/we are the alleged victim(s), and I/we give my/our consent
- I am/we are the representative(s) of the alleged victim(s), and I/we have her/his/their consent**
- I am/we are member(s) of the family/ies of the alleged victim(s), and I/we have her/his/their consent
- The nature of the allegation is such that consent cannot be obtained, e.g. the victim(s) is/are dead or has/have been subject to an enforced disappearance

## 2. Victims

Who does the incident/situation involve?

- An individual or individuals
- A group/community**
- Civil society

#### Victim's Information - group/community

Group community information

Name of group/community, civil society or other entity: \*

**Sab Wai Villagers mobilized as the Sai Thong Rak Pah Network.**

**There 14 Sab Wai Villagers, including 9 women human rights defenders, and 5 elderly persons.** Learn more about the Sab Wai Villagers [here](#).

Description of the group/community (including, if relevant, number of members; number of women, men, girls and boys; indicate the group/community leader(s); other facts):

#### Community profile

This Complaint pertains to the imminent forced evictions and human rights violations faced by 14 community members from the Sab Wai village in Yae Sub-district, Nong Bua Rawe District, Chaiyaphum Province, Thailand. There are 9 females and 5 males, including elderly persons. The group faces criminalization and imminent danger of forced evictions from their homes and lands within the Sai Thong National Park in the name of false climate solutions represented by Thailand's flawed forest conservation laws and policies, namely the Forest Reclamation Policy and NCPO (National Council for Peace and Order) Orders 64/2014 and 66/2014 of 2014, all of which enhanced

the enforcement of older forest conservation laws such as the Forest Act (1941), National Park Act (1961) and the National Reserved Forest Act (1964). On 9 July 2019, 70 NCPO Orders including NCPO Orders 64/2014 and 66/2014 were repealed, however, their restrictive provisions were incorporated into the new National Park Act 2019.<sup>1</sup>

All 14 villagers belong to the '[Khon Isaan](#)', an ethnic group of Lao decent living in Thailand's Northeastern region, Isaan. The Khon Isaan face racial discrimination from the mainstream Thai population,<sup>2</sup> the fact denounced by the CERD Committee during Thailand's latest CERD Review on 22-23 November 2021.<sup>3</sup> Isaan is the most populous but also the poorest region in Thailand.<sup>4</sup> Likewise, the 14 Sab Wai villagers are impoverished farmers who, if evicted, will be, together with their dependents (children and elderly parents), thrown into extreme poverty and find themselves without means of livelihood.



*Family home of Ms. Suwalee Phongam, one of the 14 Sab Wai villagers.<sup>5</sup>*



*Hut used by Mrs. Sompitr Taennok, one of the 14 Sab Wai villagers, during the day.<sup>6</sup>*

### **Means of livelihood**

Following the villagers' criminalization under Thailand's forest conservation laws and climate change mitigation measures, the community has found itself in a highly vulnerable situation, facing substantial fines, a mandatory public service making it hard to carry on with their livelihoods as farmers, and most urgently, living in danger of losing their livelihoods completely if the Supreme Court verdicts ordering eviction are enforced.

The villagers are small-scale farmers who grow crops for their own consumption and sell the surplus produce in exchange for cash for daily necessities. A significant crop grown in the village is cassava, a future-proof plant that is resilient to negative climate change impacts and as such, represents a community-based adaptation measure, providing a level of protection against extreme weather events caused by global warming and ensuring food security.<sup>7</sup> Other crops grown in the area are e.g., mango, banana, custard apple, taro, potato, pumpkin, chilli and others.



*Pumpkin field, Sab Wai village.<sup>8</sup>*



*Sab Wai villagers having a lunch in the field.<sup>9</sup>*

Ms. [Nittaya Muangklang](#), a woman human rights defender, leads her community, including the 13 villagers, in their resistance to the Royal Thai Government's push for their evictions. The villagers are part of the Sai Thong Rak Pah Network, the Network of People who Love the Sai Thong Forest, a grassroots group uniting the 14 criminalized villagers and their allies. The 14 individuals were previously members of the Isaan Land Reform Network (ILRN), a grassroots group from the Isaan region. ILRN assists local communities, dependent mainly on farming activities, with claiming their land-related rights and promotes community rights on participatory resource management, environmentally-friendly agricultural practices, integrated farming practices, and biodiversity and forest expansion.

#### **History of the villagers' land occupancy in Sai Thong National Park**

The villagers have inhabited the area in Sai Thong National Park for nearly five decades since the 1970s after business enterprises vacated the land. The younger villagers inherited the land from their relatives who likewise utilized it for farming. Since then, the community has lived peacefully and made a livelihood through farming activities. However, in 1992, the Royal Thai Government established the Sai Thong National Park, which covers an area where eight communities (over 8,000 people) had settled and are making their living. Since 2014, when the Government introduced its Forest Reclamation Policy, the Sab Wai villagers, similarly to many other farming and indigenous communities in Thailand, became targets of criminal charges and a drive to evict them from their lands. The 14 Sab Wai villagers are growing and cultivating cassava, known to be a "survivor" crop, able to thrive in the expected higher temperatures caused by climate change. While Cassava production has been recognized as a

climate change adaptation strategy,<sup>10</sup> the villagers have been criminalized as “destroyers of the forest”<sup>11</sup> and jailed for damaging the forest and the environment. The Sab Wai villagers’ cases are not isolated, as Thailand is one of the world’s top cassava exporters with a market share of 79.56 percent.<sup>12</sup>

*Describe the activities of the group/community, civil society or other entity:*

### **Activities within the Isaan Land Reform Network (ILRN)**

Throughout their advocacy work, the 14 Sab Wai villagers engaged with several community groups. In 2006, the community-based Isaan Land Reform Network (ILRN) was established in order to assist community members with defending their land rights. Together with the ILRN, Ms. Nittaya has led her community in their resistance against the government’s push for eviction which is based on unfair forest conservation laws. The main priorities of ILRN and Ms. Nittaya in their community work consisted of:

1. **Awareness raising among villagers and peasants on land-related rights:** ILRN raised awareness among villagers and peasants on their rights to land that they have inherited by birth. The Network also raised awareness of the consequences of the loss of access to land and livelihood.
2. **Network for Food Security:** ILRN and the villagers worked together to initiate sustainable land and natural resource management plans through community participation. This approach ensured local people in the areas of the Sai Thong National Park led the movement to balance responsible natural resource management and sustainable livelihoods, creating climate-resilient communities using traditional and environmentally friendly farming practices and becoming their own agents of just transition. The overarching rationale for the community plan was to emphasize the principle of coexistence between individuals and the forest. The ILRN promoted community rights on participatory resource management and focused on biodiversity and forest expansion. ILRN also assisted villagers and peasants to guarantee their food security by organizing various farming activities.
3. **Awareness raising on the negative impacts of domestic legislation, particularly concerning forests, national parks, and NCPO Orders:** ILRN provides a solidarity and support network and raises awareness of Thailand’s false climate solutions, flawed forest conservation laws, and policies that criminalize the villagers living within the Sai Thong National Park instead of supporting them in their efforts to create strong communities living in harmony with their natural environment.

### **Affiliation with the People’s Movement for a Just Society (P-Move)**

ILRN is also part of the People’s Movement for a Just Society (P-Move), which is a network of civil society organizations nationwide that raises awareness on land-related rights and community rights to the management of natural resources. P-Move has been actively engaged in issuing statements and filing petitions before relevant government agencies, including Prime Minister Prayut Chan-o-cha, the National Human Rights Commission of Thailand (NHRCT), the Ministry of Natural Resources and Environment (MONRE), the Governor of Chaiyaphum Province and the district army, with the aim to formulate and implement equitable laws and policies related to land issues. Moreover, ILRN, as part of P-Move, has taken part in collaborative committees set up between affected people and government agencies to solve their land disputes.

### **Creation of the Sai Thong Rak Pah Network**

The 14 Sab Wai Villagers were part of the ILRN until 2020. To support their own national litigation process at the Supreme Court and national advocacy with the NHRCT and parliamentary committees, the 14 Sab Wai villagers formed the Sai Thong Rak Pah Network, a solidarity network of the 14 land rights defenders, their families, and allies.

Ethnic, religious, social or other background of the group/community members

Isaan people (ethnic Lao decent living in Thailand). Learn more about Isaan People and the racial discrimination they face [here](#).

Other status	<input type="checkbox"/> Bisexual <input type="checkbox"/> <b>Ethnic minority</b> <input type="checkbox"/> Gay <input type="checkbox"/> Indigenous <input type="checkbox"/> Internally displaced person <input type="checkbox"/> Intersex <input type="checkbox"/> Lesbian <input type="checkbox"/> Migrant <input type="checkbox"/> National minority <input type="checkbox"/> <b>Older person</b> <input type="checkbox"/> People of African descent <input type="checkbox"/> Person with disability <input type="checkbox"/> Refugee/asylum seeker <input type="checkbox"/> Religious minority <input type="checkbox"/> Stateless <input type="checkbox"/> Transgender <input type="checkbox"/> Other
Affiliation or activity of group/community	<input type="checkbox"/> Affiliation in an organization or association <input type="checkbox"/> Cultural activity <input type="checkbox"/> <b>Humanitarian, solidarity, human rights-related activity</b> <input type="checkbox"/> Media-related activity <input type="checkbox"/> Other <input type="checkbox"/> Participation in a peaceful assembly <input type="checkbox"/> Political or union affiliation
Occupation of group/community members	Farming
<b>Contact information of the group/community</b>	
Address	122 Village No. 7, Huai Yae, Nong Bua Rawe District, Chaiyaphum 36250
Email	<a href="mailto:nittaya9334@gmail.com">nittaya9334@gmail.com</a>
Telephone	+66 095-613-2452
<b>Group members</b>	
First name	Nittaya
Family name	Muangklang
Nationality	Thai
<b>Submitting multiple group/community members</b>	
<p>If you need to submit information on a large number of group/community members you can upload a spreadsheet (Excel format) containing the information on all victims.</p> <p>First download the template and input the data on all members. Once the spreadsheet is complete upload it using the form below.</p>	<p><i>Please refer to Annex 1 - Sab Wai Villagers (Multiple Members)" attached to the present Urgent Appeal Complaint.</i></p>

### 3. Submitter

Submitting person(s) / organization(s)	<input type="checkbox"/> An individual <input checked="" type="checkbox"/> <b>A group/community</b>
--	--

#### Submitting group/community, civil society or other entity

Name of group/community, civil society or other entity

Name of group/community, civil society or other entity: *	<b>Manushya Foundation</b> Learn more about Manushya Foundation, an intersectional feminist human rights organization reinforcing the power of local communities to be at the center of decisions that concerns them, in their fight for human rights, equality and justice, <a href="#">here</a> .
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*Describe the activities of the group/community, civil society or other entity:*

#### **About Manushya Foundation**

Manushya Foundation was founded in 2017 by Emilie Palamy Pradichit. It is an Intersectional Feminist organization reinforcing the power of Humans, in particular local communities and women human rights defenders, to fight for Human Rights, Equality & Justice. With its team comprising of women, transgender people, and feminists, it connects and reinforces the power of local communities across Asia to be at the center of decisions and policies that affect them. Communities become Agents of Change fighting for their rights and providing solutions to improve their lives and livelihoods.

#### **Theory of Change**

Manushya Foundation implements the following strategies:

1. *Coalition Building*: establishing strong intersectional networks led by feminists to speak truth to power and stand strong against injustice, inequalities, oppression, patriarchy, and neocolonialism.
2. *Capacity Development*: enabling communities to effectively fight for their rights with the critical knowledge and tools they need.
3. *Research, Advocacy & Campaigns*: centering communities' voices in research, policies, and campaigns to bring about positive change.
4. *Sub-granting*: financially supporting youth and communities put in marginalized situations to fight for democracy, their rights, their livelihoods, and the Planet.

#### **Manushya Foundation's Founder and Executive Director Emilie Palamy Pradichit**

[Emilie Palamy Pradichit](#), the Founder & Executive Director of Manushya Foundation, is an intersectional feminist visionary and international human rights lawyer specializing in accessing justice for marginalized communities through strategic litigation before the United Nations (UN) where her innovative work has successfully held governments and businesses accountable for their human rights abuses and violations. Working on the ground, she also endorses women and youth to speak truth to power at the forefront of their fight for justice and equality as well as defends indigenous, forest-dependent, LGBTIQ+ and marginalized communities across Asia.

#### **Manushya's advocacy and strategic litigation work on the Sab Wai villagers' case**

In particular, Manushya Foundation's Corporate Accountability and Climate Justice Portfolio takes on work supportive of the community efforts to ensure inclusive, feminist, and green Just Transition. Through advocacy and campaigning, research, coalition building, sub-granting, and capacity development, Manushya Foundation denounces false climate solutions and cases of corporate violations of human rights, putting forward community-based recommendations to decision-makers on the national and international levels, and providing solutions that put power back into the hands of local communities.

Manushya Foundation started supporting the 14 Sab Wai villagers in their resistance against Thailand's false climate solutions in 2019. Since then, it has reinforced their human rights advocacy on the national level, through filing

petitions to and facilitating communication with public agencies and monitoring their Appeal Court and Supreme Court hearings. Manushya Foundation led the public campaign [#SaveSabWaiVillagers](#) to inform the public about the case, gather wide public support for an online petition, and call for donations.<sup>13</sup>

As a result of our ongoing advocacy, coupled with the online petition<sup>14</sup> and open letter to the President of the Supreme Court (March 2021) calling for the end of the villagers' criminalization,<sup>15</sup> most of the Sab Wai villagers walked out free after their Supreme Court verdicts in 2021 and did not go back to jail. They were put on suspended jail terms but are still found guilty of forest encroachment, cast as criminals and destroyers rather than guardians of the forest. The Thai government's actions showcase its false and insincere commitment to a Just Transition.

On the international level, Manushya Foundation advocated for the Sab Wai villagers' rights through the [UN Submission for Urgent Appeal for Protection of the 14 Sab Wai villagers](#) made to seven UN Special Rapporteurs in June 2019.<sup>16</sup> As a result, four UN Special Rapporteurs issued a [Joint UN Communication](#) on 19 August 2019 that propelled the Thai Ministry of Natural Resources and the Environment (MONRE) to issue a memorandum on 14 November 2019, recognizing the 14 Sab Wai villagers as 'poor' and therefore eligible for protection under the NCPO Order 66/2014. However, in its disappointing [official response](#) to the Joint Communication from 10 June 2020, the Royal Thai Government only provided misleading and false statements, disregarding the MONRE memorandum and avoiding responsibility for the human rights violations suffered by the Sab Wai villagers.

Through Manushya Foundation's CERD Shadow report "[Thailand is a paradise but only for the 1%](#)",<sup>17</sup> we were able to inform Thailand's CERD Review on 22-23 November 2021. We also lobbied the CERD Committee members in Geneva<sup>18</sup> for them to address and issue concluding observations<sup>19</sup> to protect the rights of Sab Wai villagers, indigenous peoples, and other forest-dependent communities, victims of Thailand's false climate solutions, evicted from their lands and at risk of being put in situations of extreme poverty. The CERD Committee members addressed the discriminatory effects of Thailand's false climate solutions (unfair forest conservation laws)<sup>20</sup> and racial discrimination against Isaan people, including those living in forests,<sup>21</sup> under our [#FightRacism](#) campaign.

Manushya Foundation also informed Thailand's 3rd Universal Periodic Review held on 10 November 2021 in its Joint Submission with the Sai Thong Rak Pah Network regarding *Land-Related Rights, Forest Conservation Laws & Climate Change Policies*.<sup>22</sup>

Manushya Foundation has also been raising awareness about the dangers of Thailand's false climate solutions and climate mitigation measures non-compliant with its human rights obligations, including the dangers presented by future REDD+ activities (Reducing Emissions from Deforestation and forest Degradation) conducted through the Forest Carbon Partnership Facility sponsored by the World Bank.<sup>23</sup> Together with Ms. Nittaya Muangklang, Manushya Foundation participated in a meeting with World Bank in April 2021, to bring the grievances of Ms. Nittaya's community to the foreground and warn against forest conservation policies that fail to center community voices and have consequently negative impacts on their human rights.<sup>24</sup>

Contact persons of the group/community, civil society or other entity	Emilie Pradichit
Contact information of the group/community <i>Your case may not be taken up by the Special Rapporteur, the Independent Expert or the Working Group if they can not contact you, the victim or the victim's legal representative.</i>	
Address	5/4 Thanon Sutthisan Winitchai Soi 1 Samsen Nai, Phayathai, Bangkok 10400
Email	<a href="mailto:emilie@manushyafoundation.org">emilie@manushyafoundation.org</a> ; <a href="mailto:wearemanushyan@manushyafoundation.org">wearemanushyan@manushyafoundation.org</a>
Telephone	+66 (0) 951765921

#### 4. Disclosure

##### Consent / Disclosure / Confidentiality

###### Disclosure consent

Does the alleged victim(s) or group/community agree to have their name(s) disclosed in a letter that may be sent to the Government, or others, such as intergovernmental organisations including United Nations entities, businesses, military or security companies? *	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> No
Does the alleged victim(s) agree to have their name(s) appear in a public report to the Human Rights Council? *	<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> No
If you have a consent form/document please upload it here:	<i>Please refer to the 'Consent form' document attached to the present Urgent Appeal Complaint.</i>

#### 5. Case Information

##### Circumstances of the case

###### Case details

Country where the incident allegedly occurred/is occurring/might occur *	Thailand
If relevant to your submission, please indicate whether there are additional country/ies where the incident allegedly occurred/is occurring/might occur, or otherwise related to the case submitted	N/A
District / province / area (could be different locations) where the incident allegedly occurred/ is occurring/ might occur (if/ as relevant)	Sab Wai village in Yae Sub-district, Nong Bua Rawe District, Chaiyaphum Province
Does the alleged victim believe she/he was targeted due to her/his	<input type="checkbox"/> Age <input type="checkbox"/> Belonging to a specific group <input type="checkbox"/> Colour <input type="checkbox"/> Engagement in human rights, trade union, political, religious activities or other types of activities <input checked="" type="checkbox"/> <b>Ethnic origin</b> <input type="checkbox"/> Language <input type="checkbox"/> LGBTI <input type="checkbox"/> National origin <input type="checkbox"/> No known reason <input type="checkbox"/> Other status, affiliation or background <input type="checkbox"/> Political or other opinion or beliefs <input checked="" type="checkbox"/> <b>Property status</b> <input checked="" type="checkbox"/> <b>Race</b> <input type="checkbox"/> Religious background <input type="checkbox"/> Sex <input checked="" type="checkbox"/> <b>Social origin</b>

Has the incident been reported to the relevant authorities?

- Yes  
 No  
 Don't know

Please include details of any complaints filed or any other action taken by the alleged victim(s) or anyone else on their behalf?

**1. Actions taken through State-based Judicial Grievance Mechanisms: villagers are treated as 'criminals' instead of 'Guardians of the Forest'**

Despite their history of settlement within the Sai Thong National Park reaching back five decades, following the enactment of Thailand's false climate solutions, represented by the Forest Reclamation Policy and operationalized by the NCPO Orders 64/2014 and 66/2014, the Sab Wai villagers have become victims of forest encroachment charges and efforts to push them out of their lands, disregarding their sustainable way of living and farming. From July to December 2018, the 14 villagers were found guilty of criminal and civil charges by the Court of First Instance of Chaiyaphum Province.

**1.1. Appeal Court Hearings, May-July 2019**

The proceedings and judgments of the Court of First Instance were not in favor of the villagers as they were based on flawed laws and orders, and have not taken all relevant facts of the villagers' cases into consideration. An example of such facts is the evidence that communities were living on the land before it had been declared a national park, and therefore should not be held liable under NCPO Orders 64/2014 and 66/2014 for violations of the National Parks Act and the National Reserved Forests Act, whereby wealthy investors should be charged.

**Between May to July 2019**, the Chaiyaphum Appeal Court confirmed the verdicts of the Court of First Instance and imposed prison sentences on all except for one villager, Mr. Samon Somchitr. The villagers were only released on bail between 19 July and 29 August 2019, pending trial at the Supreme Court.<sup>25</sup>

*Please refer to the details of criminal and civil charges against each of them in Annex 2.*

**1.2. Supreme Court Verdicts, March - May 2021**

Following the Appeal Court verdicts, the villagers' lawyer submitted an appeal to the Supreme Court as well as applications for bail for imprisoned villagers which has been granted. In the appeal before the Supreme Court, the validity of the exclusion of the villagers from NCPO Order 66/2014 which should protect them from being charged under NCPO Order 64/2014 was questioned. It was also the first time that such a case, questioning NCPO Order 66/2014, was brought to the Supreme Court.

**On 1 March 2021**, before the start of Ms. Nittaya's Supreme Court hearings, Manushya Foundation together with Sab Wai villagers and their supporters gathered at the office of the President of the Supreme Court, to submit an open letter endorsed by 347 organizations and individuals from all over the world.<sup>26</sup> The main demands included:

1. The Supreme Court needs to take into account the memorandum of the Ministry of Natural Resources and the Environment from 14 November 2019 recognizing the Sab Wai villagers as 'poor' and therefore eligible for protection under the NCPO Order 66/2014.<sup>27</sup>
2. Overturn the Appeal Court ruling and dismiss the cases.
3. Order the Thai government to pay reparations to Ms. Nittaya and the Sab Wai Villagers.

While the Supreme Court did not take the aforementioned memorandum into account, it further denied the applicability of the NCPO Order 66/2014 to the case of Sab Wai villagers in its verdict on Ms. Nittaya's case 1739/2017, on 5 May 2021, stating that:

*"[...] the Order [66/2014] is merely an administrative order which stipulates interim policies for operations, prescribing procedures for the relevant competent officials under the Order to adhere to in order to not affect impoverished people, those with small incomes, and landless people only. Importantly, exempted persons are required to fall under the prescribed criteria, such as having settled in the land before NCPO Order No. 66/2014 is effective."*

It further claimed that:

*"There are no statements which stipulate that impoverished people, those with small incomes, and landless people who have settled in the land before this Order is effective shall not be guilty, guilty but not punished, or exempted from legal action."<sup>28</sup>*

Consequently, the Supreme Court confirmed the verdicts of the Courts of the lower instances and found all 14 villagers guilty of encroachment, possession for the benefits, construction, reclamation, and destruction of forests. All verdicts of the Supreme Court result in an order for the villagers to leave their land.

For **eleven** villagers, the Supreme Court:

- Opted for suspended jail terms of 3 years with a probation period of 2 years;
- Confirmed the payment of substantial civil charges in a form of compensation for damages with a 7.5% interest rate per year;
- Ordered the villagers to pay criminal charges ranging from 20,000 to 40,000 THB. However, taking into account their time spent in jail following the Appeal Court verdicts in 2019, the fines would be compensated through community service of up to 59 days.
- Ordered additional community service for each of the villagers.

**Three** villagers were imprisoned and likewise obliged to pay fines.

- **Ms. Pattama Komet** was sentenced to 5 months in prison and a 200,000 THB compensation payment. She received a harsher sentence than the rest of the villagers as she owns more than 25 rai (4 ha; or 0.4 km<sup>2</sup>) of land and was therefore considered to be an 'investor'. However, the Court omitted to take into account that the land Ms. Pattama owns represents everything she and her family have to make a living, unlike the notion that she is a wealthy investor who uses the said plot of land as a part of wider commercial activities.
- **Mr. Sompitr Taennok** was sentenced to 20 months and 20 days in prison and a 200,000 THB compensation payment. The Court decided on this harsher sentence as it considered Mr. Sompitr a 'recidivist' who had been charged with violation of forest conservation laws in the past. Nevertheless, he only returned to his land after he served his previous sentence because the land situation had not been resolved and he had nowhere else to go.

The Supreme Court also did not consider the fact that at the time of the verdict, Mr. Sompitr's wife suffered from stage 4 cancer, with medical expenses amounting up to 10,000 THB per month. As Mr. Sompitr was taken to the prison immediately, he did not have time to arrange appropriate care for his wife who was not able to attend the court hearing.<sup>29</sup> Mr. Sompitr's wife's health conditions significantly worsened after the Supreme Court verdicts and she passed away on 1 June 2021, soon after Mr. Sompitr was sent to prison.<sup>30</sup> Similarly, Ms. Pattama was jailed despite the fact that she was taking care of her sick father.



*Mrs. Sunet learning from Ms. Nittaya that her husband Mr. Sompitr was imprisoned after the Supreme Court verdicts.<sup>31</sup>*

While the rest of the villagers (11) did not have to serve another prison sentence, the Supreme Court verdicts resulting in the eviction from their lands will have far-reaching consequences once they are enforced. As already mentioned, the community fully depends on their farming land for their livelihoods. If evicted without appropriate replacement in a form of a full restoration of their livelihoods and arable land, the 14 Sab Wai villagers and their dependants will find themselves in extreme poverty. From the beginning of 2022, the villagers have been repeatedly visited and threatened by the national park officers to vacate their land. Please refer to the details below, under the chronological summary of the case, Section 3.

*Please refer to Annex 3 for detailed information regarding the verdicts of the Supreme Court.*

## **2. Actions taken through State-based non-judicial grievance mechanisms: Villagers' constructive engagement with Chaiyaphum Provincial authorities**

### **2.1. Initial success in halting the evictions of the 14 Sab Wai villagers**

In 2016, the Land Conflict Solution Committee of P-Move succeeded in temporarily halting the eviction of Sab Wai villagers and removal of their assets from the Sai Thong National Park. This was achieved by requesting the Ministry of Natural Resources and the Environment and other relevant agencies to stop dismantling peoples' assets and to halt any actions that might create disputes on the ground. In addition, a provincial land conflict solution and a fact-finding committee was established to address land disputes at the Sai Thong National Park.

## 2.2. Villagers' collaboration with government agencies

Between 2016 and 2018, several meetings were organized between government agencies and local representatives to resolve land disputes in the area. In March 2018, at a meeting in Korat, the provincial committee accepted the sustainable land and natural resources management plan using the participatory approach proposed by affected villagers. However, to this date, none of the plans proposed have been implemented. Despite these efforts made by the affected communities and individuals to collaboratively reach a solution along with the government agencies, the 14 Sab Wai villagers still live in fear of being evicted from their lands and thrown into extreme poverty as a result.<sup>32</sup>

Further, the villagers had requested the meeting minutes of the November 2018's meeting with the working group established to resolve the cases to showcase evidence of their collaborative approach and to prove to the Appeal Court that ongoing discussions were held with government agencies who promised to resolve the land evictions' issues. However, the villagers had never received the meeting minutes critical to their defense.<sup>33</sup>

## 2.3. Meeting with the Chaiphum Provincial authorities in 2019

On 12 June 2019, the Sab Wai villagers under the leadership of the ILRN met with the Chaiphum Provincial authorities to follow up on the discussions held in 2018 in Korat and made the following requests:

1. Provision of financial support through the Justice Fund;
2. Requirement of meeting minutes from the November 2018 meeting in Korat with the working group that was set up to resolve the case;
3. Update on the implementation of the plan that was decided upon at the meeting in Korat;
4. Remedies for family members especially the sick and those that need care;
5. Removal or transfer of the official heading of the Sai Thong National Park.<sup>34</sup>

### **The Chaiphum Provincial authorities agreed to:**

1. Appeal to the person considering the provision of Justice Fund although the fund can only be provided for bail and other fees, but not for the lawyer expenses;
2. The authorities in Korat and Bangkok were contacted and they would be sharing the meeting minutes with the Chaiphum provincial authorities and the ILRN;
3. The facts of the condition of each family member would be considered, and local authorities would work together on figuring out remedies to assist them, such as through house visits from doctors, etc.;
4. A compilation of all information on the Sai Thong National Park case would be sent by the Chaiphum Provincial authorities to the Ministry of Interior, the Ministry of Natural Resources and Environment, the National Parks Department, the Korat Forest agency no. 7 (with authority over national park authorities in four provinces including Chaiphum), and the Office of the Prime Minister so that these cases may be considered, to reach a more equitable solution.<sup>35</sup>

Through their ongoing collaboration with various government agencies, the 14 Sab Wai villagers have demonstrated their **good faith** in engaging constructively to resolve the land eviction issues. However, pressure from the international community is necessary to guarantee reciprocal good faith and sincerity from the government in addressing the challenges.

## 2.4. Recent actions taken by the Sab Wai community, 2021-2022

Following the Supreme Court verdicts up until the present day, the Sab Wai villagers represented by Ms. Nittaya lobbied with various government agencies to try to resolve the situation of their land evictions. In March 2022, forestry officers visited the Sab Wai village and inspected their plots of land (please see a detailed overview in the chronological summary of the case, Section 3), as a result, the Sab Wai villagers have undertaken the following actions:

#### **2.4.1. Meeting with Chaiphum Provincial authorities**

**On 27 May 2022**, Chaiphum provincial authorities organized a meeting at the Nong Bua Rawe District Office, based on a complaint letter from Ms. Nittaya, to discuss the situation of the 14 Sab Wai villagers. The Chaiphum authorities, the Chaiphum Dhamrongdham Center, and the Governor decided to send a letter on behalf of the villagers to the Department of National Parks, Wildlife, Plant Conservation.

At the meeting, the chief of Sai Thong National Park clarified that the villagers are allowed to stay living on their land until the new 'secondary laws', royal decrees enforcing the National Park Act 2019, come into effect.<sup>36</sup> Due to their restrictive provisions, their enactment will further empower national park officers to evict the Sab Wai villagers from their land. Please refer to the details provided below, in the chronological summary of the case, under Section 3.



*Meeting on 27 May 2022.<sup>37</sup>*

#### **2.4.2. Letter from the Chaiphum Governor on behalf of the villagers**

**On 27 May 2022**, Chaiphum Dhamrongdham Center, a central government agency opened for complaints from citizens in the provinces sent an official letter to the Director-General of the Department of National Parks, Wildlife, and Plant Conservation, Mr. Thanya Netithammakun, informing him of the complaint regarding the implementation of the Supreme Court verdicts filed by Ms. Nittaya on behalf of the Sab Wai villagers. The Governor proposed a solution by asking the Department to significantly consider suspending the civil fine that 14 villagers received as a result of the Supreme Court verdicts in 2021, totaling 4,847,246 THB (approximately EUR 131,500 or US 137,000). Additionally, the Governor stated that the reason for the requested suspension and a need for a long-term solution for the 14 villagers not to pay the fine is due to their recognized poverty status.<sup>38</sup>

#### **2.4.3. Complaint filed by Ms. Nittaya Muangklang and the Sab Wai Villagers on 29 June 2022**

**On 29 June 2022**, the Sab Wai villagers, led by Ms. Nittaya, handed over a complaint to four public entities, namely:

1. The Committee on Legal Affairs, Justice, and Human Rights, National Legislative Assembly;
2. The Committee on Land, Natural Resources and Environment, National Legislative Assembly;
3. National Human Rights Commission of Thailand (NHRCT);
4. Ministry of Natural Resources and the Environment.



*The Sab Wai villagers handing over a complaint to the Committee on Legal Affairs, Justice, and Human Rights, National Legislative Assembly on 29 June 2022.<sup>39</sup>*



*The Sab Wai villagers handing over a complaint to the National Human Rights Commission of Thailand on 29 June 2022.<sup>40</sup>*

While the Ministry of Natural Resources and the Environment is working on a set of subordinate laws (Royal Decrees) to enforce the National Park Act (2019), during a meeting on 27 May 2022, the Sab Wai villagers were informed by the Director of Sai Thong National Park that it is mandatory for them to completely move out of their lands when the subordinate laws come into effect.<sup>41</sup> However, currently, there are no government agencies responsible for the relocation to new livable lands with full service of public utilities, and full restoration of livelihoods. In the meantime, the villagers are in a highly vulnerable situation, considering:

1. The villagers do not have other plots of land to cultivate.
2. There is a debt burden arising from the lawsuit.
3. The villagers struggle to pay for education expenses for their children.
4. The villagers' mental health has been heavily impacted. They live a life of paranoia, unable to lead a normal life because the officers inspect the area and the villagers are forbidden from working there.
5. If forced to leave the area without replacement land, villagers would not have a place to live, become homeless, and have no access to arable land.

In the complaint, the Sab Wai villagers called for all the related government agencies, NHRCT, and Parliamentary Committees to address four issues:

1. Grant permission for all the villagers to continue living and conducting agriculture on their own lands.
2. In case the relocation takes place, ensure the full restoration of their livelihood, compensation, and that the new relocation site provides a livable environment with full public utilities and is adequate for conducting agriculture.
3. Terminate the Supreme Court's enforcement of the civil fine as all the villagers are already recognized as "poor people" according to NCPO Order 66/2014.
4. Request all the related government agencies, NHRCT and Parliamentary Committees to form a special task force to resolve this issue together with the Sab Wai villagers.

*Please refer to the 'Letter to the Committee on Land, Natural Resources and Environment of National Legislative Assembly' attached to the present urgent appeal complaint, in the Annex 4.*

#### **2.4.4. Meeting with the Provincial Governor on 6 July 2022**

During the mission to Bangkok, the Sab Wai villagers also handed over a complaint to the representative of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on 1 July 2022. However, upon the return to their village, the community faced reprisals from the National Park officers on 5 July 2022, at 7 pm, who threatened to start reforesting the villagers' land, starting with the land of Ms. Nittaya, the community representative. Ms. Nittaya therefore promptly arranged a meeting with the Provincial Governor, asking for a guarantee that the villagers' safety will be ensured and that appropriate and safe residence will be found in case of the villagers' evictions. The office did not try to resolve this situation, however, and attempted to shift responsibility to other governmental bodies instead. Additionally, the personnel at the Provincial Office accused the villagers of being 'rebellious' and 'demanding too much'.<sup>42</sup>



*Sab Wai villagers at the office of the Chaiyaphum Province on 6 July 2022.<sup>43</sup>*

#### **2.4.5. Letter to the Minister of Natural Resources and the Environment on 6 July 2022**

On 6 July 2022, Ms. Nittaya on behalf of the Sab Wai villagers sent a complaint letter to the Minister of Natural Resources and the Environment and its ad-hoc strategy group. The villagers reiterated their demand for appropriate arable land to be allocated to them in case of evictions, and suspension of the payment of the civil charges. Please refer to the 'Letter to the Minister of Natural Resources and the Environment 6 July 2022' attached to the present urgent appeal complaint, in the Annex 4.

#### 2.4.6. Meeting with local authorities on 7 July 2022

Ms. Nittaya and other Sab Wai community members met local authorities on 7 July 2022 for further discussions and for Ms. Nittaya to explain the reason behind submitting complaints to Parliamentary Committees and the NHRCT on 29 June 2022.<sup>44</sup> The authorities informed that they had found lands with appropriate public utilities not too far from the villagers' original hometown. According to the preliminary plan, the Provincial Office of Natural Resources and Environment of Chaiyaphum Province and the Chaiyaphum Provincial Land Office are the two government agencies responsible for finding new appropriate land for the villagers, although more public bodies might be involved according to the type of land.

During the meeting, the villagers were also promised to be able to inspect the lands together with the related agencies within next two weeks. At the moment, there are concerns that the new land is located outside of the Sai Thong National Park but still under the administration of the Royal Forest Department.

The authorities also pledged that the national budget for 2023 will be used to find new lands.<sup>45</sup> However, the 2023 budget will only be in effect as of 1 October 2022 and more time would be required for allocation of funds. The long timeframe and a lack of concrete commitments put in question the good faith and the effectiveness of the local authorities.



*Meeting with Chaiyaphum Provincial authorities on 7 July 2022.<sup>46</sup>*

#### 2.4.7 Meeting at the Department of National Parks, Wildlife and Plant Conservation on 20 July 2022

On 20 July 2022, Ms. Nittaya accompanied by representatives of Manushya Foundation attended a meeting with Mr. Chom Madaeng, the Sai Thong National Park head, Mr. Worapol Deeprasai, former Sai Thong National Park head, Mr. Anan Pinnoi, Director of the Office of Conservation Area Rehabilitation and Development and Mr. Burin Sudlapha, Director of Upstream Resources Management.

Mr. Chom Madaeng, as an officer responsible for reforestation following the Supreme Court verdicts, explained during the meeting that he has no other choice but to continue the reforestation process, otherwise, his office might be considered not to exercise the duty under Section 157, Criminal Code, *“whoever being an official, wrongfully exercises or does not exercise any of his function to the injury of any person, or **dishonestly exercises or omits to exercise any of his functions, shall be punished**”*. In order to avoid punishment under Section 157, he had visited and explored the case area. He claimed that this move led to misunderstanding and miscommunication between the National Park and Ms. Nittaya and other Sab Wai villagers as the head had already declared his intention to reforestation.

During the meeting, the officials again tried to avoid responsibility and shift it to the Chaiyaphum governor who was not present, putting forward an argument that he should act as an intermediary. Furthermore, the national park

head also lied during the meeting when he tried to claim that national park officers had not visited the villagers' land. He only changed his narrative when Ms. Nittaya confronted him as she possesses photo evidence of new tree saplings planted on Mrs. Thongpun's land on 16 July 2022. *Please refer to the chronological summary of the case below under 'Description of the Incident' section, for more details.*

Ms. Nittaya also raised following two requests:

1. Reconsider the issue of "recognizing the 14 Sab Wai villagers as 'poor' and therefore eligible for protection under the NCPO Order 66/2014" again, following the NCPO Order 66/2014.
2. Demand the Chaiyaphum governor to establish a working group that is responsible for supervision and assistance in finding a new area for Sab Wai villagers to make their living. The working group would be active for 5 years and, importantly, it would include Ms. Nittaya and Sab Wai villagers. They would consequently propose a solution to the Director of the national park and then send it to the Council of Ministers for approval. However, the Chaiyaphum governor still has not provided any response.

**2.4.8. The submission to Mr. Anan Pinnoi, Director of the Office of Conservation Area Rehabilitation and Development:** During the meeting, Ms. Nittaya, as a Sab Wai representative, handed over a complaint letter to Mr. Anan Pinnoi to demand a solution and remedy to the Sab Wai case. In the letter, Ms. Nittaya detailed the timeline of recent developments and reiterated requests previously made in the letter to the four public entities on 29 June 2022, attached to the present Urgent Appeal Complaint in the Annex 4.



*Ms. Nittaya hands over a complaint to Mr. Anan Pinnoi.*

### 3. International Litigation by Manushya Foundation on behalf of the Sab Wai Villagers

Thailand's false climate solution through unfair forest conservation laws fails to recognize indigenous peoples and forest-dependent communities as 'Protectors of the Forest', and instead criminalizes them. The goal of the government is to portray indigenous peoples and forest-dependent communities as the first drivers of deforestation. The Thai government weaponizes its commitment to the Paris Agreement and the need to reduce carbon emissions to criminalize poor villagers, while indigenous peoples and forest-dependent communities actually contribute to forest protection through their traditional ways of living and cultivating. The international community is being fooled with indigenous peoples and forest-dependent communities being at the very end of this injustice.<sup>47</sup> It is critical for Manushya Foundation to denounce it and hold the Thai government into account for its international human rights obligations.

### **3.1. Submission to the UN Special Procedures (23 June 2019)**

On 23 June 2019, Manushya Foundation submitted a [complaint](#) (submission of information for urgent action related to alleged human rights violations) to seven United Nations Special Rapporteurs<sup>48</sup> requesting their urgent intervention to stop the ongoing unfair criminalization of the 14 Sab Wai villagers and to call on the Thai Government to revise its controversial forest conservation policies hurting communities rather than targeting capitalist investors guilty of encroaching, clearing and utilizing land belonging to national reserved forests and national parks. The complaint submitted followed the verdicts of the Appeal Court which confirmed the verdicts of the Court of First Instance for all 14 villagers, and the appeals to the Supreme Court, challenging discrepancies in the application of the NCPO Orders 64/2014 and 66/2014.

#### **Our impact**

The subsequent [Joint UN Communication](#) of four UN Special Rapporteurs<sup>49</sup> (*ref. AL THA 7/2019 dated 19 August 2019*) called for urgent action from the Royal Thai Government “[...] to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.”

The said communication likewise requested, inter alia, detailed information regarding the compliance of the 14 Sab Wai villagers’ criminalization and conviction with the international human rights law, an explanation of the criteria used to determine individuals as “poor” under the NCPO Order 66/2014 (hence protecting them from provisions stipulated in the NCPO Order 64/2014), and also the compliance of the evictions of forest-dependent communities under the Forest Reclamation Policy with international human rights standards.

The Joint Communication issued by the Special Rapporteurs also led to the establishment of the Provincial Committee and Working Group under Order No. 120/2019 issued by the Chaiyaphum Province’s Internal Security Operations Command (ISOC), to evaluate if 187 villagers from Chaiyaphum, including the 14 lands rights defenders, could be identified as ‘poor’.

In a crucial development, on the basis of the Working Group’s investigation, the Ministry of Natural Resources and the Environment issued a memorandum on 14 November 2019, recognizing 167 villagers, including the 14 Sab Wai villagers as ‘poor’ and therefore eligible for protection under the NCPO Order 66/2014.

### **3.2. Analysis of the government’s lies of 10 June 2020, in its response to the UN Communication**

Problematically, the Royal Thai Government’s [response](#)<sup>50</sup> failed to provide persuasive proof that the situation of the 14 Sab Wai villagers would be resolved in a manner consistent with its international human rights obligations. Instead, the Government provided several evasive and misleading statements. The main problematic points of the Government’s response are the following:

#### **3.2.1. Individual rights related to land vs. collective right to the environment: the flawed implementation of the Cabinet Resolution of 1998**

The Royal Thai Government claimed to provide protection of the right to land of communities living in reserved forest areas under the Cabinet Resolution dated 30 June 1998 and “finding a balance between the right to land of certain groups of people and the right to environment of all.”

#### **Our analysis of the Thai government’s reply:**

Flawed implementation of the Cabinet Resolution of 1998: In its verdicts confirming the judgment of the Court of First Instance, the Appeal Court refused to guarantee the protections under NCPO Order 66/2014 to the 14 villagers as it claimed they had moved to the area only after its declaration as a national park in 1992. The villagers were excluded from the land survey that started in 2003 under the Cabinet Resolution 1998 even though they had approached surveying rangers on various occasions to ensure that their land was surveyed and that they would be

included in the list, but the rangers made excuses not to survey their land and told them that another survey would take place after four years.

Furthermore, the survey itself was not effective as (1) authorities had limited time to conduct it; (2) the number of personnel conducting surveys was limited, and (3) the budget allocated for surveying was insufficient. Therefore, in the case of the Sab Wai villagers, when authorities ran out of funds, they did not carry on with the surveys but allowed villagers to continue living on the land.<sup>51</sup>

It is stipulated in NCPO Order 66/2014 that an investigation and rights-proving procedure would take place for new encroachers, but verification methods of communities' land rights, such as examining the traditional, cultural, and historical context, were neglected by law enforcers.<sup>52</sup> Instead, the Cabinet Resolution of 30 June 1998 was utilized as a land-rights identification method even though it is not mentioned under NCPO Order 66/2014. Under the Cabinet Resolution of 30 June 1998, aerial photographs and satellite images were taken and surveys amongst villagers living in national parks and reserved forest areas were conducted. Based on the images and surveys, a list was created and those included in it were allowed to make a living in national reserved forest and national park areas.<sup>53</sup>

Violation of Thailand's international human rights obligations: While the recognition of the right to land may be limited under international law, implicit within this are other associated economic, social and cultural rights such as the right to housing, food, and an adequate standard of living.<sup>54</sup> Furthermore, within the collective right to environment,<sup>55</sup> individual rights such as the rights of individuals to access information and to participate in decision-making processes are also included. The necessity of participatory rights to underlie States' legislative and policy frameworks addressing climate change has also been emphasized in the work of several UN Treaty Bodies.<sup>56</sup> Considering that Thailand's legislative framework does not adequately protect even these basic rights and that the Cabinet Resolution of 30 June 1998 failed to protect the right to land of Sab Wai villagers, the Royal Thai Government's justification is not applicable.

The forced and unequal implementation of the Cabinet Resolution 1998 to benefit a few and deny land-related rights to many grassroots communities establishes the priority of the government – to protect financial gain over people.

### 3.2.2. Land ownership in Sai Thong National Park

#### **a. On Thailand's forest conservation laws**

In its response to the Joint Communication of the UN Special Rapporteurs, the Royal Thai Government claims that the 14 Sab Wai villagers violated Thai laws as they settled in the area they currently inhabit only after the enactment of the Forest Act (1941), National Park Act (1961) and National Reserved Forest Act (1964), in the 1970s.

***Our analysis of the government's reply:*** While it is correct that the villagers settled in the area in the 1970s, it was before the official establishment of Sai Thong National Park in 1992. The Government's statement seems to impute that the law applied to protected areas, even before they were declared as such. This is a wrong interpretation, as the relevant legislation, the Forest Act of 1941,<sup>57</sup> the National Reserved Forest Act of 1964,<sup>58</sup> and the National Park Act of 1961,<sup>59</sup> can only apply to protected areas such as reserved forests and national parks, once they have been declared as protected.

#### **b. On the bad implementation of Thailand's Forest Reclamation Policy to unfairly criminalize indigenous peoples and forest-dependent grassroots communities**

In its response to the UN Special Rapporteurs' Joint Communication, the Royal Thai Government still justified that the purpose of the NCPO Orders 64/2014 and 66/2014 was to prevent investors from encroaching forest land and

provide protection to “[...] the ‘poor’ registered as former residents in accordance with the Resolution.” and argued that it is not applicable to use the term “misuse” of the NCPO Orders as done in the Joint Communication.

***Our analysis of the government’s reply:***

**Bad implementation of Forest Reclamation Policy:** Despite the repeated denial of the Thai government, Thailand’s Forest Reclamation Policy through NCPO Orders 64/2014 and 66/2014 has been constantly misused and even weaponized against farmers, indigenous peoples (such as the Bangkloi Karen community in the Kaeng Krachan National Park)<sup>60</sup> and land-dependent communities to deny them their rights. As of 2020, there were over 25,000 cases in total.<sup>61</sup> To explain, these communities use land in areas without tree cover and their presence on the land prevents its exploitation and the destruction by investors and businesses. The Sab Wai villagers have repeatedly appealed to the Provincial Committee and Working Group, by presenting how their traditional practice of cultivation preserves the forest and natural resources.

The Sab Wai villagers and the thousands of others from indigenous and local communities facing arrests and charges as a result of the Forest Reclamation Policy are instead being targeted because they are poor. While the NCPO Orders 64/2014 and 66/2014 were abolished, their content is still reflected in the 2019 National Park Act,<sup>62</sup> soon to be enforced by a new royal decree. The evictions of the 14 Sab Wai villagers are therefore imminent.

Furthermore, the status of the villagers as “poor” had been confirmed by the Government *before* its response to the UN Special Procedures communication. Leveraging our UN Submission of 23 June 2019 and the subsequent UN Communication of 19 August 2019, the Sab Wai villagers submitted a complaint to challenge the land survey at the provincial level to resolve this dispute. Consequently, on 26 September 2019, Chaiyaphum Province’s Internal Security Operations Command (ISOC) Command issued Order No. 120/2019 to establish a Provincial Committee and Working Group tasked with evaluating if 187 villagers from Chaiyaphum including the 14 human rights defenders could be identified as ‘poor’.

The findings of this Provincial Committee and Working Group from 10 October 2019 concluded that 167 villagers, including the 14 Sab Wai villagers were ‘poor’. The conclusion was acknowledged by the Chaiyaphum Provincial Office of Natural Resources and Environment (CPONRE) of the Ministry of Natural Resources and Environment (MNRE) in a memorandum dated 14 November 2019, confirming that the Sab Wai villagers have always been entitled to protection under NCPO Order No. 66/2014. At the time of the Thai government’s reply to the UN Special Rapporteurs communication, on 10 June 2020, the memorandum recognizing this fact had already been issued and the Government’s justification is therefore baseless.

**c. On Thailand’s Cabinet Resolution of 30 June 1998**

In its response, the Royal Thai Government also informed about the absence of names of the 14 villagers in the land surveys conducted in 2003, 2006, and 2011 under the Cabinet Resolution dated 30 June 1998, formally registering former residents of national reserved forest areas.

***Our analysis of the government’s reply:*** Sab Wai villagers not included in the survey listing villagers living in the Sai Thong National Park due to the government’s lack of capacity to survey all villagers

While the local community in Sab Wai agrees that in accordance with the Cabinet Resolution of 30 June 1998, a land survey began in 2003 with the support of officers from Sai Thong National Park as well as local administrative officers. This was carried out using GPS coordinates and the input of local communities, with a list of residents produced. Nevertheless, the survey was marked by several flaws: (1) authorities had limited time available to conduct surveys; (2) the number of personnel conducting surveys was limited, and (3) the budget allocated for surveying was insufficient.<sup>63</sup>

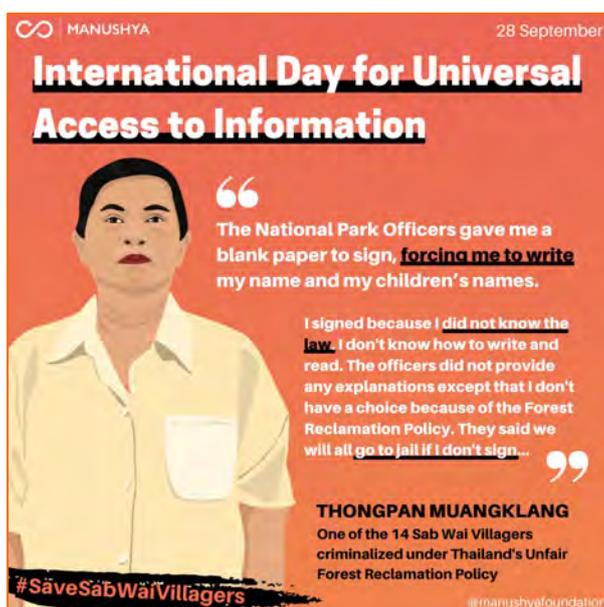
The concerned villagers testified that when the officials conducting the survey did not register all of the lands, they informed the villagers that they would return after four years to repeat the survey. However, the land belonging to some of the Sab Wai villagers was never surveyed and registered, while the claims of other villagers were not acknowledged, despite repeated requests to have their land registered.<sup>64</sup>

**d. On threats against Sab Wai villagers, forcing them to sign a form to give their land back and fake consent**

In its response, the Government provided false and misleading information regarding the villagers' alleged consent to vacate their lands when national park officers approached the villagers whose lands were not registered in the survey. The Sab Wai villagers were not fully informed either of Thailand's forest conservation laws or the forest reclamation policy. Instead, the villagers were told that they had to sign a form and if they refused, an arrest warrant or court case would be initiated against them. The villagers signed under fear to avoid arrest, while their complaint related to the inefficient land survey was still being resolved at the provincial level.

Furthermore, the document signed by Mrs. Thongpan Muangklang (or Monggang), Ms. Nittaya Muangklang's mother, was carried out without the presence of her daughters who were following the government process. There was no explanation provided to her about the implications of signing the document, she was simply told she had to do it in accordance with Thailand's Forest Reclamation Policy without explanation of the policy, so her children would not be arrested and they could continue planting cassava.

As a result, a memorandum of agreement on reclaimed land was signed, attesting that the land area had been cultivated for profit by growing cassava. As indicated above, the intention of signing the document was to avoid arrest. Signing the papers was in no way an admission that they agreed with the forest reclamation process or that they would not continue to pursue their previously submitted complaints against the government survey. Some of the villagers forced to sign the document were also unable to read and thus could not understand the purpose of the agreement they were signing.



This was a clear case of community manipulation violating Section 164 of the Civil and Commercial Code (1925) stipulating that "A declaration of intention is voidable if made under duress. Duress, in order to make an act voidable, must be imminent and so severe that makes him fear and without it, the act would not have been made."<sup>65</sup> The signed paper therefore cannot be valid in any way. Furthermore, it is the Thai government's duty to provide all the information as it is every citizen's right to know and to access information, according to the Official Information Act

1997.<sup>66</sup> The villagers' manipulation also violated the constitutional right to information enshrined in Section 41.1 of the 2017 Constitution of Thailand.

On the international level, the villagers were denied their right to access information in regards to the functioning and decision-making processes of the public administration as provided by the **UN Convention against Corruption (UNCAC) Article 10**, and the proceedings were defined by a grave lack of transparency called for in **UNCAC Article 13** on the participation of society.<sup>67</sup> The right to access information is also protected under **Article 19(2) of the International Covenant on Civil and Political Rights**<sup>68</sup> and further clarified in the **General Comment 34 of the Human Rights Committee**.<sup>69</sup>

#### **f. On the Justice Fund support not covering the full amount of bail**

Lastly, the Royal Thai Government praised its own merits in providing the criminalized villagers financial support through its Justice Fund to cover the bail. While it is appreciated that following the continuous engagement of civil society organizations and the Office of the High Commissioner for Human Rights (OHCHR) over a period of time with the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice (MoJ), funds were obtained to support the 14 villagers.<sup>70</sup> However, the amounts provided were between THB 160,000 (approximately USD 4,369) and THB 500,000 (approximately USD13,653). This could not support bail amount set for the 14 villagers, at an unfairly high amount between THB 100,000 (approximately USD 2,731) and 1,587,211 (approximately USD 43,360). The remaining funds to support the bail, evidence gathering, court fees, and lawyer fees had to be raised by civil society in their support.

This is an extremely worrying trend, particularly due to a large number of farmers and land-dependent communities all over Thailand negatively affected by the Forest Reclamation Policy, and NCPO Orders 64/2014 and 66/2014. By December 2015, Order No. 64/2014 had impacted nearly 1,800 families, mostly in the north and northeast, home to large indigenous populations. At that date, 681 recorded cases were filed against the exercise of powers under Order 64/2014 towards local and indigenous communities, and 168 of these cases amounted to judicial harassment.<sup>71</sup> According to the Government data, as of July 2022, there have been 28,664 cases of forest encroachment recorded since October 2014.<sup>7273</sup>

Affecting mainly poor local communities and indigenous peoples, it would be impossible for these grassroots communities to afford the legal costs by themselves or raise funds from other sources. If the government does not provide them with support for these unfair criminal charges, they would lose their homes and their livelihoods, putting them further into poverty.

#### **3.2.3. The Government's reply ignores the latest evidence from the Ministry of Natural Resources and the Environment confirming the 14 Sab Wai villagers are considered "poor"**

Most seriously, the Government only provides a definition of the 'poor' and 'investor' under the NCPO Orders used by the Internal Security Operations Command (ISOC), even though such interpretation was used neither by the Court of First Instance nor by the Appeal Court.

Instead, neither the Court of First Instance nor the Appeal Court was able to consider the conclusions of the Provincial Committee and Working Group tasked with determining if 187 villagers from Chaiyaphum including the 14 lands rights defenders can be identified as 'poor', as established by the Chaiyaphum Provinces' ISOC Command Order no. 120/2019 dated 26 September 2019 as this information was not available to them.

This was primarily because when the cases were filed and decided upon, the ruling of the MONRE was still pending on whether 187 villagers from Chaiyaphum were 'poor'. Thus, the Government was wrong in filing a case when their own Ministry was still in the process of deciding upon this matter. In a Memorandum from the Office of Natural Resources dated 14 November 2019, the findings of a meeting of 10 October 2019 were highlighted wherein the

Committee and Working Group recognized 167 villagers, including the 14 defendants as 'poor'. Thus, NCPO order 66/2014 that applies to 'poor' should have been applied to the Sab Wai villagers and thus they should have never been criminalized.

#### **3.2.4. Weak recognition and protection of Human Rights Defenders**

Furthermore, the Government provided: *“Thailand objects to a disputable and misleading use of the term “land rights defenders” in this Joint Communication, as follows: First, while there is no explicit reference to the right to land under international human rights law, such use may create a new legal term inconsistent with the current developments of international law.”*

**Our analysis of the government's reply:** “Land rights defenders” is not a term that has been developed for the purposes of the Joint UN Communication, but it is a term identified and discussed by international human rights experts. For instance:

- As discussed in the report of the Special Representative of the Secretary-General on Human Rights Defenders (A/HRC/4/37)<sup>74</sup> as per **Article 1 (2) of ICESCR**, on the issue of land and natural resources *“All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.”*<sup>75</sup> Defenders working on land rights and natural resources often come from indigenous communities and minority groups. These populations are often working to secure their right to utilize and live on the land they consider to be theirs.
- In the [report](#) of the UN Special Rapporteur on the situation of human rights defenders,<sup>76</sup> defenders advocating for and characterized by their actions to protect land rights are recognized as ‘land rights defenders’ under the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms* also known as the Declaration on Human Rights Defenders.<sup>77</sup> They are often ordinary people living in remote villages or forests, who defend their rights by protecting their land from large-scale businesses.

Thus, ‘land rights defenders’ are recognized under international law. Moreover, the 14 villagers are land rights defenders owing to their efforts in defending the rights of all members of their communities. As a woman human rights defender, Ms. Nittaya Muangklang leading this community is also engaged in sharing their legal battle with other grassroots communities across Thailand facing criminalization under the country’s forest reclamation policy, so they may develop strategies to approach their own legal battles. She serves on Manushya Foundation’s board and is also involved in awareness-raising efforts on newly developed forest laws such as the National Parks Act of 2019, and its impact on the human rights of grassroots communities. Being prosecuted and a defendant in a case does not change their identity as land rights defenders.

#### **3.3. UN Complaint for Urgent Action submitted to OHCHR Regional Office for Southeast Asia on 1 July 2022**

On 1 July 2022, representatives of Manushya Foundation and the Sai Thong Rak Pah Network submitted an official UN Complaint to the Office of the United Nations High Commissioner for Human Rights (OHCHR) Regional Office for Southeast Asia. The said complaint is now officially being submitted to the UN Special Procedures as an urgent appeal for action.



Representatives of Manushya Foundation and Sab Wai villagers handing over the UN urgent appeal complaint to Mr. David Murphy, Human Rights Officer in charge of Thailand, OHCHR Regional Office for Southeast Asia.

The meeting with the OHCHR was part of a mission to Bangkok from 27 June to 1 July 2022 where the Sab Wai villagers also handed over complaints to four public entities. However, upon their return, the Sab Wai community faced reprisals from the National Park officers, threatening to start reforesting the villagers’ land, starting with the land of Ms. Nittaya, the community representative.<sup>78</sup> Please refer to Section 2 of ‘Actions taken through State-based non-judicial grievance mechanisms: Villagers’ constructive engagement with Chaiyaphum Provincial authorities’ for details on the consequent action of the Sab Wai villagers.

Has the Government taken action to prevent or investigate the incident, punish the perpetrators, or ensure compensation to the alleged victim(s)?

- Yes
- No
- Don’t know

**Description of the incident**

Please provide a short chronological summary of the incident: what happened; when (date/time); who was involved?

## Chronological Summary of the Incident

### 1. Context of the Sab Wai Villagers' Case: Thailand's false climate solutions: unfair forest conservation laws and flawed climate change mitigation measures

As explained above, the case in the present complaint concerns 14 villagers who settled in their community in Sab Wai village, Chaiphum province in the 1970s and fight against unfair forest conservation laws that push them to be evicted from their lands and thrown into extreme poverty. The villagers are criminalized despite the fact that they had lived in the area prior to its declaration as the Sai Thong National Park and despite the protection that they should be granted under NCPO Order 66/2014 and the Cabinet Resolution dated 30 June 1998. The case of Sab Wai villagers is emblematic of the nationwide push from the Royal Thai Government to prevent forest encroachment by business entities, however, which largely targets impoverished rural populations, including indigenous peoples.

While the community is criminalized under older forest conservation laws (Forest Act 1941, National Park Act 1961, and the National Reserved Forest Act 1964), the new zeal for their enforcement only appeared following the enactment of the Forestry Master Plan: the Forest Reclamation Policy in 2014, setting up a target of 40% forestation rate in Thailand.

#### 1.1. The Unfair Forestry Master Plan: Forest Reclamation Policy

With this policy, the Thai government, specifically the Internal Security Operations Command (ISOC), the Ministry of Natural Resources and Environment (MNRE),<sup>79</sup> and the Royal Forest Department (RFD), aims to combat problems such as forest destruction and trespassing on public land while intending to increase Thailand's national forest area by 26 million Rai or up to 40% of the total area of the country. The Master Plan strategy lied in targeting commercial operations responsible for forest destruction. The government appeared sincere in such intentions after it released Order 66/2014, a supplemental directive that states that government operations tackling forest encroachment must not impact the poor.

However, implementation of the Master Plan has overwhelmingly targeted impoverished villagers and indigenous peoples who lived on their lands for decades as "investors" or alleged that local communities were being funded by wealthy investors, while it was found that in ISOC's operations, no organizations or capitalists have been arrested or charged for conducting illegal logging or encroachment.<sup>80</sup> This has resulted in a complete disregard of the protection measures set out by Order 66/2014. The Royal Forest Department does so by misusing laws and policy by confiscating land and evicting villagers from their land, by enforcing aforementioned forests and national park laws such as (a) the Forest Act 1941, (b) the National Reserved Forest Act 1964, and (c) the National Park Act 1961.

#### 1.2. NCPO Orders 64/2014 and 66/2014

To operationalize the Forest Reclamation Policy, orders were also passed by the National Council for Peace and Order (NCPO) consisting of the military junta. The two most relevant orders include NCPO Order No. 64/2014 and 66/2014.

- NCPO Order 64/2014 related to the suppression and cessation of encroachment and destruction of forest resources, provides that authorized state agencies are to suppress violations and arrest those who encroach on, seize, possess, destroy, or act in any manner that may cause damage to the forest, specifically on protected land. The aim of the NCPO Order 64/2014 is to stop deforestation which has been caused by commercial investors' exploitation of Thailand's natural resources.
- NCPO Order 66/2014 suggests that the primary targets of these measures must be investors or large-scale outside developers, whereas the poor, landless, and those who have settled in the land before it was declared as a protected area, should not be affected by the NCPO order 64/2014. NCPO Order 66/2014 establishes a

list of such people who are permitted to use the land. Five strategies have been followed by the NCPO to evict people, namely stopping illegal logging, stopping forest encroachment, seizing encroached areas, destroying villagers' produce while filing lawsuits, and conducting area surveys.

Order 66/2014 appeared to focus only on wealthy investors. However, during its implementation of the Forestry Master Plan, the government has persistently identified impoverished villagers who lived on their lands for decades as “investors” or alleged villagers as being funded by wealthy investors, resulting in the loss of protection as set out by Order 66/2014. Furthermore, as already mentioned, the Royal Thai Government denies the applicability of protections stipulated in Order 66/2014 to the case of the Sab Wai villagers. Supreme Court confirmed this in its verdicts in May and June 2021.

On 9 July 2019, 70 NCPO Orders including NCPO Orders 64/2014 and 66/2014 were repealed. These orders were withdrawn using the newly issued NCPO Order 9/2019 by the Prime Minister of Thailand, Prayut Chan-o-cha in his capacity as the head of the National Council for Peace and Order (NCPO). However, NCPO 64/2014 and 66/2014 will continue to criminalize the legitimate actions of communities and individuals as their restrictive provisions have already been embedded into other laws including the new amendment to the National Parks Act of 2019.<sup>81</sup>

While there are numerous records of the impoverished rural communities being charged as forest encroachers, the Government only publishes unsegregated data regarding the total number of cases and does not provide information on the number of poor farmers targeted under its forest conservation laws. This was also addressed during Thailand's CERD review on 22-23 November 2021, when the CERD Committee requested more detailed information regarding the total number of cases, following Manushya's CERD Shadow Report, [Thailand is a Paradise but only for the 1%](#)<sup>82</sup> and lobbying of the CERD Committee in Geneva.<sup>83</sup>

### **1.3. UN Human Rights Mechanisms denouncing Thailand's false climate solutions**

The negative effect of Thailand's forestry and environment-related laws and regulations was recently addressed during Thailand's UN-backed human rights reviews such as Thailand's CERD Review and Thailand's 3rd UPR.<sup>84</sup> During its CERD review in November 2021, the CERD Committee noted the adverse human rights impacts of the Forest Reclamation Policy on indigenous peoples and ethnic minorities, such as the Isaan people the 14 Sab Wai villagers belong to, following Manushya's CERD Shadow Report '[Thailand is a Paradise but only for the 1%](#)'<sup>85</sup> and lobbying of the CERD Committee in Geneva.<sup>86</sup>

In the Concluding Observations on the combined fourth to eighth reports of Thailand (ref. CERD/C/THA/CO/4-8, February 2022), the CERD Committee reiterated its concerns:

*“The Committee notes with concern the discriminatory effect of the State party's various forestry and environment-related laws and regulations, and their implementation, on ethnic groups and indigenous peoples living in forests.”<sup>87</sup>*

Thailand's duty to fulfill its human rights obligations with regard to climate action was also raised during Thailand's third cycle of the Universal Periodic Review on 10 November 2021. The Royal Thai Government received and supported three recommendations in this regard. In particular, the recommendation from Cyprus prompted it to: *“Integrate a rights-based approach in climate mitigation policy and disaster risk reduction plans;”* while the recommendation from Indonesia calls on Thailand to *“Continue to enhance the participation of local communities in land conservation and forest management, including by recognizing the local community's role in the global climate action agenda”*.<sup>88</sup>

## 2. Criminalization of the Sab Wai villagers violating global climate action commitments and climate mitigation measures

### 2.1 Global climate action commitments violated

In November 2021, during the COP26 of the UNFCCC, Thailand made the commitment to achieve carbon neutrality by 2050 and net-zero greenhouse gas emission by 2065, through forestry carbon sinks. However recent modeling by Thammasat University shows this to be a false climate solution and that real cuts in fossil fuel electricity generation are needed.

Despite a five-month delay, in April 2022, Thailand eventually joined<sup>89</sup> the Glasgow Leaders' Declaration on Forests and Land Use, a document originally circulated at COP26, calling for sustainable forest management and, among others, "*support for smallholders, Indigenous Peoples, and local communities, who depend on forests for their livelihoods and have a key role in their stewardship.*"<sup>90</sup> Thailand's Ministry of Natural Resources and Environment also announced that the Glasgow Leaders' Declaration will further support Thailand's efforts to increase the total forested area and reach the new net-zero target announced at COP26.<sup>91</sup>

Villagers in the Sai Thong National Park have been dependent on forest resources and forest lands for their settlement and livelihoods from generation to generation. Through their sustainable traditional farming techniques of cassava, the 'survivor crop', they have not only been able to protect the forest surrounding their farming land, but they also contributed to the heightened resilience of their community to negative climate change impacts, as cassava is recognized as a climate adaptation measure and a tool to ensure food sovereignty<sup>92</sup> without additional burden on the environment, such as in the case of large-scale industrial agricultural systems.

However, despite being 'guardians of the forest', villagers were ordered to vacate the lands they had been living on for decades, without being offered an alternative or compensation. Such human rights violations are in a clear contradiction to the pledge made in the Glasgow Leaders' Declaration and to Thailand's international human rights obligations.

### 2.2. Manipulation of the villagers to vacate their lands confirming Thailand's bad faith in truly mitigating climate change

**In 2015**, the villagers were told by the National Park officers that if they signed a certain document, they would only need to vacate a part of their land but could continue to farm the remainder of it. They were told the new Forest Reclamation Policy and following NCPO orders related to its enforcement (NCPO Orders 64/2014 and 66/2014) were meant to protect poor people living in the forest and they would naturally be protected and allowed to live and farm on forest land as long as they vacate a small part of their land. Some villagers signed the document believing in the good faith of the National Park officers while others refused to. However, these documents were used as 'evidence' of the villagers' voluntary commitment to vacate all their lands, not just part of it as promised by the National Park authorities. This demonstrates the National Park officers' manipulation, not telling the truth to villagers and not providing them with clear information regarding the document to be signed and the area of land to be vacated. *Please see the full legal analysis in Section 3.2.2. d) above, listing the Sab Wai villagers' actions.*

**In April 2016**, eleven inhabitants of Sab Wai village received a notice from the National Park Office to remove all their structures by the end of the month. Subsequently, villagers held meetings with various government agencies regarding the notices received. During these attempts, the Deputy Governor of Chaiyaphum Province had reportedly told the villagers to ignore orders from the National Park Officers assuring them that a committee to resolve the villagers' problems would be established. However, in May 2016 the Deputy Governor denied having said so. As a result, no solution or agreement was reached and a number of villagers were accused of encroachment and trespassing and were charged under the abovementioned laws. Those who refused to sign documents stating that villagers would vacate their lands were threatened with prison charges and other actions, such as house visits

by officers. As a result, they experienced ongoing pressure and surveillance by the National Park officers, forcing them to sign the document. Fearing for their security, the remaining villagers did sign the documents.

The process by which signatures were sought from the 14 Sab Wai villagers demonstrates the National Park officers' manipulation and abuse of power over the poor inhabitants of the forest. It also clearly shows the lack of a participatory approach to natural resource management and represents a dangerous precedent for the current climate change mitigation measures adopted by the Government and any future REDD+ activities.

### 2.3. The Court of First Instance and Appeal Court verdicts

**From July to December 2018**, the 14 villagers were found guilty of the criminal and civil charges by the Court of First Instance of Chaiyaphum Province. **Between 15 May and 3 July 2019**, the sentences were confirmed by the Appeal Court, finding all 14 villagers guilty with 13 villagers (9 women, 4 men) sentenced to jail time, 1 villager (Samon Somchitr) was sentenced to authorities' monitoring, and all 14 villagers were sentenced to pay fines for destroying the forest under the Forest Act 1941, the National Reserved Forests Act 1964 and the National Park Act 1961, ranging between 110,000 THB and 1.5 million THB.<sup>93</sup> In comparison with the initial sentences imposed by the Court of First Instance, the Appeal Court increased the fines to be paid by the villagers significantly.



*Release of Mr. Put from prison on bail, 25 July 2019.*

*Please see the detailed information on criminal and civil charges of the Appeal Court in Annex 2.*

### 2.4. Supreme Court verdicts

**Between 3 March and 19 May 2021**, the Supreme Court confirmed the verdicts of courts of lower instances and while it compensated the criminal charges with time spent in jail in 2019, resulting in complete offsetting of the fines for some of the villagers, and opted for a suspended jail sentence for 11 of them, all villagers still need to pay

substantial civil penalties as a compensation for the forest damage they had allegedly committed. Three of the villagers were imprisoned, with Mr. Sompitr still serving his sentence and they will all need to vacate their lands, finding themselves in a situation of extreme poverty.

The Supreme Court verdicts completely dismissed the obligations Thailand has under International Human Rights Law and also disregarded the calls of Thai civil society for climate justice, where natural resources are managed in a participatory manner and climate change mitigation measures do not deepen historical injustices and inequalities caused by the patriarchal, colonialist and capitalist paradigms.

**As Khon Isaan, an already marginalized population living mainly as impoverished farmers, the verdict enforcement will put them in a situation of debt, even worsening their economic situation already burdened by (1) the court hearings spreading over three years; (2) civil penalties ordered by the court; (3) community service which makes them unable to farm their own land and make a living.**

**The Supreme Court verdicts evicting the 14 Sab Wai villagers from their lands due to a dysfunctional regulatory framework represent a dangerous precedent that is already replicated around Thailand and might become even more prevalent in the future. The more so in the context of Prime Minister Prayut Chan-o-cha's declaration at the last year's Conference of Parties to the UN Framework Convention on Climate Change (UNFCCC), COP26, announcing that Thailand will achieve its renewed pledges, carbon neutrality by 2050 and net-zero greenhouse gas emissions by 2065, mainly through forestry carbon sinks.**

#### **2.4.1. Imprisonment of Mr. Sompitr**

Mr. Sompitr was imprisoned immediately after his Supreme Court hearing on 11 May 2022, sentenced to 20 months and 20 days of prison term, even though he was leaving behind his sick wife, Mrs. Sunet, suffering from stage 4 cancer. As he was unable to support her from the prison, the community leader Ms. Nittaya took care of arranging healthcare for her (with costs amounting up to 10,000 THB per month) and together with Manushya Foundation filed a letter with the Ministry of Social Development and Human Security regarding Mrs. Sunet's situation.

On July 11, 2021, Ms. Nittaya submitted a petition for a royal pardon on behalf of Mr. Sompitr under the 2021 Royal Pardon Royal Decree ("**Royal Pardon Royal Decree**"). Under the Royal Pardon Royal Decree, a prisoner who has served one-third of their sentence is eligible for a royal pardon.<sup>94</sup> Since Mr. Sompitr had already served 7 months of his sentence, Mr. Sompitr should have been eligible for a royal pardon in accordance with the Royal Pardon Royal Decree. However, Mr. Sompitr was rendered ineligible to receive the royal pardon because his imprisonment is based on a special act and not general criminal law.

In September 2021, Mr. Sompitr contracted COVID-19 in prison because of poor prison conditions and prison overcrowding. Since Thai prisons are operating at over 300% maximum capacity, prisons have become COVID-19 hotspots.<sup>95</sup> Even though green chiretta, a herbal plant extract, is not recognized as an effective COVID-19 treatment by the World Health Organization, Mr. Sompitr was supplied with capsules of green chiretta by the prison authority instead of anti-viral drugs as part of his course of treatment. In August 2021, a month before Mr. Sompitr was prescribed green chiretta, the Department of Thai Traditional and Alternative Medicine withdrew its study on the use of green chiretta to treat COVID-19 patients because of a statistical error.<sup>96</sup>

While Mr. Sompitr has since recovered, he appeared to be frail and miserable during Ms. Nittaya's visit to him on October 15, 2021. Throughout his imprisonment, Mr. Sompitr frequently expressed concern for his bedridden wife, only to find out that she passed away on 1 June 2021 while he remained in prison.

Mr. Sompitr will complete his prison sentence on October 4th, 2022. The reason that Sompitr was able to enjoy a royal pardon on his imprisonment is that when he entered the correction system, he earned a prison classification. The prisoner classification is generally used for tracking progressive corrective behavior for the purpose of receiving a royal pardon.

#### **2.4.2. Imprisonment of Ms. Pattama**

On July 28, 2021, Ms. Pattama received a royal pardon reducing her jail time by one-fifth of the original sentence under the Royal Pardon Royal Decree. Based on the royal pardon, Ms. Pattama should have been released on 28 October 2021 and would have served 6 months and 18 days of jail time.

Instead, Ms. Pattama was forced to live with other prisoners for an additional 14 days until 11 November 2021 at the quarantine center located in front of the prison because of the outbreak of COVID-19 among the male inmates of the prison. Ms. Pattama could not use the phone, meet anyone, or choose where she wanted to serve out her quarantine, despite being allowed to do so by virtue of provincial quarantine regulations.

Ms. Nittaya, together with other village leaders, attempted to secure Ms. Pattama's release from the quarantine center by requesting the provincial and district public health offices to allow Ms. Pattama to serve her quarantine in home isolation or community isolation. However, the provincial and district public health offices denied their request, which imposed considerable hardship on Ms. Nittaya and other village leaders. Since the quarantine center was unable to provide Ms. Pattama with necessities, Ms. Nittaya and other villagers were tasked with delivering, among other necessities, food and personal care items to Ms. Pattama at the quarantine center.

#### **2.4.3. Exacerbation of poverty as a result of the flawed conservation laws and policies**

The combination of imprisonment, civil penalties, and community service has a devastating effect on the lives of the 14 Sab Wai villagers who, as farmers, are on the brink of poverty. Hardship as a result of the convictions is not suffered by the villagers alone but also by their families, who lose their main financial source while the convicted villagers are in jail. Six of the women human rights defenders take care of their children or elderly parents. In being required to perform community service, the Sab Wai villagers face greater financial burdens because of the time spent on community service which could be spent on farming, as well as the transportation costs to the community service site and expenses in hiring other villagers to undertake farming activities when they are away.

In particular, since the Supreme Court sentenced three of the Sab Wai villagers to prison, the economic burden is further exacerbated for the Sab Wai villagers and their families, who have to assume travel costs to visit the prison and pay for the imprisoned villagers' necessities. The financial burden is also shared by several of the Sab Wai villagers' dependent children, whose right to education, guaranteed under Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>97</sup> is strongly compromised. This is especially true for the "economic accessibility" aspect of the right, "**education has to be affordable to all**", elaborated on in the **General Comment 13 of CESCR**.<sup>98</sup>

### **3. Thai authorities' wrongful efforts to enforce the Supreme Court verdicts**

As of 4 August 2022, the Sab Wai villagers continue to live on their lands in the Sab Wai National Park, undergoing extensive lobbying with Government agencies to guarantee that they will be able to continue living on their lands. In the event of the enforcement of the Supreme Court verdicts to evict the villagers, such evictions must be in compliance with Thailand's international human rights obligations and other relevant standards.<sup>99</sup>

**Article 11(1) of the International Covenant on Social, Economic and Cultural Rights (ICESCR)** guarantees the right of everyone to an adequate standard of living which Thailand will violate in the case that the Sab Wai villagers are evicted from their lands and thereby lose their livelihoods and housing.<sup>100</sup> According to the Committee on Economic, Social and Cultural Rights (CESCR), forced eviction is defined as "permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection."<sup>101</sup> Such forced evictions are prohibited under international human rights law regardless of the ownership or tenure status of those affected and States should strive to promote land and tenure security in urban and rural settings.<sup>102</sup>

Article 11(1) of the ICESCR also safeguards the right to adequate food. In its **General Comment 12**, the Committee on Economic, Social and Cultural Rights (CESCR) noted that this right is not realized only through access to food but also “the means for its procurement”<sup>103</sup> and further elaborated on individual elements of the right such as accessibility.<sup>104</sup> In this context, forced eviction of the Sab Wai villagers without adequate resettlement providing ongoing access to arable land would result in the breach of the Thai government’s obligation to *respect* this right.

**Forced evictions** do not only violate a wide range of rights provided by the ICESCR, but also civil and political rights guaranteed in the International Covenant on Civil and Political Rights (ICCPR), such as the **right to life (Article 6) and the right to non-interference with privacy, family, and home (Article 17)**.<sup>105</sup>

In case that the eviction of Sab Wai villagers is unavoidable, international standards still exist to ensure that no human rights are violated in the process. **According to the Basic Principles and Guidelines on Development-based Evictions and Displacement** (henceforth ‘Guidelines’), human rights-compliant evictions are:

1. Authorized by law;
2. Carried out in compliance with international human rights law;
3. Undertaken solely for the purpose of promoting general welfare;
4. Reasonable and proportional;
5. Regulated so as to ensure full and fair compensation and rehabilitation; and
6. Carried out in accordance with Basic Principles and Guidelines on Development-based Evictions and Displacement.<sup>106</sup>

According to the **Guidelines and the General Comment 4 of the CESCR**, forced evictions also include “right to alternative land of better or equal quality and housing that must satisfy the following criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education.” Additionally, the process of evictions must respect the right to information, consultation and participation of the concerned individuals,

Since the Supreme Court rulings in 2021 and especially with the start of 2022, there have been renewed efforts to evict the Sab Wai villagers who have additionally become targets of harassment and threats while no concrete plans for their resettlement have been made. In line with the human rights legal analysis provided above, such situation is in contravention of the Thai government’s obligations to *respect, protect* and *fulfill* human rights.

### **3.1. Writ of execution for Mr. Suwit**

On 28 May 2021, Mr. Suwit Rattanachaisi received a writ of execution from the Legal Execution Department ordering him to, within 15 days from the date of the writ, vacate his land and pay a fine of THB 60,000 plus interest at the rate of 7.5% per annum to the Department of National Park, Wildlife and Plant Conservation beginning on 3 July 2021 until the amount is paid in full. To date, Mr. Suwit is the only villager out of the 14 Sab Wai villagers to have received a writ of execution from the Legal Execution Department.

### **3.2. Land inspections in March 2022**

Between 9 and 13 March 2022, Sai Thong National Park officers visited Sab Wai village to investigate and perform land measurements.<sup>107</sup>

On March 9, 2022, the officers surveyed Mr. Put Sukbongkoch’s plots and Ms. Thongpun Muangklang’s plots.

On March 10, 2022, the officers surveyed Ms. Nittaya Muangklang’s plots, Ms. Suphaphorn Seesuk’s plots, and Ms. Narisara Muangklang’s plots.

On March 11, 2022, the officers surveyed Ms. Samon Somchit’s plots, Ms. Sunee Narin’s plots, and Ms. Pattama Komed’s plots.

On March 13, 2022, the officers surveyed Mr. Suwit Rattana Chaisri 's plot and Ms. Suwalee Pho-ngam's plot.



*Land inspection in Sab Wai village in March 2022.<sup>108</sup>*

### **3.3. Home visits by the national park officers**

On 20 May 20 2022, 3 Sai Thong National Park officers, led by the new chief of the national park, and 1 police inspector from Wangtakae Police Station, visited the villagers who gave signatures to return their land (both, the 14 villagers who face criminal charges and those who do not). They arrived at Sub Wai village at 18.00 and stayed for about 2 hours. The purpose of this visit was to promote reforestation as well as inform those who signed up to return their land possession, including the 14 villagers who have been sentenced to prison. There was no further notice about what would happen next, including the exact timeline for the affected villagers to move out of their land.<sup>109</sup>

### **3.4. Visit to collect Ms. Pattama's DNA sample**

On 2 May 2022, a police officer made a visit to collect DNA samples. Pattama then informed Ms. Nittaya who arrived at her house. Together, they strongly refused for the police to take the samples. The police said it is not mandatory but they are highly expecting collaboration with Ms. Pattama as they had received the order from their superior officer.<sup>110</sup>



*Visit of Ms. Pattama's house on 2 May 2022 to collect DNA samples*

### 3.5. New Royal Decree enforcing the National Park Act (2019)

During the aforementioned meeting on 27 May 2022 between the Sab Wai villagers and Chaiphum provincial authorities, the villagers were informed by the Director of Sai Thong National Park that it is mandatory for them to completely move out of their lands when all of the new subordinate laws, royal decrees, currently being prepared by the Ministry of Natural Resources and Environment come into effect.<sup>111</sup>

The new royal decree will enforce the National Park Act, 2019. While its provisions aim at sustainable use of natural resources within national parks, it highly restricts their use. According to the draft decree's Section 6.3, no individuals previously ordered to leave the occupied land would receive permission to utilize natural resources within a national park. However, according to Section 4, even when permitted, each family could utilize only 20 rai of land for 20 years maximum. *Please refer to the 'Draft royal decree' attached to the present submission in the Annex 4.*

It is clear that enactment of this draft decree would expedite the evictions of the 14 Sab Wai villagers from their lands and also make it impossible for local communities all over Thailand to continue using natural resources within national parks if, similarly to the 14 Sab Wai villagers, they had been previously ordered to leave. Furthermore, currently, there are no government agencies responsible for the relocation of new livable lands with full service of public utilities.

### 3.6. Reprisals from the National Park officers on 5 July 2022

Ms. Nittaya and other Sab Wai villagers' representatives conducted a mission to Bangkok to hand complaints regarding their situation to four public entities on 29 June 2022 and to submit a complaint to the OHCHR on 1 July 2022. However, upon their return, the villagers faced reprisals from the National Park officers and negative treatment from the provincial authorities due to their advocacy actions in Bangkok.

**On 5 July 2022**, the Sai Thong National Park Chief announced to the community leaders that they need to notify villagers involved in the ongoing case that the reforestation of their lands would begin, starting with the land of Ms. Nittaya, for whose land 700 tree saplings had already been prepared.



*Tree saplings prepared to be planted on Ms. Nittaya's land<sup>112</sup>*

When reaching out to the provincial authorities on the following day, **6 July 2022**, the office of the Chaiphum Province Governor accused the villagers of being 'rebellious' and 'demanding too much' while shifting the responsibility for the villagers' safety and new land to other governmental bodies. Furthermore, Chaiphum Governor claimed that the proclamation of the National Park Chief from 5 July 2022, regarding imminent reforestation of the villagers' lands and 700 saplings being prepared, was a mere miscommunication. Ms. Nittaya also communicated with the NHRCT who consequently telephonically reached out to the Governor. Details of the phone call have not been made public.

According to the provisions of the Declaration on Human Rights Defenders, an authoritative document based on legally binding provisions of international human rights treaties such as the ICCPR, everyone has the right to “promote and to strive for the protection and realization of human rights and fundamental freedoms” (Article 1). To this end, everyone has the right to “communicate with non-governmental or intergovernmental organizations.” (Article 5 (c)). Additionally, Article 9 (3(a) and 4) enshrines the right of everyone to complain about the policies and actions of governmental bodies at any competent State authority and to have unhindered access and communication with international bodies. Lastly, the Declaration on Human Rights Defenders also imposes an obligation on States to protect human rights defenders from “any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action.”

The provisions of the Declaration on Human Rights Defenders highlight the unacceptable interference of the local authorities and national park officers in the Sab Wai villagers’ legitimate human rights advocacy. The 14 villagers with Ms. Nittaya at the forefront solely exercise their rights embedded in international legally binding instruments such as ICCPR and ICESCR, including through cooperation with the Bangkok office of OHCHR and NHRCT and as such, must not be pressured or harassed by the State officials.

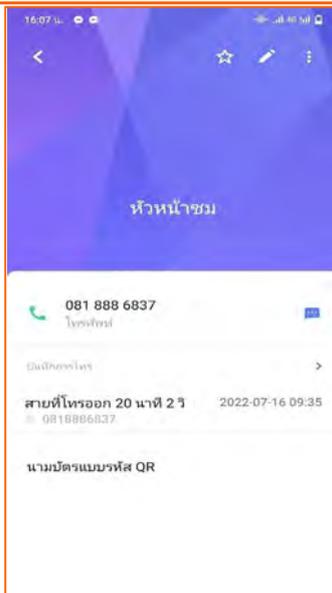
### **3.7. Most recent developments since 7 July 2022**

**On 7 July 2022**, the Sab Wai villagers met with local government authorities and national park officers to try to find an urgent solution to their situation and also to explain the motivations behind their advocacy mission to Bangkok.<sup>113</sup> *Please refer to the previous section for more details on the 7 July 2022 meeting.*

#### **3.7.1. Threats to further criminalize Ms. Nittaya and other Sab Wai Villagers**

**On 16 July 2022**, Ms. Nittaya became a target of new reprisals and efforts to further criminalize her and other villagers. In the morning hours, forest officer Mr. Sanong Karnpluk came to visit her and her mother’s house. He demanded Ms. Nittaya to follow him while he is conducting a new survey on lands that have been excluded from her lawsuit. As such survey was not part of the 7 July meeting agreement, Ms. Nittaya refused to participate. During the consequent phone call, the Sai Thong National Park head Mr. Chom Ma-Daeng clarified that the survey would serve to identify lands to be expropriated through the 2021 Supreme Court verdicts and lands excluded from the lawsuit as the latter will be used for planting new saplings. When Ms. Nittaya protested against the plan, the national park head threatened that he personally would sue Ms. Nittaya and other villagers for the lands so far excluded from legal action. The remaining plots of land are adjacent to land that the villagers have already been sued for and cover the following area:

Ms. Nittaya's land – 16 Rai;  
Mrs. Thongpan Monggang's land 5 Rai;  
Mr. Suwit Rattanachaisri's land 8 Rai.



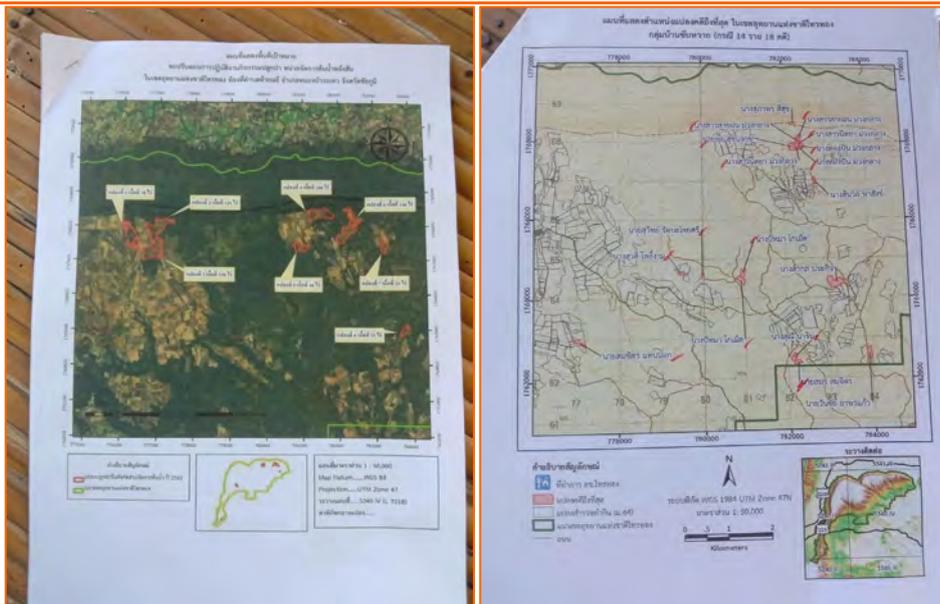
*Screenshot of the phone call between Ms. Nittaya and the national park head Mr. Chom Ma-Daeng in the morning hours of 16 July 2022.<sup>114</sup>*

The latest threats and harassment from the national park head show: (1) the imminency of the villagers’ evictions; and (2) the bad faith of the national park officers who disregard the agreement of the 7 July meeting aiming to first find new relocation land. The plan to plant saplings on Ms. Nittaya’s land that has been excluded from the lawsuit effectively means seizing the land without appropriate legal action. Also, all villagers’ lands are disputed and should therefore not be interfered with.

During the house visit by Mr. Sanong Karnpluk, present villagers handed over to him documents including the land survey conducted by MONRE Working Group in 2019 and the 14 November 2019 MONRE memorandum confirming the villagers' status as “poor”.



*Ms. Pattama handing over the relevant documents to national park officer Mr. Sanong Karnpluk, 16 July 2022.<sup>115</sup>*



Maps documenting the Sab Wai villagers' lands excluded from the lawsuit, presented by national park officers on 16 July 2022.<sup>116</sup>

### 3.7.2. Planting saplings on Thongpun's land, a new Sab Wai Villager to be sued

On 16 July 2022, reforestation officials planted tree saplings on the plots of Mrs. Thongpun Muangklang (or Monggang) and surveyed the plots of Ms. Warunee Muangklang, who had not been sued.



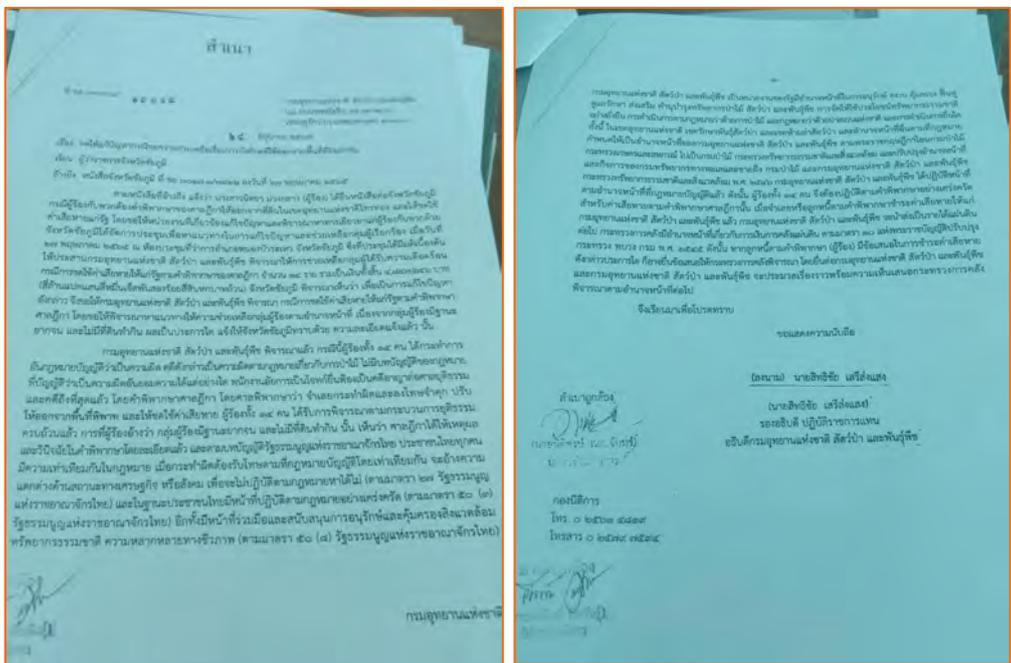
Saplings planted on Mrs. Thongpun's land.<sup>117</sup>

### 3.7.3. A letter ordering the payment of compensation

On 19 July 2022, Sab Wai villagers gained access to the letter released by the Department of National Parks, Plant and Wildlife Conservation (DNP) on 28 June 2022, responding to the letter from the Chaiyaphum Governor from 27 May 2022, reaching out for assistance in the case of 14 Sab Wai villagers. In his letter, the Chaiyaphum Governor

recommended the remission of compensation payment (civil charges imposed by the 2021 Supreme Court verdicts) of the 14 Sab Wai villagers, such as extending the deadline or paying in installments.

However, in its letter, the DNP completely ignored the 14 November 2019 MONRE memorandum confirming the villagers’ status as “poor” and therefore eligible for protection under NCPO 66/2014. Instead, it maintained that based on constitutionally guaranteed equality before the law, Sab Wai villagers cannot claim an exception from the Supreme Court verdict enforcement on the grounds of their socio-economic status and therefore, must comply with the verdict. Furthermore, the DNP even reminds the villagers of their responsibility under the Thai Constitution “to support the conservation and protection of the environment, natural resources, biodiversity, and cultural heritage”, disregarding the fact that Sab Wai villagers contribute to environmental protection through their sustainable small-scale farming. *Please refer to the letters from the Chaiyaphum Governor to the Department of National Parks, Plant and Wildlife Conservation dated 27 May 2022 and the Department of National Parks, Plant and Wildlife Conservation’s response to it dated 28 June 2022 attached to the present Urgent Appeal Complaint in the Annex 4.*



A letter from the Department of National Park to Chaiyaphum Governor.<sup>118</sup>

**3.9. Recommendations addressed to UN Special Procedures for their Urgent Appeal to the Royal Thai Government**

We urge the eight UN Special Procedures the present complaint for urgent action is addressed to, to consider the unfair criminalization of the 14 Sab Wai villagers and the seriousness of the resulting exacerbation of poverty linked to the imminent threat of forced evictions, which is in violation of Thailand’s human rights obligations, and to:

1. Request the Royal Thai Government to exercise its powers to not enforce the Supreme Court judgments in the case of the 14 Sab Wai villagers, to halt the forced evictions and order a suspension of the villagers’ civil penalties, considering their status as ‘poor’, recognized by the Ministry of Natural Resources and the Environment on 14 November 2019, so as to ensure the villagers’ and their dependents’ ongoing enjoyment of the rights stipulated in Articles 11, 12, 13 of ICESCR and Articles 6 and 17 of ICCPR.

2. Request the Department of National Parks, Wildlife, and Plant Conservation to sign a Memorandum of Understanding with the villagers to guarantee the non-eviction from their lands.
3. Request the governmental bodies, in case the Sab Wai villagers are being evicted from their lands, to fully comply with International Human Rights Law and standards on forced evictions such as the Basic Principles and Guidelines on Development-based Evictions and Displacement based on the ICESCR and General Comments 4 and 7 of CESCR. Such evictions must provide a full restoration of livelihoods and compensation. New land titles must be allocated under the name of the villagers to ensure tenure security and avoid any future land evictions. The villagers shall not depend on authorities' good faith or weak administrative measures as these could be arbitrarily reversed in the future.
4. In line with its commitment taken during the third Universal Periodic Review of Thailand (2021) to ensure a rights-based approach in climate change mitigation<sup>119</sup> and its endorsement of the Glasgow Leaders' Declaration on Forests and Land Use,<sup>120</sup> request the Royal Thai Government to work with communities on the ground to search for the best solution to stop the unfair criminalization and land evictions of forest-dependent communities and indigenous peoples, in particular, by reforming forest conservation laws and ensuring that any future climate mitigation and adaptation strategies are compliant with Thailand's obligations under international human rights law and are in line with the need for a Just, Inclusive, Green and Feminist transition, with local communities at its forefront.

**We also request the eight UN Special Procedures to take into account the record of the Royal Thai Government in relation to their obligations for advancing human rights in the country while examining this complaint. Violations of the human rights of marginalized groups, particularly forest-dependent communities, peasants and indigenous groups, have been acknowledged and addressed during Thailand's recent UN-backed human rights reviews, such as the [CERD Review](#) and Thailand's [Third Universal Periodic Review](#), which both took place in November 2021.**

Recent advocacy actions conducted by the Sab Wai villagers in June and July 2022 in Bangkok caused the dissatisfaction of the local and national park authorities. However, at the same time, the issue being raised on the national and international level brought renewed visibility to the case. Manushya Foundation and the Sab Wai villagers remain hopeful that their situation will be resolved before any forceful action evicting them from their lands.

#### Additional information concerning the incident

In addition to filling out the above questionnaire, if there is any further information/ material you want to provide, you may attach files here. Upload permissible maximum 3 files of 3 MB each.

Please refer to the documents attached to the present submission:

1. Annex 1 - Sab Wai Villagers (Multiple Members),
2. Annex 2 – Summary Table of the Appeal Court Decisions: Criminal & Civil Charges of the 14 HRDs, and Jail Time,
3. Annex 3 – Summary Table of the Supreme Court Verdicts: Criminal Sentences & Civil Penalties of the 14 HRDs,
4. Annex 4 - Sab Wai Villagers Case Evidence,
5. Annex 5 - Additional Information related to Thailand's False Climate Solutions and the Need for a Just Transition: a Just, Inclusive, Green and Feminist Transition.

#### 6. Perpetrators

**Information on the individual(s)/authority(ies)/organization(s) (perpetrator(s)) allegedly responsible for the incident**

Alleged perpetrator details

Please specify the number of alleged perpetrators	N/A
Is the identity/occupation of the alleged perpetrator(s) known?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know  <p>The direct perpetrators of the violations are the Ministry of Natural Resources and the Environment, enforcing the Supreme Court verdicts through the Department of National Park, Wildlife and Plant Conservation and the Royal Forest Department, specifically the national park officials at Sai Thong National Park that have caused the unjust charges and convictions against Ms. Nittaya and the other 13 villagers and insecurity amongst them by making threats against them and their families regarding their eviction and physical safety during the frequent visits made to their houses.</p> <p>Other perpetrators include the security agencies as well as local and provincial government authorities that have failed to protect the rights of Ms. Nittaya and the other villagers to their lands, their livelihoods, and security. Public prosecutors and judicial bodies could also be considered as perpetrators of these violations, as they continue to operate using flawed laws or misuse laws at the cost of the human rights of marginalized communities resulting in unfair trials and conviction of all those charged.</p>
Were the alleged perpetrators State agents or believed to be State agents?*	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know  <p>All perpetrators in this case were State agents belonging to the executive and judicial branches at the local (provincial) and national levels.</p>
If the alleged perpetrators were State agents, were they acting in their official capacity?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know
<b>7. Submitter</b>	
<b>Finalise submission</b>	
Additional information	
Any additional comments and information:	Please refer to the document attached to the present submission <i>'Annex 5 - Additional information related to Thailand's False Climate Solutions and the Need for a Just Transition: a Just, Inclusive, Green and Feminist Transition!'</i>

## Endnotes

- 1 Manushya Foundation, #SaveSabWaiVillagers from Forced Evictions & Extreme Poverty! The Unfair Criminalization of 14 Villagers under Thailand's "Forest Reclamation Policy", Legal Analysis of the Case, available at: <https://www.manushyafoundation.org/campaign-savesabwaivillagers-our-analysis-of-the-case>
- 2 Manushya Foundation, Khon Isaan: Thailand's Third Universal Periodic Review Cycle, (9 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-khon-isaan>
- 3 UN Committee on the Elimination of Racial Discrimination (CERD), *Concluding observations on the combined fourth to eighth reports of Thailand*, CERD/C/THA/CO/4-8, (10 February 2022), para. 25, available at: <https://www.ohchr.org/en/documents/concluding-observations/cerdcthaco4-8-concluding-observations-committee-elimination>
- 4 Manushya Foundation, *Khon Isaan: Thailand's Third Universal Periodic Review Cycle*, (9 September 2021), available at: <https://www.manushyafoundation.org/thailand-third-upr-cycle-factsheet-khon-isaan>
- 5 Panumas Sanguanwong, BBC Thai, *ทวงคืนผืนป่า : เสี่ยงจากชาวบ้านขับห้วย น้ำตาดคนจนหลังถูกทวงคืนผืนป่า*, (21 July 2019), available at: <https://www.bbc.com/thai/thailand-49027185>
- 6 Photo courtesy of Ms. Nittaya Muangklang, Sab Wai villagers' representative.
- 7 Tambudzai Mupakati and Vincent I. Tanyanyiwa, *Cassava production as a climate change adaptation strategy in Chilonga Ward, Chiredzi District, Zimbabwe*, (2017), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6014075/>
- 8 Photo courtesy of Ms. Nittaya Muangklang, Sab Wai villagers' representative, 8 June 2022.
- 9 Photo courtesy of Ms. Nittaya Muangklang, Sab Wai villagers' representative, 24 June 2022.
- 10 Table, *Cassava key to food security because of its climate change resilience*, (24 June 2013), available at: <https://www.tabledebates.org/research-library/cassava-key-food-security-because-its-climate-change-resilience>; Tambudzai Mupakati and Vincent I. Tanyanyiwa, *Cassava production as a climate change adaptation strategy in Chilonga Ward, Chiredzi District, Zimbabwe*, (2017), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6014075/#CIT0027>
- 11 Manushya Foundation, #FightRacism How we denounced racism in Thailand before the UN, (22 June 2022), available at: <https://www.manushyafoundation.org/post/how-we-denounced-racism-in-thailand-before-the-un>
- 12 Haritsalak Viriya, *The Impact of Climate Variability and Change to Cassava Yield and Valuation*, (2016), available at: [http://ar.or.th/ImageData/Magazine/10044/DL\\_10280.pdf?t=637490492578964474](http://ar.or.th/ImageData/Magazine/10044/DL_10280.pdf?t=637490492578964474)
- 13 Manushya Foundation, #SaveSabWaiVillagers from Forced Evictions & Extreme Poverty! The Unfair Criminalization of 14 Villagers under Thailand's "Forest Reclamation Policy", available at: <https://www.manushyafoundation.org/campaign-savesabwaivillagers>
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- <sup>115</sup> Photo courtesy of Ms. Nittaya Muangklang, Sab Wai villagers’ representative, on 16 July 2022.
- <sup>116</sup> Photos courtesy of Ms. Nittaya Muangklang, Sab Wai villagers’ representative, on 16 July 2022.
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**ANNEX 1**  
**Sab Wai Villagers (Multiple Members)**

First name (official documents)	Family name (official documents)	Sex (official documents)	First name (used name, if different)	Family name (used name, if different)	Gender identity (self-identified)	Pronouns	Salutation	Date of birth	Nationality	Other information	Contact information
Narisara	Muangklang	Female	-	-	Female	she/her	Ms.	20 September 1986	Thai	-	-
Nittaya	Muangklang	Female	-	-	Female	she/her	Ms.	16 August 1983	Thai	-	Tel. 095-613-2452
Pattama	Komet	Female	-	-	Female	she/her	Ms.	7 February 1972	Thai	-	-
Put	Sukbongkot	Male	-	-	Male	he/him	Mr.	19 August 1970	Thai	-	-
Sakl	Prakit	Female	-	-	Female	she/her	Mrs.	--1977	Thai	-	-
Samon	Somchitr	Male	-	-	Male	he/him	Mr.	--1954	Thai	-	-
Seenuan	Phasang	Female	-	-	Female	she/her	Mrs.	24 April 1960	Thai	-	-
Sompitr	Taennok	Male	-	-	Male	he/him	Mr.	14 July 1963	Thai	-	-
Sunee	Nalin	Female	-	-	Female	she/her	Ms.	--1948	Thai	-	-
Suphaphon	Sisuk	Female	-	-	Female	she/her	Mrs.	27 December 1980	Thai	-	-
Suwalee	Phongam	Female	-	-	Female	she/her	Ms.	6 November 1983	Thai	-	-
Suwit	Rattanachaisi	Male	-	-	Male	he/him	Mr.	--1957	Thai	-	-
Thongpan	Monggang	Female	-	-	Female	she/her	Mrs.	10 November 1961	Thai	-	-
Wanchai	Arphonkaeo	Male	-	-	Male	he/him	Mr.	13 March 1990	Thai	-	-

## Annex 2 – Summary Table of the Appeal Court Decisions: Criminal & Civil Charges of the 14 HRDs, and Jail Time

Villagers	Case	Court Hearing	Alleged encroached area	Criminal charges		Civil charges		Time spent in jail after the Appeal Court verdicts
				Jail time		Fine - each one with 7.5% interest per year		
1. Ms. Nittaya Muangklang	1738/2017	5 June 2019	8 rais and 90 square wah	8 months	12 months in total	150,000 THB	190,000 THB in total	2 months, 15 days
	1739/2017	15 May 2019	1 rai, 2 ngan and 98 square wah	4 months		40,000 THB		
2. Mrs. Seenuan Phasang	1736/2017	4 June 2019	6 rais and 4 square wah	5 months, 10 days		150,000 THB		1 month, 15 days
3. Ms. Pattama Komet	1744/2017	12 June 2019	11 rais, 3 ngan and 9 square wah	8 months		200,000 THB		1 month, 6 days
	1745/2017		15 rais and 83 square wah					
4. Ms. Sunee Nalin	1735/2017	12 June 2019	11 rais, 3 ngan and 73 square wah	5 months, 10 days		439,027 THB		1 month, 13 days
5. Mrs. Suphaphorn Seesuk	1731/2017	12 June 2019	6 rais, 3 ngan and 31 square wah	5 months, 10 days		381,010 THB		1 month, 6 days
6. Mrs. Sakl Prakrit	1732/2017	18 June 2019	46 rais, 3 ngan and 3 square wah	4 years		1,587,211 THB		1 month, 1 day
7. Mrs. Thongpan Muangklang (or Monggang)	1740/2017	25 June 2019	5 rais, 3 ngan and 11 square wah	9 months, 10 days		100,000 THB		1 month, 19 days
	1741/2017		2 rais, 2 ngan and 50 square wah					

8. <b>Mr. Wanchai Arphonkaeo</b>	1733/2017	25 June 2019	14 rais, 3 ngan and 73 square wah	6 months, 20 days		860,395 THB		1 month
9. <b>Mr. Put Sukbongkot</b>	1734/2017	2 July 2019	14 rais, 3 ngan and 8 square wah	6 months, 20 days		370,000 THB		28 days
10. <b>Mr. Sompitr Taennok</b>	1746/2017	2 July 2019	10 rais, 3 ngan and 49 square wah	10 months	20 months and 20 days in total	100,000 THB	200,000 THB	1 month, 22 days
	2452/2017	2 July 2019	11 rais, 1 ngan and 88 square wah	10 months, 20 days		100,000 THB		
11. <b>Ms. Narisara Muangklang</b>	1742/2017	3 July 2019	3 rais, 1 ngan and 87 square wah	9 months, 10 days		607,161 THB		1 month, 11 days
	1743/2017		8 rais, 3 ngan and 51 square wah					
12. <b>Ms. Suwalee Phongam</b>	1748/2017	3 July 2019	5 rais, 3 ngan and 9 square wah	5 months, 10 days		160,000 THB		1 month, 11 days
13. <b>Mr. Suwit Rattanachaisi</b>	1747/2017	3 July 2019	2 rais, 1 ngan and 20 square wah	17 months		110,762 THB		1 month, 25 days
14. <b>Mr. Samon Somchitr</b>	1737/2017	25 June 2019	8 rais and 1 square wah	Monitoring for 1 year and on parole for 3 years, reporting to authorities 4 times a year		360,663 THB		-

### Annex 3 – Summary Table of the Supreme Court Verdicts: Criminal Sentences & Civil Penalties of the 14 HRDs

Villagers	Case	Hearing date	Supreme Court Verdicts: 'Guilty' of Forest Encroachment	Civil Penalties	Criminal Sentences	Community service after accounting for criminal charges and jail time served
1. Ms. Nittaya Muangklang	1738/2017	3 March 2021	8 months of jail time, sentenced to suspended jail term of 3 years instead, 2 year probation	150,000 THB	20,000 THB	6 days
	1739/2017	5 May 2021	4 months of jail time, sentenced to suspended jail term of 3 years instead, 2 year probation	40,000 THB	20,000 THB	6 days
2. Ms. Narisara Muangklang	1742/2017	11 May 2021	9 months 10 days of jail time, sentenced to suspended jail term of 3 years instead, 2 year probation	162,805.00 THB	20,000 THB	45 Days
	1743/2017	11 May 2021		444,356.00 THB	20,000 THB	
3. Mr. Sompitr Taennok	1746/2017	11 May 2021	10 months 10 days of jail time	100,000 THB	Imprisonment	Imprisonment
	2452/2017	11 May 2021	10 months 10 day of jail time	100,000 THB	Imprisonment	Imprisonment
4. Ms. Suphaphon Srisuk	1731/2017	12 May 2021	5 months and 10 days of jail time, sentenced to suspended jail term of 3 years instead, 2 year probation	155,000 THB	20,000 THB	9 Days
5. Ms. Suwalee Phongam	1748/2017	12 May 2021	5 months and 10 days of jail time, sentenced to suspended jail term of 3 years instead, 2 year probation	160,000 THB	20,000 THB	6 Days

### Annex 3 – Summary Table of the Supreme Court Verdicts: Criminal Sentences & Civil Penalties of the 14 HRDs

Villagers	Case	Hearing date	Supreme Court Verdicts: 'Guilty' of Forest Encroachment	Civil charges	Criminal charges	Community service after accounting for criminal charges and jail time served
6. Mr. Put Sukbongkot	1734/2017	13 May 2021	6 months and 20 days of jail time, sentenced to suspended jail term of 3 years instead, 2 year probation	370,000 THB	40,000 THB	6 Days
7. Mrs. Thongpun Muangklang (or Monggang)	1740/2017	13 May 2021	8 months of jail time, suspended jail term of 3 years instead, 2 year probation	70,000 THB	20,000 THB	37 Days
	1741/2017	13 May 2021		30,000 THB	20,000 THB	
8. Mr. Samon Somchitr	1737/2017	13 May 2021	1 year of jail time, sentenced to suspended jail term of 3 years, 1 year probation	366,663 THB	20,000 THB	5 Days
9. Ms. Pattama Komet	1744/2017	18 May 2021	8 months in jail immediately	200,000 THB	Imprisonment	Imprisonment
	1745/2017					
10. Ms. Sune Nalin	1735/2017	18 May 2021	5 months and 10 days of jail time, sentenced to suspended jail term of 3 years instead, 2 year probation	439,027 THB	20,000 THB	18 Days

### Annex 3 – Summary Table of the Supreme Court Verdicts: Criminal Sentences & Civil Penalties of the 14 HRDs

Villagers	Case	Hearing date	Supreme Court Verdicts: 'Guilty' of Forest Encroachment	Civil charges	Criminal charges	Community service after accounting for criminal charges and jail time served
<b>11. Mr. Wanchai Arphonkaeo</b>	1733/2017	18 May 2021	6 months and 20 days of jail time, sentenced to suspended jail term of 3 years instead, 2 year probation	860,395 THB	20,000 THB	39 Days
<b>12. Mrs. Seenuan Phasang</b>	1736/2017	19 May 2021	5 months and 10 days of jail time, sentenced to suspended jail term of 2 years instead, 2 year probation	150,000 THB	20,000 THB	5 Days
<b>13. Mr. Suwit Rattanachaisi</b>	1747/2017	19 May 2021	17 months of jail time, sentenced to suspended jail term of 3 years instead, 2 year probation	110,762 THB	20,000 THB	6 Days
<b>14. Mrs. Sakl Prakit</b>	1732/2017	19 May 2021	Sentenced with 2 years 8 months in jail immediately	-	-	-



# **ANNEX 4**

## **Sab Wai Villagers Case Evidence**

Draft  
Royal Decree  
establishing a project to conserve and maintain natural resources within the national park (name  
of national park)  
B.E. ....

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.....  
Given on ..... B.E. ....  
Being .... Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to establish a project to conserve and maintain natural resources within the national park (name of national park)

By virtue of Section 175 of the Constitution and Section 64 paragraph 2 of National Park Act, B.E. 2562 ), the King's Most Excellent Majesty hereby enacts a Royal Decree as follows:

Section 1 This Royal Decree is called the Royal Decree establishing a project to conserve and maintain natural resources within the national park (name of national park) B.E. ....

Section 2 This Royal Decree shall come into force on and from the day following the date of its publication in the Government Gazette.

Section 3 To the area of land in the national park (name of the national park) in the area, sub-district.. district.. province.. within the boundary line according to the map showing the line at the end of this royal decree It is a project area for conservation and conservation of natural resources within the national park. (name of national park)

Section 4 When the Department of National Parks, Wildlife, and Plant Conservation surveys the land holdings of people living or cultivating in each national park, and the government has plans or policies to help people without arable land and live or cultivate in national parks that have been announced before the date the National Park Act B.E. 2562 came into force The Department of National Parks, Wildlife, and Plant Conservation, with the approval of the National Park Committee, will create a project to conserve and maintain natural resources. Not more than 20 rai per family without having the right to that land submitted to the Cabinet for approval by enacting a royal decree and for a period not exceeding twenty years at a time.

Section 5 The land for arranging or living to be used for the project must be the land to be surveyed and operated according to the framework for solving community problems in the protected forest area under the time frame according to the Cabinet Resolution on 30 June 1998 on Solving Land Problems in Forest Areas or according to the Order of the National Council for

Peace and Order No. 66/2557 regarding additional units for suppression Stop the encroachment and destruction of forest resources. and temporary operating policies. In the current situation, dated 16 June B.E. 2557, by bringing the conservation administration area to make a map showing the project boundary line with the geo-informatics system, or any other system of similar nature, annexed to the Royal Decree under Section 4, together with providing a list of persons and the amount of land to carry out such royal decree

Section 6 People who live or work within the project area must be a natural person which;

- (1) have Thai nationality;
- (2) have a local domicile and has continued to occupy the land and make use of;
- (3) never before a final judgment to leave the occupied area.

Section 7 People who live or work within the project area It is responsible for the conservation, rehabilitation, and care of natural resources, ecosystems, and biodiversity as follows;

- (1) Conserve and maintenance of natural resources in the project area and surrounding the project, including joining in the restoration of the area to maintain its natural integrity and working together with the national parks to establish a community committee which has elements in accordance with the regulations prescribed by the Director-General to create guidelines and rules for joint management of the area;
- (2) Possess and use by oneself, provided that other persons who are not family members may not possess and benefit on their behalf. and must not abandon his/her use or residence for more than one year without reasonable cause;
- (3) In the case of land allocation in the form of community unitary plots, The names of persons listed in the list attached to the project under section 5 shall be utilized by the management of the people in the community in accordance with the regulations of the Department of National Parks, Wildlife and Plant Conservation concerning living or farming. According to the conservation and preservation of natural resources within the national park for normal living B.E ....;
- (4) Buying, selling, exchanging, renting, leasing, lending, and transferring possession to another person is prohibited. except for the possession that is devolved to the heirs according to the law;
- (5) Do not invade, clear, and expand more areas. and to prevent any invasion, occupying or occupying adjacent areas. If seen, must notify the competent official immediately.
- (6) Do not move or destroy the boundary line or a marker showing the project boundaries. If the boundary mark or mark is damaged or lost, must notify the competent official immediately.
- (7) Execute the order of the competent officer who supervises the person who lives or works within the project area. according to the regulations of the Department of National Parks, Wildlife and Plant Conservation concerning habitat or cooking

according to the conservation and care project of natural resources within the national park for normal living, B.E. ....

ร่าง  
พระราชกฤษฎีกา  
กำหนดโครงการอนุรักษ์และดูแลรักษาทรัพยากรธรรมชาติภายในอุทยานแห่งชาติ (ชื่ออุทยานแห่งชาติ)  
พ.ศ. ....

ให้ไว้ ณ วันที่ ..... พ.ศ. ....  
เป็นปีที่ .. ในรัชกาลปัจจุบัน

พระบาทสมเด็จพระปรเมนทรรามาธิบดีศรีสินทรมหาวชิราลงกรณ พระวชิรเกล้าเจ้าอยู่หัว  
มีพระบรมราชโองการโปรดเกล้าฯ ให้ประกาศว่า

โดยที่เป็นการสมควรกำหนดโครงการอนุรักษ์และดูแลรักษาทรัพยากรธรรมชาติภายใน  
อุทยานแห่งชาติ (ชื่ออุทยานแห่งชาติ)

อาศัยอำนาจตามความในมาตรา ๑๗๕ ของรัฐธรรมนูญแห่งราชอาณาจักรไทย  
และมาตรา ๖๔ วรรคสอง แห่งพระราชบัญญัติอุทยานแห่งชาติ พ.ศ. ๒๕๖๒ จึงทรงพระกรุณาโปรดเกล้าฯ  
ให้ตราพระราชกฤษฎีกาขึ้นไว้ ดังต่อไปนี้

มาตรา ๑ พระราชกฤษฎีกานี้เรียกว่า "พระราชกฤษฎีกา กำหนดโครงการอนุรักษ์  
และดูแลรักษาทรัพยากรธรรมชาติภายในอุทยานแห่งชาติ (ชื่ออุทยานแห่งชาติ) พ.ศ. ...."

มาตรา ๒ พระราชกฤษฎีกานี้ให้ใช้บังคับตั้งแต่วันถัดจากวันประกาศในราชกิจจานุเบกษา  
เป็นต้นไป เป็นกำหนดเวลาสี่สิบปี

มาตรา ๓ ให้บริเวณที่ดินในเขตอุทยานแห่งชาติ (ชื่ออุทยานแห่งชาติ) ในท้องที่ตำบล  
..... อำเภอ ..... จังหวัด ..... ภายในแนวเขตตามแผนที่  
แสดงแนวเขตท้ายพระราชกฤษฎีกานี้ เป็นเขตโครงการอนุรักษ์และดูแลรักษาทรัพยากรธรรมชาติ  
ภายในอุทยานแห่งชาติ (ชื่ออุทยานแห่งชาติ)

มาตรา ๔ เมื่อกรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช สำรองการถือครองที่ดินของ  
ประชาชนที่อยู่อาศัยหรือทำกินในอุทยานแห่งชาติแต่ละแห่งเสร็จแล้ว และรัฐบาลมีแผนงานหรือนโยบาย  
ในการช่วยเหลือประชาชนที่ไม่มีที่ดินทำกินและได้อยู่อาศัยหรือทำกินในอุทยานแห่งชาติที่มีการประกาศ  
กำหนดมาก่อนวันที่พระราชบัญญัติอุทยานแห่งชาติ พ.ศ. ๒๕๖๒ ใช้บังคับ ให้กรมอุทยานแห่งชาติ สัตว์ป่า  
และพันธุ์พืช โดยความเห็นชอบของคณะกรรมการอุทยานแห่งชาติ จัดทำโครงการอนุรักษ์และดูแลรักษา  
ทรัพยากรธรรมชาติ ไม่เกินรอบครุวัละ ๒๐ ไร่ โดยมีได้มีสิทธิในที่ดินนั้น เสนอคณะรัฐมนตรีเพื่อให้ความ  
เห็นชอบ โดยตราเป็นพระราชกฤษฎีกา และมีระยะเวลาการบังคับใช้คราวละไม่เกินสี่สิบปี

มาตรา ๕ ที่ดินทำกินหรืออยู่อาศัยที่จะนำมาจัดทำโครงการ ต้องเป็นที่ดินที่ได้สำรวจและดำเนินการ ตามกรอบมาตรการแก้ไขปัญหามลพิษที่อยู่ในเขตป่าอนุรักษ์ ภายใต้กรอบเวลาตามมติคณะรัฐมนตรี เมื่อวันที่ ๓๐ มิถุนายน ๒๕๕๑ เรื่อง การแก้ไขปัญหที่ดินในพื้นที่ป่าไม้ หรือตามคำสั่งคณะรักษาความสงบแห่งชาติ ที่ ๖๖/๒๕๕๗ เรื่อง เพิ่มเติมหน่วยงานสำหรับการปราบปราม หยุดยั้งการบุกรุกทำลายทรัพยากรป่าไม้ และนโยบายการปฏิบัติเป็นการชั่วคราว ในสภาวะการณ์ปัจจุบัน ลงวันที่ ๑๗ มิถุนายน พุทธศักราช ๒๕๕๗ โดยให้นำเขตบริหารเพื่อการอนุรักษ์มาจัดทำแผนที่แสดงแนวเขตโครงการด้วยระบบภูมิสารสนเทศ หรือระบบอื่นซึ่งมีลักษณะใกล้เคียงกันแนบท้ายพระราชกฤษฎีกาตามมาตรา ๔ พร้อมทั้งจัดให้มีบัญชีรายชื่อบุคคล และจำนวนที่ดิน ประกอบพระราชกฤษฎีกาดังกล่าว

มาตรา ๖ ผู้ที่อยู่อาศัยหรือทำกินภายในเขตพื้นที่โครงการ ต้องเป็นบุคคลธรรมดา ซึ่งมีคุณสมบัติ ดังต่อไปนี้

- (๑) มีสัญชาติไทย
- (๒) มีภูมิลำเนาอยู่ในท้องถิ่น และได้ครอบครองที่ดินรวมทั้งทำประโยชน์มาโดยต่อเนื่อง
- (๓) ไม่เคยต้องคำพิพากษาถึงที่สุดให้ออกจากพื้นที่ที่ครอบครองนั้นมาก่อน

มาตรา ๗ ผู้ที่อยู่อาศัยหรือทำกินภายในเขตพื้นที่โครงการ มีหน้าที่ในการอนุรักษ์ ฟื้นฟู ดูแลรักษาทรัพยากรธรรมชาติ ระบบนิเวศ และความหลากหลายทางชีวภาพ ดังต่อไปนี้

- (๑) อนุรักษ์ ดูแลรักษาทรัพยากรธรรมชาติในพื้นที่โครงการและโดยรอบโครงการ รวมทั้งร่วมฟื้นฟูสภาพพื้นที่ให้คงความสมบูรณ์ตามธรรมชาติ และร่วมกับอุทยานแห่งชาติจัดตั้งคณะกรรมการชุมชน ซึ่งมีองค์ประกอบตามระเบียบที่อธิบดีกำหนด เพื่อจัดทำแนวทางและหลักเกณฑ์การบริหารจัดการพื้นที่ร่วมกัน
- (๒) ครอบครองและใช้ประโยชน์ด้วยตนเอง ทั้งนี้ จะให้บุคคลอื่นที่มีใช่บุคคลในครอบครัว เข้าครอบครองและทำประโยชน์แทนมิได้ และต้องไม่ละทิ้งการทำประโยชน์หรือไม่อยู่อาศัยติดต่อกันเกินหนึ่งปี โดยไม่มีเหตุอันควร

(๓) กรณีการจัดที่ดินในลักษณะแปลงรวมของชุมชน ให้ผู้มีรายชื่อปรากฏตามบัญชีแนบท้ายโครงการตามมาตรา ๕ ใช้ประโยชน์โดยการบริหารจัดการของประชาชนในชุมชน ทั้งนี้ ตามระเบียบกรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช ว่าด้วยการอยู่อาศัยหรือทำกิน ตามโครงการอนุรักษ์และดูแลรักษาทรัพยากรธรรมชาติภายในอุทยานแห่งชาติ เพื่อการดำรงชีพอย่างเป็นปกติสุข พ.ศ. ....

(๔) ห้ามซื้อ ขาย แลกเปลี่ยน ให้เช่า ให้เช่าซื้อ ให้ยืม โอนการครอบครองให้บุคคลอื่น ยกเว้นเป็นการครอบครองที่ตกทอดแก่ทายาททางมรดกตามกฎหมาย

(๕) ห้ามบุกรุก แผ้วถาง ขยายพื้นที่เพิ่มเติม และสอดส่องมิให้มีการบุกรุก ยึดถือ หรือครอบครองพื้นที่ในบริเวณติดต่อใกล้เคียง หากพบเห็นต้องแจ้งพนักงานเจ้าหน้าที่ทันที

(๖) ห้ามเคลื่อนย้าย หรือทำลายหลักเขต หรือเครื่องหมายแสดงแนวเขตโครงการ หากหลักเขตหรือเครื่องหมายชำรุดหรือสูญหาย ต้องแจ้งพนักงานเจ้าหน้าที่ทันที

(๗) ดำเนินการตามคำสั่งของพนักงานเจ้าหน้าที่ผู้ควบคุมดูแลบุคคลผู้อยู่อาศัยหรือทำกินภายในเขตโครงการ ตามระเบียบกรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช ว่าด้วยการอยู่อาศัยหรือทำกินตามโครงการอนุรักษ์และดูแลรักษาทรัพยากรธรรมชาติภายในอุทยานแห่งชาติ เพื่อการดำรงชีพอย่างเป็นปกติสุข พ.ศ. ....

No.0017.1/7822

Chaiyaphum City hall  
Bannakan road, Chaiyaphum, 36000

27 May 2022

Subject: Please solve the problem and asking for help from those forced to leave the land.

To: Director-General of the Department of National Parks, Wildlife, and Plant Conservation.

Attachment: 1. Copy of complaint letter dated 22 May 2022.

2. summary table of damages that the complainant must compensate the state.

Since Miss Nittaya Muangklang, complainant, had filed a complaint to Chaiyaphum province, in the case of the complainant et. al. are sentenced by The Supreme Court to leave the land in Sai Thong National Park and compensate the damage to the state. Mis Nittaya requested the relevant agencies to solve the problem and consider the remedy approach to the complainant et. al, the details are provided in the attachment.

So Chaiyaphum province arranged a meeting on May 27, 2022 to find a way to solve the problem and help the complainant at Nong Bua Rawe District's meeting room. The meeting has a preliminary resolution to coordinate with the Department of National Parks, Wildlife, and Plant Conservation to consider providing assistance to those who suffered damage compensation according to the Supreme Court Judgment. The total amount is 4,847,246 Baht (Four million eight hundred forty-seven thousand two hundred forty-six Baht).

Chaiyaphum province considered that, in order to resolve this issue, it requested the Department of National Parks, Wildlife, and Plant Conservation consider providing assistance to the complainant et. al. following its authority, because the complainant et. al. is needy and has no land to cultivate. Please inform Chaiyaphum province of the result afterwards.

Therefore, please be informed accordingly.

Yours sincerely  
Mr. Kraisorn Kongchalad  
Chaiyaphum Governor

Province department  
Dhamrongdham Centerworking group  
Tel. 0-4484-1665  
Fax. 0-4481-1573 to 23

# สำเนาฉบับ



## ศูนย์ดำรงธรรมจังหวัดชัยภูมิ

ที่ ขย ๐๐๑๗.๑/ ๗๖๒๒

ศาลากลางจังหวัดชัยภูมิ  
ถนนบรรณาการ ขย ๓๖๐๐๐

๒๓ พฤษภาคม ๒๕๖๕

เรื่อง ขอให้แก้ไขปัญหา กรณีขอความช่วยเหลือ เรื่องการบังคับคดีให้ออกพื้นที่ที่ดินทำกิน

เรียน อธิบดีกรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช

สิ่งที่ส่งมาด้วย ๑. สำเนาหนังสือร้องเรียน ลงวันที่ ๒๒ พฤษภาคม ๒๕๖๕

จำนวน ๑ ชุด

๒. ตารางสรุปค่าเสียหายที่กลุ่มผู้ร้องต้องชดใช้ให้แก่รัฐ

จำนวน ๑ ชุด

ด้วยนางสาวนิศยา ม่วงกลาง (ผู้ร้อง) ได้ยื่นหนังสือต่อจังหวัดชัยภูมิ กรณีผู้ร้องกับพวกต้องคำพิพากษาของศาลฎีกาให้ออกจากที่ดินในเขตอุทยานแห่งชาติไทรทองและชดใช้ค่าเสียหายแก่รัฐ โดยขอให้มีหน่วยงานที่เกี่ยวข้องแก้ไขปัญหามาตราสารพิจารณาหาแนวทางช่วยเหลือเยียวยาแก่ผู้ร้องกับพวก รายละเอียดปรากฏตามสิ่งที่ส่งมาด้วย

จังหวัดชัยภูมิ จึงได้จัดประชุมเพื่อหาแนวทางในการแก้ไขปัญหามาตราสารและช่วยเหลือกลุ่มผู้ร้อง เมื่อวันที่ ๒๗ พฤษภาคม ๒๕๖๕ ณ ห้องประชุมที่ว่าการอำเภอหนองบัวระเหว จังหวัดชัยภูมิ ซึ่งที่ประชุมได้มีมติในเบื้องต้น ให้ประสานกรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช พิจารณาให้การช่วยเหลือกลุ่มผู้ได้รับความเดือดร้อน กรณีการชดใช้ค่าเสียหายแก่รัฐ ตามคำพิพากษาของศาลฎีกา จำนวน ๑๔ ราย รวมเป็นเงินทั้งสิ้น ๔,๘๔๗,๒๔๖ บาท (สี่ล้านแปดแสนสี่หมื่นเจ็ดพันสองร้อยสี่สิบบาทถ้วน)

จังหวัดชัยภูมิพิจารณาแล้วเห็นว่า เพื่อเป็นการแก้ไขปัญหามาตราสารดังกล่าว จึงขอให้กรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช พิจารณากรณีการชดใช้ค่าเสียหายแก่รัฐ ตามคำพิพากษาของศาลฎีกา โดยขอให้พิจารณาหาแนวทางให้ความช่วยเหลือกลุ่มผู้ร้องตามอำนาจหน้าที่ เนื่องจากกลุ่มผู้ร้องมีฐานะยากจน และไม่มีที่ดินทำกิน ผลเป็นประการใด กรุณาแจ้งให้จังหวัดชัยภูมิทราบด้วย

จึงเรียนมาเพื่อโปรดพิจารณา

ขอแสดงความนับถือ

(นายไกรสร กองฉลาด)

ผู้ว่าราชการจังหวัดชัยภูมิ

สำนักงานจังหวัด

กลุ่มงานศูนย์ดำรงธรรมจังหวัด

โทร.๐-๔๔๘๑-๑๖๖๕

โทรสาร ๐-๔๔๘๑-๑๕๗๓ ต่อ ๒๓

รอง ผวจ. ....

หน.สนจ. ....

ผอ.กลุ่มงาน.....

หน.งาน.....

เจ้าหน้าที่ ๖๓๖๖๖ ๙

122 Moo.7 Huai Yae Sub-District  
Nong Bua Rawe District  
Chaiyaphum 362550

25 June 2022

To: *Letter to the Committee on Land, Natural Resources and Environment of National Legislative Assembly*

Subject: comply with the Supreme Court's Judgment to leave the area

Attachment: 1. the history and solutions to problems from before the park was announced to the present book

2. Considering the Poverty meeting minutes

Originally, 19 cases, 14 villagers of Sap Wai, Huai Yae Subdistrict, Nong Bua Rawe District, Chaiyaphum, were prosecuted in the year 2016. The Supreme Court has made its final judgment on May 5, 2021 to May 20, 2021. The Supreme Court has sentenced 11 villagers to suspended prison sentences and three others to prison without parole. Two villagers are currently serving their sentences in a Chaiyaphum prison, and one was released on October 27, 2021. Each villager is sentenced to imprisonment and must pay damages according to the verdict as follows:

1.	Nittaya	Muangklang	Case no.1	Damages	150,000 Baht
			Case no.2	Damages	40,000 Baht
2.	Naritsara	Muangklang		Damages	600,000 Baht
3.	Sompitr	Tannok	Case no.1	Imprisonment	10 Months 10 Days
				Damages	100,000 Baht
			Case no.2	(Missing from original paper)	
4.	Suwalee	Pongam		Damages	160,000 Baht
5.	Supaporn	Srisom		Damages	155,000 Baht
6.	Wanchai	Arpornkeaw		Damages	860,000 Baht
7.	Put	Sukbongkoch		Damages	360,000 Baht
8.	Thongpun	Muangklang		Damages	100,000 Baht
9.	Sunee	Narin		Damages	439,000 Baht
10.	Pattama	Gomed		Imprisonment	8 Months
				Damages	200,000 Baht
11.	Samorn	Somjit		Damages	380,000 Baht
12.	Sinuan	Pasang		Damages	150,000 Baht
13.	Suwit	Rattanachaisri		Damages	60,000 Baht
14.	Sakol	Prakij		Damages	1,000,000 Baht

The current situation is as follows:

On June 8, 2021, Black Case No. 1747/2560 and Red Case No. 2170/2561, Mr. Suwit Rattanachaisri, according to the judgment or order of the Chaiyaphum Provincial Court. The Court of Appeal Region 3 and the Supreme Court compel the defendants, workers, contractors,

representatives, and attendants of the defendants to demolish buildings or bring out anything that causes danger and order the defendants to compensate for damages to natural resources 60,000 baht with interest at 7.5 percent per year.

On March 9, 2022, the officers surveyed on Mr. Put Sukbongkoch's plots and Ms. Thongpun Muangklang's plots

On March 10, 2022, the officers surveyed on Ms. Nittaya Muangklang's plots, Ms. Satorn Seesuk's plots, and Ms. Narisara Muangklang's plots

On March 11, 2022, the officers surveyed on Ms. Samorn Somchit's plots, Ms. Sunee Narin's plots, and Ms. Pattama Komed's plots

On March 13, 2022, the officers surveyed on Mr. Suwit Rattana Chaisri's plot and Ms. Suwalee Pho-ngam's plot

On May 27, 2022, there was a meeting at Nong Bua Rawe District Office. with the Chaiyaphum governor as the chairman. The governor assigned Nong Bua Rawe District Chief to take care of career promotion to increase income whereas Chaiyaphum Province has made a letter requesting the compensation suspension to the Department of National Parks. The chief of Sai Thong National Park explained that allowing villagers to live and work in the same place while waiting for the secondary law to take effect.

If the villagers had to leave the area without other supporting land will affect the lives of the following:

1. The villagers do not have other plots of land to cultivate.
2. There is a debt burden arising from the lawsuit.
3. Their children are being educated and it has expenses.
4. The villagers lived a life of paranoia. unable to lead a normal life because the officers inspect the area and are forbidden from working in the area.
5. If forced to leave the area without replacement land, villagers would not have a place to live, having the condition of being homeless and having no arable land.

To Solve the problem Therefore, the following proposals have been made:

- 1) Let the villagers work on the land until another land is allocated to replace them.
- 2) If there is a replacement for arable land The land must be of suitable condition. It can be used for cultivation with enough area so that they can have enough income for their livelihood and have the necessary water resources or utilities.
- 3) To suspend the execution of the lawsuit for the payment of damages because the villagers have the status of being poor according to the order 66/2557
- 4) Ask the committee to visit the area to investigate the facts and join the working group to solve the problem.

Therefore, please be informed accordingly

Your sincerely  
Nittaya Muangklang  
Sabwai villagers' representative

122 ม.7 ตำบลห้วยแย้  
อำเภอหนองบัวระเหว  
จังหวัดชัยภูมิ 362550

วันที่ 25 มิถุนายน พ.ศ. 2565

เรียน กรรมการที่ดิน

เรื่อง ให้ปฏิบัติตามคำพิพากษาศาลฎีกาให้ออกจากพื้นที่

สิ่งที่ส่งมาด้วย 1. หนังสือรวมประวัติความเป็นมาและการแก้ไขปัญหาดังแต่ก่อน  
ประกาศอุทยานจนถึงปัจจุบัน

2. รายงานการประชุมพิจารณาความเป็นผู้ยากจนยากไร้

ความเดิมที่ชาวบ้านซับหวาย ตำบลห้วยแย้ อำเภอหนองบัวระเหว จังหวัดชัยภูมิ 14 คน 19 คดี ถูกดำเนินคดีเมื่อปีพ.ศ. 2559 ศาลฎีกาได้มีคำพิพากษาเมื่อวันที่ 5 พฤษภาคม พ.ศ. 2564 ถึง 20 พฤษภาคม พ.ศ. 2564 เป็นคดีสุดท้าย โดยศาลฎีกาได้พิพากษาโทษจำคุกรอลงอาญาชาวบ้านจำนวน 11 คน และอีก 3 คนให้ต้องโทษจำคุกโดยไม่รอลงอาญา ทั้งนี้ปัจจุบันชาวบ้าน 2 คนกำลังรับโทษอยู่ในเรือนจำจังหวัดชัยภูมิ และอีก 1 คนพ้นโทษออกมาแล้วเมื่อวันที่ 27 ตุลาคม พ.ศ. 2564 โดยชาวบ้านแต่ละคนต้องโทษจำคุกและต้องจ่ายค่าเสียหายตามคำพิพากษา ดังนี้

1. นิตยา ม่วงกลาง คดีที่ 1 ค่าเสียหาย 150,000 บาท  
คดีที่ 2 ค่าเสียหาย 40,000 บาท
2. นริศรา ม่วงกลาง ค่าเสียหาย 600,000 บาท
3. สมพิตร แทนนอก คดีที่ 1 จำคุก 10 เดือน 10 วัน ค่าเสียหาย 100,000 บาท  
คดีที่ 1 จำคุก 10 เดือน 10 วัน ค่าเสียหาย 100,000 บาท
4. สุวลี โพธิ์งาม ค่าเสียหาย 160,000 บาท
5. สุภาพร สีสุข ค่าเสียหาย 155,000 บาท
6. วันชัย อาพรแก้ว ค่าเสียหาย 860,000 บาท
7. พุฒ สุขบงกช ค่าเสียหาย 360,000 บาท
8. ทองปิ่น ม่วงกลาง ค่าเสียหาย 100,000 บาท
9. สุนิย์ นาริน ค่าเสียหาย 439,000 บาท
10. ปัทมา โภกเมื่อด จำคุก 8 เดือน ค่าเสียหาย 200,000 บาท

11. สมร สมจิตร                      ค่าเสียหาย 380,000 บาท
12. สีนวล พาสังข์                    ค่าเสียหาย 150,000 บาท
13. สุวิทย์ รัตนะไชยศรี            ค่าเสียหาย 60,000 บาท
14. สากล ประกิจ                    ค่าเสียหาย 1,000,000 บาท

สถานการณ์ปัจจุบัน เป็นไปดังนี้

วันที่ 8 มิถุนายน พ.ศ. 2564 หมายเลขคำสั่งคดีดำที่ 1747/2560, คดีแดงที่ 2170/2561 นายสุวิทย์ รัตนะไชยศรี ตามคำพิพากษาหรือคำสั่งศาลจังหวัดชัยภูมิ ศาลอุทธรณ์ภาค 3 และศาลฎีกา บังคับให้จำเลย คนงาน ผู้รับจ้าง ผู้แทน และบริวารของจำเลย รื้อถอนสิ่งปลูกสร้างหรือนำสิ่งใด ๆ ที่ก่อให้เกิดอันตรายและให้จำเลยชดเชยค่าเสียหายต่อทรัพยากรธรรมชาติ 60,000 บาท พร้อมดอกเบี้ยร้อยละ 7.5 ต่อปี

วันที่ 9 มีนาคม พ.ศ. 2565 เจ้าหน้าที่ลงตรวจแปลงสำรวจรังวัด แปลงของนายพุทธ สุขบงกชและนางทองปิ่น ม่วงกลาง

วันที่ 10 มีนาคม พ.ศ. 2565 เจ้าหน้าที่ลงตรวจแปลงสำรวจรังวัด แปลงของนางสาวนิตยา ม่วงกลาง, สภาพร สีสุข, และนริศรา ม่วงกลาง

วันที่ 11 มีนาคม พ.ศ. 2565 เจ้าหน้าที่ลงตรวจแปลงสำรวจรังวัด แปลงของสมร สมจิตร, สุนีย์ นาริน, และปัทมา โกเม็ด

วันที่ 13 มีนาคม พ.ศ. 2565 เจ้าหน้าที่ลงตรวจแปลงสำรวจรังวัด แปลงของสุวิทย์ รัตนะไชยศรีและสุวลี โพธิ์งาม

วันที่ 27 พฤษภาคม พ.ศ. 2565 มีการประชุมที่ว่าการอำเภอหนองบัวระเหว โดยมีผู้ว่าการจังหวัดชัยภูมิเป็นประธาน มอบหมายให้นายอำเภอหนองบัวระเหวดูแลเรื่องการส่งเสริมอาชีพเพื่อเสริมรายได้ ส่วนทางจังหวัดชัยภูมินั้นได้ทำหนังสือขอให้งดบังคับคดีในเรื่องการชดเชยค่าเสียหายไปที่กรมอุทยาน ส่วนหัวหน้าอุทยานไทรทองนั้นได้ชี้แจงว่า ให้ชาวบ้านอยู่ทำกินได้ที่เดิมระหว่างรอกฎหมายลำดับรองมีผลบังคับใช้

ซึ่งหากชาวบ้านต้องออกจากพื้นที่โดยไม่มีที่ดินทำกินอื่นรองรับ จะเกิดผลกระทบต่อชีวิตความเป็นอยู่ ดังนี้

1. ชาวบ้านไม่มีที่ดินทำกินแปลงอื่น
2. มีภาระหนี้สินที่เกิดจากการต่อสู้คดี

3. บุตรหลานเรียนหนังสือและมีค่าใช้จ่าย
4. ชาวบ้านทำกินด้วยความหวาดระแวง ไม่สามารถใช้ชีวิตปกติได้ เนื่องจากเจ้าหน้าที่ลงตรวจพื้นที่และห้ามไม่ให้ทำกินในพื้นที่ ๆ เป็นคดี
5. หากถูกบังคับให้ต้องออกจากพื้นที่โดยไม่มีที่ดินทดแทน ชาวบ้านจะไม่มีที่อยู่อาศัย มีสภาพต้องเร่ร่อนและไร้ที่ดินทำกิน

เพื่อแก้ไขปัญหานี้ จึงได้มีข้อเสนอ ดังนี้

- 1) ให้ชาวบ้านทำกินในที่ดินดังกล่าวไปก่อนจนกว่าจะมีการจัดสรรที่ดินทำกินทดแทนให้
- 2) หากมีการจัดหาที่ดินทำกินทดแทนให้ ที่ดินนั้นจะต้องมีสภาพเหมาะสมสามารถใช้เพาะปลูกทำกินได้จริง โดยมีเนื้อที่เพียงพอต่อการเพาะปลูกให้สามารถมีรายได้พอต่อการเลี้ยงชีพและมีแหล่งน้ำหรือสาธารณูปโภคที่จำเป็น
- 3) ให้งดการบังคับคดีในเรื่องการบังคับคดีจำนอง เนื่องจากชาวบ้านมีสถานะเป็นผู้ยากจนยากไร้ตามคำสั่ง 66/2557
- 4) ขอให้กรมธ.ลงพื้นที่ตรวจสอบข้อเท็จจริงและร่วมเป็นคณะทำงานแก้ไขปัญหา

จึงเรียนมาเพื่อโปรดพิจารณา

ขอแสดงความนับถือ  
นิตยา ม่วงกลาง  
ตัวแทนชาวบ้านซับหวาย

No. MONRE 0903.4/13244

Department of National parks, Wildlife  
and Plant Conservation  
61 Phahonyothin Road  
Lad Yao Sub district Chatuchak District  
Krungthep Mahanakorn 10900

28 June 2022

Subject: Asked to solve the problem in requesting assistance in the execution to leave the area of the arable land.

To: Chaiphaphum governor

Referring to Chaiphaphum province letter no. CYM 0017.1/2522, dated 27 May 2022

According to the referred letter, Ms. Nittaya Muangklang (petitioner) has filed a letter to Chaiphaphum Province in the case of petitioner et. al., who have been sentenced by the Supreme Court to leave the land in the Sai Thong National Park area and compensate the state, asking relevant agencies to resolve problems, consider a remedy and help petitioners. 27 May 2022, Chaiphaphum Province held a meeting to find a way to resolve problems and consider a remedy at Nong Bua Rawe District office's meeting room. The meeting had a preliminary resolution to coordinate with the Department of National Parks, Wildlife, and Plant Conservation to consider providing assistance to the 14 victims of compensation for damages to the state according to the Supreme Court's ruling, totaling 4,847,246 Baht (Four million eight hundred forty seven thousand two hundred and forty six baht). In order to solve such problems, Chaiphaphum Province asked the Department of National Parks, Wildlife, and Plant Conservation to consider the case of compensation following the Supreme Court's ruling and find a way to help the petitioners under its authority. Because the petitioners are poor and have no arable land, the department then notified the consideration result to Chaiphaphum Province as already stated.

The Department of National Parks, Wildlife, and Plant Conservation has considered these cases. All 14 people have committed an act that the law stipulates as an offense. There is no provision in the law stating that it is a compromising offense in any way. A prosecuting attorney is a plaintiff who filed a criminal case with the court and the case has a final judgment. The Supreme Court has ruled that the defendants have committed the crime and sentenced them to imprisonment, fines, leaving the disputed area, and compensating for the damages. All 14 petitioners have been fully considered in the judicial process. The petitioners cannot claim that they are poor and have no arable land because the Supreme Court has given reasons and rulings in its judgment in detail. According to the Thai Constitution, all people are equal before the law. When committing an offense, they shall be equally punished as provided by law. Claiming differences in economic or social status in order to avoid compliance with the law is not allowed (According to Section 27 of the Thai Constitution). Next, a person shall have the duty to strictly observe the law (according to Section 50(3) of the Thai Constitution). Also, a person shall have the duty to cooperate and support the conservation and protection of the environment, natural resources, biodiversity, and cultural heritage (according to Section 50(8) of the Thai Constitution). The Department of National Parks, Wildlife, and Plant Conservation is a government agency with powers and duties to conserve, preserve, protect, restore, promote, and maintain forest resources, wildlife and plant species, and sustainable use of natural resources, implement the Forest Law and the law on national forest reserves and any other activities in the area of national parks, wildlife and plant species according to the Royal Decree on the transfer of the Royal Forest Department Ministry of Agriculture and Cooperatives to the Department of Royal Forest, Ministry of Natural Resources and Environment and improve the powers, duties and affairs of the Ministry of Natural Resources and Environment B.E. 2003. The Department of National Parks, Wildlife, and Plant conservation has performed its duties in accordance with the powers and duties provided by law so all 14 petitioners shall strictly comply with the Supreme Court's judgment. For the damages following the judgment, when the defendants or judgment debtors have compensated the damages to the Department of National Parks, Wildlife, and Plant conservation, The Department of National Parks, Wildlife, and Plant conservation will be remitted as state revenue. The Ministry of Finance has powers and duties in relation to the state finances according to Section 30 of the Amending Ministry, Sub-Ministry and Department Act B.E. 2001. If the judgment debtors (petitioners) has an offer in compensating the damages, they may file the offer to the Ministry of Finance to consider by field to the Department

of National Parks, Wildlife, and Plant conservation. The Department of National Parks, Wildlife, and Plant conservation will continue to compile stories with comments for the Ministry of Finance to consider under its jurisdiction.

Forwarded for your information

Sincerely

(sign) Mr. Sitthichai Serisongsang

Mr. Sitthichai Serisongsang  
Deputy Director-General acting on behalf of  
Director-General of the Department of National Parks, Wildlife, and Plant conservation

Legal Affairs Division

Tel. 0 2561 4819

Fax. 0 2579 7594

# สำเนา

ที่ ทส ๐๔๐๓.๔/ ๑๓ ๒ ๕๕

กรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช  
๖๑ ถนนพหลโยธิน แขวงลาดยาว  
เขตจตุจักร กรุงเทพมหานคร ๑๐๒๐๐

๒๕ มิถุนายน ๒๕๖๕

เรื่อง ขอให้แก้ปัญหารณีขอความช่วยเหลือเรื่องการบังคับคดีให้ออกจากพื้นที่ดินทำกิน  
เรียน ผู้ว่าราชการจังหวัดชัยภูมิ

อ้างถึง หนังสือจังหวัดชัยภูมิ ที่ ขย ๐๐๑๓.๑/๗๘๒๒ ลงวันที่ ๒๗ พฤษภาคม ๒๕๖๕

ตามหนังสือที่อ้างถึง แจ้งว่า นางสาวนิตยา ม่วงกลาง (ผู้ร้อง) ได้ยื่นหนังสือต่อจังหวัดชัยภูมิ  
กรณีผู้ร้องกับพวกต้องคำพิพากษาของศาลฎีกาให้ออกจากที่ดินในเขตอุทยานแห่งชาติไทรทอง และให้ชดใช้  
ค่าเสียหายแก่รัฐ โดยขอให้หน่วยงานที่เกี่ยวข้องแก้ไขปัญหาละเอียดและพิจารณาหาทางเยียวยาแก่ผู้ร้องกับพวกด้วย  
จังหวัดชัยภูมิได้จัดการประชุมเพื่อหาแนวทางในการแก้ไขปัญหาละเอียดและช่วยเหลือกลุ่มผู้เรียกร้อง เมื่อวันที่  
๒๗ พฤษภาคม ๒๕๖๕ ณ ห้องประชุมที่ว่าการอำเภอหนองบัวระเหว จังหวัดชัยภูมิ ซึ่งที่ประชุมได้มีมติเบื้องต้น  
ให้ประสานกรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช พิจารณาให้การช่วยเหลือกลุ่มผู้ได้รับความเดือดร้อน  
กรณีการชดใช้ค่าเสียหายให้แก่รัฐตามคำพิพากษาของศาลฎีกา จำนวน ๑๔ ราย รวมเป็นเงินทั้งสิ้น ๔,๘๔๗,๒๕๖ บาท  
(สี่ล้านแปดแสนสี่หมื่นเจ็ดพันสองร้อยสี่สิบบาทถ้วน) จังหวัดชัยภูมิ พิจารณาเห็นว่า เพื่อเป็นการแก้ไขปัญหาละเอียด  
ดังกล่าว จึงขอให้กรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช พิจารณา กรณีการชดใช้ค่าเสียหายให้แก่รัฐตามคำพิพากษา  
ศาลฎีกา โดยขอให้พิจารณาหาแนวทางให้ความช่วยเหลือกลุ่มผู้ร้องตามอำนาจหน้าที่ เนื่องจากกลุ่มผู้ร้องมีฐานะ  
ยากจน และไม่มีที่ดินทำกิน ผลเป็นประการใด แจ้งให้จังหวัดชัยภูมิทราบด้วย ความละเอียดแจ้งแล้ว นั้น

กรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช พิจารณาแล้ว กรณีนี้ผู้ร้องทั้ง ๑๔ คน ได้กระทำการ  
อันกฎหมายบัญญัติว่าเป็นความผิด คดีดังกล่าวเป็นความผิดตามกฎหมายเกี่ยวกับการป่าไม้ ไม่มีบทบัญญัติของกฎหมาย  
ที่บัญญัติว่าเป็นความผิดอันยอมความได้แต่อย่างใด พนักงานอัยการเป็นโจทก์ยื่นฟ้องเป็นคดีอาญาต่อศาลยุติธรรม  
และคดีถึงที่สุดแล้ว โดยคำพิพากษาศาลฎีกา โดยศาลพิพากษาว่า จำเลยกระทำความผิดและลงโทษจำคุก ปรับ  
ให้ออกจากพื้นที่พิพาท และให้ชดใช้ค่าเสียหาย ผู้ร้องทั้ง ๑๔ คน ได้รับการพิจารณาตามกระบวนการยุติธรรม  
ครบถ้วนแล้ว การที่ผู้ร้องอ้างว่า กลุ่มผู้ร้องมีฐานะยากจน และไม่มีที่ดินทำกิน นั้น เห็นว่า ศาลฎีกาได้ให้เหตุผล  
และวินิจฉัยในคำพิพากษาโดยละเอียดแล้ว และตามบทบัญญัติรัฐธรรมนูญแห่งราชอาณาจักรไทย ประชาชนไทยทุกคน  
มีความเท่าเทียมกันในกฎหมาย เมื่อกระทำความผิดต้องรับโทษตามที่กฎหมายบัญญัติโดยเท่าเทียมกัน จะอ้างความ  
แตกต่างด้านสถานะทางเศรษฐกิจ หรือสังคม เพื่อจะไม่ปฏิบัติตามกฎหมายหาได้ไม่ (ตามมาตรา ๒๗ รัฐธรรมนูญ  
แห่งราชอาณาจักรไทย) และในฐานะประชาชนไทยมีหน้าที่ปฏิบัติตามกฎหมายอย่างเคร่งครัด (ตามมาตรา ๕๐ (๓)  
รัฐธรรมนูญแห่งราชอาณาจักรไทย) อีกทั้งมีหน้าที่ร่วมมือและสนับสนุนการอนุรักษ์และคุ้มครองสิ่งแวดล้อม  
ทรัพยากรธรรมชาติ ความหลากหลายทางชีวภาพ (ตามมาตรา ๕๐ (๘) รัฐธรรมนูญแห่งราชอาณาจักรไทย)

ก้อง  
พงษ์พันธุ์  
การ

กรมอุทยานแห่งชาติ

กรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช เป็นหน่วยงานของรัฐมีอำนาจหน้าที่ในการอนุรักษ์ สงวน คุ้มครอง ปันฟู ดูแลรักษา ส่งเสริม ทำนุบำรุงทรัพยากรป่าไม้ สัตว์ป่า และพันธุ์พืช การจัดให้ใช้ประโยชน์ทรัพยากรธรรมชาติ อย่างยั่งยืน การดำเนินการตามกฎหมายว่าด้วยการป่าไม้ และกฎหมายว่าด้วยป่าสงวนแห่งชาติ และการดำเนินการอื่นใด ทั้งนี้ ในเขตอุทยานแห่งชาติ เขตรักษาพันธุ์สัตว์ป่า และเขตห้ามล่าสัตว์ป่า และอำนาจหน้าที่อื่นตามที่กฎหมาย กำหนดให้เป็นอำนาจหน้าที่ของกรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช ตามพระราชกฤษฎีกาโอนกรมป่าไม้ กระทรวงเกษตรและสหกรณ์ ไปเป็นกรมป่าไม้ กระทรวงทรัพยากรธรรมชาติและสิ่งแวดล้อม และปรับปรุงอำนาจหน้าที่ และกิจการของกรมทรัพยากรทางทะเลและชายฝั่ง กรมป่าไม้ และกรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช กระทรวงทรัพยากรธรรมชาติและสิ่งแวดล้อม พ.ศ. ๒๕๔๖ กรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช ได้ปฏิบัติหน้าที่ ตามอำนาจหน้าที่ที่กฎหมายบัญญัติแล้ว ดังนั้น ผู้ร้องทั้ง ๑๔ คน จึงต้องปฏิบัติตามคำพิพากษาอย่างเคร่งครัด สำหรับค่าเสียหายตามคำพิพากษาศาลฎีกานั้น เมื่อจำเลยหรือลูกหนี้ตามคำพิพากษาชำระค่าเสียหายให้แก่ กรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช แล้ว กรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช จะนำส่งเป็นรายได้แผ่นดิน ต่อไป กระทรวงการคลังมีอำนาจหน้าที่เกี่ยวกับการเงินการคลังแผ่นดิน ตามมาตรา ๑๐ แห่งพระราชบัญญัติปรับปรุง กระทรวง ทบวง กรม พ.ศ. ๒๕๔๕ ดังนั้น หากลูกหนี้ตามคำพิพากษา (ผู้ร้อง) มีข้อเสนอในการชำระค่าเสียหาย ดังกล่าวประการใด ก็อาจยื่นข้อเสนอให้กระทรวงการคลังพิจารณา โดยยื่นต่อกรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช และกรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช จะประมวลเรื่องราวพร้อมความเห็นเสนอกระทรวงการคลัง พิจารณาตามอำนาจหน้าที่ต่อไป

จึงเรียนมาเพื่อโปรดทราบ

ขอแสดงความนับถือ

(ลงนาม) นายสิทธิชัย เสรีส่งแสง

(นายสิทธิชัย เสรีส่งแสง)

รองอธิบดี ปฏิบัติราชการแทน

อธิบดีกรมอุทยานแห่งชาติ สัตว์ป่า และพันธุ์พืช

สำเนาถูกต้อง

(นายบัณฑิตพรณ์ แสงจันทร์)

ข้าราชการ

กองนิติการ

โทร. ๐ ๒๕๖๑ ๔๘๑๙

โทรสาร ๐ ๒๕๗๙ ๗๕๙๔

สำเนาถูกต้อง

นายบัณฑิตพรณ์ (นายพันธุ์)

นิติกร/ปฏิบัติกร

122 Moo.7 Huai Yae Sub-District  
Nong Bua Rawe District  
Chaiyaphum 362550

6 July 2022

To: Minister of Natural Resources and the Environment and its Strategy Group

Subject: Assist and ameliorate after Sai Thong Case verdict is over.

This case is in the resolution of P-Move, as the same issue in 2019. On March 22, 2019, the Strategic Committee visited the area of Nong Bua Rawe District and set up a working group to examine poverty, poor and landless people. In the case that people were affected by the master plan to solve the problem of deforestation which the province has inspected on October 10, 2019, determined that 14 villagers have the status of being poor according to the order 66/2557 (according to the attached document) and The Supreme Court has made its final judgment to 14 Sab Wai villagers on May 5, 2021, to May 20, 2021, by sentencing 11 villagers to suspended prison sentences and three others to prison without parole. Two villagers are currently serving their sentences in a Chaiyaphum prison, and one was already released.

The current situation is as follows: On March 9, 2022, the officers surveyed on Mr. Put Sukbongkoch's plots and Ms. Thongpun Muangklang's plots

On March 10, 2022, the officers surveyed on Ms. Nittaya Muangklang's plots, Ms. Satorn Seesuk's plots, and Ms. Narisara Muangklang's plots.

On March 11, 2022, the officers surveyed on Ms. Samorn Somchit's plots, Ms. Sunee Narin's plots, and Ms. Pattama Komed's plots.

On March 13, 2022, the officers surveyed on Mr. Suwit Rattana Chaisri 's plot and Ms. Suwalee Pho-ngam's plot.

On May 20, 2022, the Chief of Sai Thong National Park visited the area for clarification at Sab Wai Town Hall at 6-8 PM.

On May 27, 2022, there was a meeting at Nong Bua Rawe District Office. with the Chaiyaphum governor as the chairman. The governor assigned Nong Bua Rawe District Chief to take care of career promotion to increase income whereas Chaiyaphum Province has made a letter requesting the compensation suspension to the Department of National Parks. The chief of Sai Thong National Park explained that allowing villagers to live and work in the same place while waiting for the secondary law to take effect.

On July 5, 2022, Sai Thong Park Chief informed that every plot would be reforested. Starting from the plot of Ms. Nittaya as the first plot and 700 seedlings have been prepared.

But at present, the villagers do not have other plots of land to cultivate. If they were forced to leave the area as notified by the authorities, the villagers status will become homeless, their children will not continue their education. In addition, the BAAC's debts cannot be paid as scheduled. Furthermore, at present, there is no substitute for arable land for villagers. Therefore, there are proposals from the Sab Wai in order to find a solution as follows:

- 1) Let the villagers work on the land until another land is allocated to replace them.
- 2) If there is a replacement for arable land, The land must be of suitable condition. It can be used for cultivation with enough area so that they can have enough income for their livelihood and have the necessary water resources or utilities.
- 3) Ask the strategy committee to work together to find a solution with the stakeholders and the working group.
- 4) To suspend the execution of the lawsuit for the payment of damages because the villagers have the status of being poor.
- 5) During the process, let the Sab Wai villagers live and work in the aforementioned land until the problem is solved.

Therefore, please be informed accordingly

Yours sincerely,  
Nittaya Muangklang  
Sabwai villagers' representative  
0956132452

วันที่ 6 กรกฎาคม พ.ศ. 2565

เรียน รัฐมนตรีกระทรวงทรัพยากรธรรมชาติและสิ่งแวดล้อม และคณะผู้ทรงคุณวุฒิ

เรื่อง คดีไทรทอง คำพิพากษาสิ้นสุดลงให้ช่วยเหลือเยียวยา

เนื่องจากคดีนี้อยู่ในการแก้ไขปัญหของขบวนการประชาคมเพื่อสังคมที่เป็นธรรม (ทีมูฟ) เรื่องเดิมปีพ.ศ. 2562 โดยเมื่อวันที่ 22 มีนาคม พ.ศ. 2562 คณะผู้ทรงคุณวุฒิลงพื้นที่อำเภอหนองบัวระเหวและตั้งคณะทำงานตรวจสอบพิจารณาความยากจนยากไร้และผู้ไร้ที่กินทำกิน กรณีราษฎรที่ได้รับผลกระทบจากแผนแม่บทการแก้ไขปัญหการทำลายทรัพยากรป่าไม้ ซึ่งทางจังหวัดได้มีการตรวจสอบเมื่อวันที่ 10 ตุลาคม พ.ศ. 2562 พิจารณาแล้วว่าชาวบ้าน 14 คนเป็นผู้ยากจนยากไร้ตามคำสั่งที่ 66/2557 (ตามเอกสารที่แนบมานี้) และศาลฎีกาได้พิพากษาชาวบ้านทั้ง 14 คนเมื่อวันที่ 5 พฤษภาคม พ.ศ. 2564 ถึง 20 พฤษภาคม พ.ศ. 2564 โดยศาลฎีกาได้พิพากษาโทษจำคุกรอลงอาญาชาวบ้านจำนวน 11 คนพร้อมจ่ายค่าเสียหาย และอีก 3 คนให้ต้องโทษจำคุกโดยไม่รอลงอาญา ทั้งนี้ปัจจุบันชาวบ้าน 2 คนกำลังรับโทษอยู่ในเรือนจำจังหวัดชัยภูมิ และพ้นโทษแล้ว 1 คน

สถานการณ์ปัจจุบัน เป็นไปดังนี้ วันที่ 9 มีนาคม พ.ศ. 2565 เจ้าหน้าที่ลงตรวจแปลงสำรวจรังวัด แปลงของนายพุทธ สุขบางกชและนางทองปิ่น ม่วงกลาง

วันที่ 10 มีนาคม พ.ศ. 2565 เจ้าหน้าที่ลงตรวจแปลงสำรวจรังวัด แปลงของนางสาวนิศชา ม่วงกลาง, สกาพร สีสุข, และนริศรา ม่วงกลาง

วันที่ 11 มีนาคม พ.ศ. 2565 เจ้าหน้าที่ลงตรวจแปลงสำรวจรังวัด แปลงของสมร สมจิตร, สุนีย์ นาริน, และปัทมา โกเม็ด

วันที่ 13 มีนาคม พ.ศ. 2565 เจ้าหน้าที่ลงตรวจแปลงสำรวจรังวัด แปลงของสุวิทย์ รัตนะไชยศรีและสุวาลี โพธิ์งาม

วันที่ 20 พฤษภาคม พ.ศ. 2565 หัวหน้าอุทยานไทรทองลงพื้นที่ชี้แจงที่ศาลากลางบ้านซับหาวาย เวลา 18.00 – 20.00 น.

วันที่ 27 พฤษภาคม พ.ศ. 2565 มีการประชุมที่ว่าการอำเภอหนองบัวระเหว โดยมีผู้ว่าการจังหวัดชัยภูมิ เป็นประธาน ที่ประชุมมอบหมายให้นายอำเภอหนองบัวระเหวดูแลเรื่องกรส่งเสริมอาชีพเพื่อเสริมรายได้ ส่วนทาง จังหวัดชัยภูมินั้นได้ทำหนังสือขอไปยังคบังคับคดีในเรื่องการชดเชยค่าเสียหายไปที่กรมอุทยาน ส่วนหัวหน้าอุทยานไทรทองนั้นได้ชี้แจงว่า ให้ชาวบ้านอยู่ทำกินได้ที่เคยระหว่างเวรอกฎหมายลำดับรองมีผลบังคับใช้ โดยกฎหมายลำดับรอง พรบ.อุทยานปี 2562 มีผลบังคับใช้ให้ต้องปฏิบัติตาม

วันที่ 5 กรกฎาคม พ.ศ. 2565 หัวหน้าอุทยานไทรทองแจ้งว่าจะมีการปลูกป่าแปลงคดีทุกแปลง เริ่มจากแปลงของนางสาวนิศยาม่วงกลางเป็นแปลงแรกและมีการเตรียมกล้าไม้มาแล้ว 700 ต้น

แต่ในปัจจุบันชาวบ้านไม่มีที่ดินทำกินแปลงอื่น หากถูกบังคับให้ต้องออกจากพื้นที่ตามที่เจ้าหน้าที่แจ้งจะส่งผลให้ชาวบ้านไม่มีที่อยู่อาศัย มีสภาพต้องเร่ร่อน บุตรหลานไม่ได้ศึกษาต่อ อีกทั้งยังไม่สามารถชำระหนี้สินของรทส. ได้ตามกำหนด นอกจากนี้ในปัจจุบันยังไม่มีการจัดการที่ดินทำกินทดแทนให้แก่ชาวบ้าน เพื่อแก้ไขปัญหา จึงได้มีข้อเสนอ ดังนี้

1. ให้ชาวบ้านทำกินในที่ดินดังกล่าวไปก่อนจนกว่าจะมีการจัดการที่ดินทำกินทดแทนให้ได้
2. หากมีการจัดการที่ดินทำกินให้ ที่ดินนั้นจะต้องมีสภาพเหมาะสม สามารถใช้เพาะปลูกทำกินได้จริง มีสาธารณูปโภคที่สามารถใช้ได้และมีเนื้อที่เพียงพอต่อการเพาะปลูกให้สามารถมีรายได้พอต่อการเลี้ยงชีพได้
3. ให้คณะตุรศศาสตร์ร่วมแก้ไขปัญหาและหาทางออกร่วมกับกลุ่มผู้ที่เกี่ยวข้อง
4. ให้งดการบังคับคดีในเรื่องการบังคับคดีจ่ายค่าเสียหาย เนื่องจากชาวบ้านมีสถานะเป็นผู้ยากจนยากไร้
5. ในระหว่างขั้นตอนการแก้ไขปัญหา ให้ชาวบ้านอยู่อาศัยและทำกินในที่ดินดังกล่าวไปก่อน จนกว่าจะแก้ไขปัญหาได้แล้วเสร็จ

จึงเรียนมาเพื่อโปรดพิจารณา

วิเศษ สว่างกลาง  
ศิวดี ไทบัว  
ฉวีธรา สว่างกลาง  
ศิวดี วัลย์  
วิเศษ ไทบัว  
ฉวีธรา ๑๑๑

ขอแสดงความนับถือ  
นิศยาม่วงกลาง  
ตัวแทนชาวบ้านซับห้วย  
0956132452

## ANNEX 5 – Additional Information

### **The Need for a #JustTransition to put an end to Thailand’s False Climate Solutions: We want a Just, Inclusive, Green and Feminist Transition!**

This document provides additional information to the [UN Complaint regarding the human rights violations of 14 human rights defenders, the Sab Wai villagers in Sai Thong National Park, Chaiyaphum Province, Thailand, calling for urgent action for their protection from forced evictions and extreme poverty due to Thailand’s false climate solution](#), submitted to 8 UN Special Rapporteurs on 4 August 2022 by Sai Thong Rak Pah Network and Manushya Foundation. The document is an integral part of the [UN Complaint for Urgent Action](#) and provides additional information on the legislative and policy framework in place. As such, it illustrates the urgent need for a Just, Inclusive, Green and Feminist Transition that would center the community voices in the climate change response and would guarantee that the Thai government complies with its international human rights obligations and climate action commitments.

The case of Sab Wai villagers is a representative case of the false climate solutions adopted by Thailand and the misuse of the Forest Reclamation Policy and NCPO orders related to its enforcement (NCPO orders 64/2014 and 66/2014). As of now, despite the Thai government’s pledges and commitments on climate change mitigation and its obligations under International Human Rights Law, Thailand’s false climate solutions have a devastating impact on indigenous peoples, local and forest-dependnt communities, such as Sab Wai, while not effectively tackling the climate emergency.

#### **1. THAILAND’S POSITIONING IN THE GLOBAL CLIMATE ACTION**

The looming threat of negative climate change impacts remains real in Thailand. Similar to its Southeast Asian neighbors, Thailand is one of the world’s countries most affected by extreme weather events. Between 1999 and 2018, it was preceded by only seven other countries worldwide.<sup>1</sup> At the same time, Bangkok is ranked as the seventh major port city with the largest population to be exposed to coastal flooding by 2070: 5,138,000 people.<sup>2</sup>

As such, effective climate change mitigation and adaptation should be a key priority in Thailand.

#### **Thailand’s National’s policy commitments to mitigate climate change**

Thailand’s commitment under its updated Nationally Determined Contribution (NDC) in 2020, is to reduce their Greenhouse Gas (GHG) emissions by 20% compared to the projected business-as-usual by 2030, using 2005 as the baseline year. Moreover, the other commitments that Thailand has made are:

1. Power Development Plan (PDP), the Alternative Energy Development Plan, and the Energy Efficiency Plan to achieve ambitious energy targets;
2. The Waste Management Roadmap (2018–2030) promoting waste-to-energy technologies, and implementing the 3Rs (Reduce, Reuse, Recycle) principles with a focus on circular economy development by recycling 100% of targeted plastic waste by 2027;
3. The National Energy Plan framework (August 2021) setting goals and action plans for achieving net carbon neutrality;
4. The Strategy for Climate Change in Agriculture (2017–2021);
5. The Climate Change Adaptation Plan on Public Health (2018–2030);
6. The Water Resource Master Plan, and Spatial Plans.<sup>3</sup>

## **1.1. THAILAND AT COP26 & ITS GREENWASHING FOCUSED ON BIOMASS ENERGY AS A 'RENEWABLE ENERGY' SOLUTION**

In the autumn of 2021, Thai Prime Minister Prayut Chan-o-cha became one of over 100 world leaders attending the UN Climate Change Conference in Glasgow (COP26). There, Thailand announced its new pledge: a revised deadline by which Thailand should achieve carbon neutrality - by 2050 - and net-zero greenhouse gas emissions - by 2065. This should be possible mainly through forestry carbon sinks and as the Prayut made clear, only with the support of the international community.<sup>4</sup>

To achieve their objective of becoming carbon neutral by 2050, Thailand has undertaken a full-fledged push to incorporate biomass as a significant future energy source. Currently, burning coal and natural gas produces more than 70% of its electricity, only 10% of the energy mix is made up of renewable sources. As it strives to meet the carbon neutrality goal, the government wants to increase that ratio to 50%. The mainstreaming of renewable energy is being driven by biomass. Instead of using fossil fuels, biomass energy relies on the burning of plant material.<sup>5</sup>

### **The problem with using and labelling biomass energy as a 'renewable energy' solution**

However, today's biomass-burning power plants actually produce more global warming CO<sub>2</sub> than fossil fuel plants: 65 percent more CO<sub>2</sub> per megawatt hour than modern coal plants and 285 percent more CO<sub>2</sub> than natural gas combined cycle plants (which use both a gas and steam turbine together). Additionally, burning wood biomass creates just as much, if not more, air pollution as burning fossil fuels, including lead, mercury, nitrogen oxides, carbon monoxide, and other dangerous air pollutants that can harm the reproductive system or cause cancer. Children have developmental delays, heart disease, cancer, and respiratory illnesses as a result of the air pollution from biomass facilities, which has been deemed a threat to public health by the American Heart Association and the American Lung Association.<sup>6</sup>

Moreover, if fast-growing crops are cultivated on otherwise unproductive land, biomass can lower carbon dioxide levels because the plants' subsequent growth balances the carbon dioxide released during crop combustion. However, clearing or cutting down forests for energy purposes, whether to burn wood or plant energy crops, releases carbon into the atmosphere that would have been sequestered had the trees remained untouched. It can take decades or even centuries for the trees to grow back and thus capture the carbon. Additionally, carbon is released during combustion, leading to a net rise in CO<sub>2</sub>.<sup>7</sup>

### **COP26's Glasgow Leaders' Declaration on Forests and Land Use and its application in Thailand**

Despite a five-month delay, Thailand eventually also joined the 'Glasgow Leaders' Declaration on Forests and Land Use' in April 2022, a document originally circulated at COP26, calling for sustainable forest management and, among others, "*support for smallholders, Indigenous Peoples, and local communities, who depend on forests for their livelihoods and have a key role in their stewardship.*"<sup>8</sup>

Thailand's Ministry of Natural Resources and Environment announced that the Glasgow Leaders' Declaration will further support Thailand's efforts to increase the total forested area and reach the new net-zero target announced at COP26.<sup>9</sup> However, the recent modeling by Thammasat University shows that relying on forests only is a false climate solution and that real cuts in fossil fuel electricity generation are needed.

Furthermore, Thailand's problematic human rights record when it comes to forest conservation and sustainable land use might only worsen with these new pledges. Important case in point is Thailand's participation in the Forest Carbon Partnership Facility (FCPC) sponsored by the World Bank which might push even more forest-dependent communities and indigenous peoples into the margins of the society.

## 1.2. THE NEED FOR A JUST TRANSITION TO END THAILAND'S FALSE CLIMATE SOLUTIONS

The Thai government prioritizes forest conservation to reduce carbon emissions instead of reforming its energy policy to effectively move from fossil fuels to renewable energy. Although the government has pledged to adopt biomass as an energy source to reach its carbon neutrality by 2050,<sup>10</sup> Columbia Climate School has demonstrated that biomass is not necessarily a source of renewable energy.<sup>11</sup> Therefore, by solely focusing on reforestation and by criminalizing those who actually protect the forest - *indigenous peoples, forest-dependent communities, poor villagers* - the Thai government promotes a false climate solution and is far behind moving towards a Just Transition: a Just, Inclusive, Green and Feminist Transition.

## 2. THAILAND'S PARTICIPATION IN THE FOREST CARBON PARTNERSHIP FACILITY (FCPC) SHALL NOT BE WEAPONIZED TO JUSTIFY ITS UNFAIR FOREST CONSERVATION LAWS & BRUTAL REFORESTATION POLICY

Thailand has a total land area of approximately 513,115 km<sup>2</sup>. As of 2018, 46.54% of the nation's area (or 238,791 km<sup>2</sup>) was categorized as agricultural land. Forest and non-agricultural land accounted for 31.96% and 21.50% respectively. Nearly half the agricultural land is attributed to paddy fields, equal to 109,949 km<sup>2</sup> or 21.43% of Thailand's total land area. According to the estimation by the Royal Forest Department, forest area in 2018 was almost 164,000 km<sup>2</sup>, which is equivalent to 16.40 million hectares. There is a number of laws in place in Thailand related to the management and maintenance of the national forest estate, such as the Royal Forest Department Strategy (2017-2036), Forest Act (1941), National Park Act (2019), National Reserved Forest Act (1964), Wild Animal Conservation and Protection Act (2019), Forest Plantation Act (1992) and its amendment, Chain Saws Act (2002), and Community Forest Act (2019).<sup>12</sup>

Thailand is one of the developing countries participating in the Forest Carbon Partnership Facility (FCPF), which is a global partnership of governments, businesses, civil society and indigenous peoples focused on reducing emissions from deforestations and forest degradation, forest carbon stock conservation, sustainable management of forests, and enhancement of forest carbon stocks in developing countries (activities commonly referred to as REDD+).<sup>13</sup> The FCPF hosted by the World Bank has created a framework and processes for REDD+ readiness, which helps participating countries get ready for future systems of financial incentives for REDD+.<sup>14</sup> Thailand was selected as one of the REDD participant countries in 2009. Its REDD+ readiness preparation proposal (R-PP) was approved in 2013 with a condition to undertake additional consultations with the concerned stakeholders, in particular indigenous peoples and local communities that have been monitoring the REDD+ implementation in the country.<sup>15</sup> However, indigenous peoples and forest-dependent communities have continuously denounced Thailand's false climate solutions targeting their communities and have requested the [World Bank](#) to refrain from funding the Thai government, unless it respects the human rights of local communities.<sup>16</sup> These requests have been ignored and subsequently, in 2014, the Forestry Master Plan, the 'Forest Reclamation Policy', was issued based on NCPO Order 64/2014.

The commitment for reforestation also stated in the [report on the technical assessment of the proposed forest reference emission level and forest reference level of Thailand submitted in 2021](#) (FCCC/TAR/2021/THA, 5 May 2022), Thailand's government stated that:

*"Thailand cited its National Strategic Plan as an overarching forest policy which aims to increase forest cover by up to 40 per cent (p.8). The Party's Climate Change Master Plan (2015–2050) lays the foundation for climate change adaptation and mitigation in the country. Thailand's priority areas in forestry policy include raising awareness and increasing public participation, promoting mitigation activities in line with Sustainable Development Goal 13, and supporting research and development and capacity-building for relevant institutions and staff. [...]"<sup>17</sup>*

The Climate Change Master Plan 2015–2050 established a national framework for policy development, government action plans, and budgeting on sustainable development, low carbon growth, and climate resilience by 2050. According to the plan, the Thai government is obliged to support the role of local communities in the preservation of forests and ecosystems via mechanisms such as the Payment for Ecosystem Services (PES) scheme, i.e., the Forest bond and REDD+ approach. In this respect, the plan “[...] gives explicit recognition of community rights to forest resources while the community protects and sustains the biodiversity of the ecosystem.”<sup>18</sup>

### **3. SPOTLIGHT ON THAILAND’S FALSE CLIMATE SOLUTIONS (AND THEIR APPLICATION AGAINST SAB WAI VILLAGERS)**

#### **3.1. THE FORESTRY MASTER PLAN: THE "FOREST RECLAMATION POLICY" AS A STRATEGY TO EVICT THE POOR**

With this policy, the Thai government, specifically the Internal Security Operations Command (ISOC), the Ministry of Natural Resources and Environment (MNRE),<sup>19</sup> and the Royal Forest Department (RFD), aims to combat problems such as forest destruction and trespassing on public land, while intending to increase Thailand’s national forest area by 26 million Rai or up to 40% of the total area of the country. The Master Plan was around the discourse that commercial investors’ exploitation of Thailand’s natural resources is responsible for deforestation and must be stopped. The government appeared sincere in its intentions to target only wealthy investors after it released Order 66/2014, a supplemental directive that states that government operations must not impact the poor.<sup>20</sup>

However, implementation of the Master Plan has overwhelmingly targeted impoverished villagers and indigenous peoples who lived on their lands for decades as “investors” or alleged that local communities were being funded by wealthy investors, while it was found that in ISOC’s operations, no organizations or capitalists have been arrested or charged for conducting illegal logging or encroachment.<sup>21</sup> This has resulted in a complete disregard of the protection measures set out by Order 66/2014. The Royal Forest Department does so by misusing laws and policy by confiscating land and evicting villagers from their land, by enforcing various forests and national park related laws such as (a) the Forest Act (1941), (b) the National Reserved Forests Act (1964), and (c) the National Park Act (1961).

#### **3.2. CARTE BLANCHE TO BUSINESS ENTERPRISES VIOLATING THAILAND’S CLIMATE ACTION COMMITMENTS**

Meanwhile, activities of business enterprises in protected areas remain largely disregarded. The Thai government has even authorized investors to use and operate their businesses in reserved forest areas. On 5 May 2015, the Thai government revoked 2,182 rai 3 ngan 64 square wah (approximately 349 hectares 2656 square meters) of national reserved forest area in Tak province to turn the area into a special economic zone. The majority of the area has been turned into state land which can be lent to the private sector and businesses.<sup>22</sup>

The Thai government also revoked 718 rai (approximately 114 hectares 8800 square meters) of community forest area in Nong Khai province to turn the area into a special economic zone.<sup>23</sup> On 5 March 2019, the Thai Government authorized Siam Cement Public Company (formerly Siam Cement Company) to use 3,311 rai 2 ngan 67 square wah (approximately 529 hectares 8668 square meters) of Tab Kwang and Muak Lek Forest Reserve in Saraburi province for its mining operations.<sup>24</sup> A third of the Siam Cement Public Company is owned by King Maha Vajiralongkorn.<sup>25</sup>

In these three cases alone, the Thai government has given away 6,211 rai 5 ngan 131 square wah (approximately 994 hectares 124 square meters) to investors compared to the mere 197 rai 1 ngan 38 square wah (approximately 31 hectares 5,752 square meters) taken away from the 14 villagers of the Sab Wai village. The total fines payable

by the 14 villagers of the Sab Wai village amounts to THB 5,716,229 (approximately USD 191,363.8311), in stark contrast to the profits of investors.<sup>26</sup> Siam Cement Public Company's profit for the year 2020 alone totals THB 37,300,139 (approximately USD 1,248,707.409).<sup>27</sup>

Except for the commercial operations' negative impact on their immediate environment, including deforestation and environmental pollution, business entities are major emitters of greenhouse gasses. While the marginalized communities such as Sab Wai villagers then become victims of the Government's climate mitigation efforts and find themselves at the frontline of climate change impacts, large enterprises successfully avoid criminal charges and responsibility for their contribution to the climate crisis, confirming yet again that Thailand continues to put profit over people and the planet.

### **3.3. FOCUS ON THE CONTROVERSIAL NCPO ORDERS OPERATIONALIZING THE FOREST RECLAMATION POLICY**

To operationalize the forest reclamation policy, orders were also passed by the National Council for Peace and Order (NCPO) consisting of the military junta. The two most relevant orders include NCPO Order No. 64/2014 and 66/2014.

- NCPO Order 64/2014 related to the suppression and cessation of encroachment and destruction of forest resources, provides that authorized state agencies are to suppress violations and arrest those who encroach on, seize, possess, destroy, or act in any manner that may cause damage to the forest, specifically on protected land. The aim of the NCPO Order 64/2014 is to stop deforestation which has been caused by commercial investors' exploitation of Thailand's natural resources.
- NCPO Order 66/2014 suggests that the primary targets of these measures must be investors or large-scale outside developers, whereas the poor, landless and those who have settled in the land before it was declared as a protected area, should not be affected by the NCPO order 64/2014. NCPO Order 66/2014 establishes a list of such people who are permitted to use the land. The Order 66/2014 appeared to focus only on wealthy investors. However, during its implementation of the Forestry Master Plan, the government persistently identified impoverished villagers who had lived on their lands for decades as "investors" or alleged villagers as being funded by wealthy investors, resulting in the loss of protection as set out by Order 66/2014. Five strategies have been followed by the NCPO to evict people, namely stopping illegal logging, stopping forest encroachment, seizing encroached areas, destroying villagers produce while filing lawsuits, and conducting area surveys.<sup>28</sup>

### **3.4. DISCREPANCIES IN THE APPLICATION OF NCPO ORDER 66/2014, MEANT TO PROTECT POOR PEOPLE FROM BEING EVICTED FOR FOREST LAND**

In order to target human rights defenders protecting their land and protesting against land evictions, the government has purposely excluded villagers from the protection guaranteed to poor people under NCPO Order 66/2014. The Sai Thong National Park case clearly demonstrates the discrepancies in the application of NCPO Order 66/2014: the Royal Forest Department (RFD) said that NCPO Order 64/2014 is meant to target investors and NCPO Order 66/2014 is meant to exclude poor people from NCPO Order 64/2014 and protect them from being sued by the government. The definition of poor, according to the Royal Forest Department, is not properly defined and depends on the appreciation of the Thai authorities and judges.

In the case of the 14 Sab Wai villagers, the judges did not consider them as poor because they were allegedly owners of 2 to 3 plots of land<sup>29</sup> but villagers found themselves unfairly targeted as they are only small-scale farmers. The Supreme Court confirmed the judgements of courts of the lower instances, refused to apply Order

66/2014 to provide protection to the villagers and disregarded the 14 November 2019 memorandum of the Ministry of Natural Resources and the Environment, that recognizes the Sab Wai villagers as 'poor' and therefore eligible for protection under Order 66/2014.<sup>30</sup> This highlights the unequal application of the NCPO Order 66/2014, considering that those who were supposed to be protected, not only lost their land but also were found guilty of the charges of trespassing, having to pay a fine of between 40,000 THB to 1,6587,211 THB, together with jail time ranging from 5 months 10 days to 4 years. While most of the villagers were eventually sentenced to suspended jail terms, their criminalization further put them in a situation of poverty, leaving their families, elders and children behind, with insufficient financial resources and care.

### **3.5. UNLAWFUL USAGE OF THE CABINET RESOLUTION OF 30 JUNE 1998 WHICH IS BY ITSELF FLAWED IN ITS IMPLEMENTATION**

Another reason why the 14 Sab Wai villagers were declined protection under NCPO Order 66/2014 is because the appeal judgment ruled that the villagers had newly moved into the area. The court concluded that the villagers had no proof that they had lived in the national park area before its' establishment in 1992 because their names are not listed in the survey, which was conducted under the Cabinet Resolution of 30 June 1998. Even though it is stipulated in NCPO Order 66/2014 that an investigation and rights-proving procedure would take place for new encroachers, verification methods of communities' land rights, such as examining the traditional, cultural, and historical context, have been neglected by law enforcers<sup>31</sup> and instead, the Cabinet Resolution of 30 June 1998 was utilized as a land-rights identification method. Under the Cabinet Resolution of 30 June 1998, aerial photographs and satellite images were taken and surveys amongst villagers living in national parks and reserved forest areas have been conducted. Based on the images and surveys, a list was created and those included in it were allowed to make a living in national reserved forest and national park areas.<sup>32</sup>

The lawyer of the 14 Sab Wai villagers, Mr. Somnuek Tumsupap, pointed out that the 14 prosecuted villagers of Sab Wai village were not on the list because survey data is missing, and even though they are heirs to the land, their names are not included on survey documents. This is due to the flawed implementation of Cabinet Resolution 30 June 1998 as: (1) authorities had limited time available to conduct surveys; (2) the number of personnel conducting surveys was limited, and (3) the budget allocated for surveying was insufficient. Therefore, in the case of the Sab Wai villagers, when authorities ran out of funds, they did not continue the surveys but allowed villagers to carry on living on the land.<sup>33</sup> The villagers also pointed out that surveys were not conducted fairly. Villagers had approached surveying rangers on various occasions to ensure that their land was surveyed and they would be included in the list, but the rangers made excuses not to survey their land and told them that another survey would take place after four years.

Mr. Somnuek Tumsupap also identified another flaw by questioning the usage of the Cabinet Resolution of 30 June 1998 as a land-rights identification method because the usage of this Resolution is not specified in either NCPO Order 64/2014 or 66/2014. NCPO Order 66/2014 states that an investigation and right-proving procedure would take place for new encroachers but in the case of the Sab Wai villagers, officials have chosen to utilize the Cabinet Resolution of 30 June 1998 as a land-rights identification method. According to Mr. Somnuek, the Cabinet Resolution of 30 June 1998 can only be utilized if the NCPO Orders require it to do so. In the case of the Sab Wai villagers, the court has interpreted and applied the NCPO Orders as the primary source on which the charges are based. The NCPO Orders overrode the Cabinet Resolution and thus the intentions of the NCPO Orders should be followed, with (1) villagers being protected from eviction under NCPO Order 66/2014 of the Forest Reclamation Policy and (2) a right-proving procedure taking place. Mr. Somnuek Tumsupap had attempted to use this argument to fight the cases of the villagers, but it was not considered by the court.

These existing laws, policies and NCPO Orders place limitations on community rights, while restricting land rights, management and utilization of natural resources by local people, especially in protected areas. In this manner, authorities enforce strict legislative and implement coercive measures against those who have settled and sustained their livelihoods in forest areas. By December 2015, Order No. 64/2014 had impacted nearly 1,800 families, mostly in the north and northeast, home to large indigenous populations. At that date, 681 cases filed against exercise of powers under Order No. 64/2014 towards local and indigenous communities were recorded, and 168 of these cases amounted to judicial harassment.<sup>34</sup> **According to the Government data, as of July 2022, there have been 28,664 cases of forest encroachment recorded since October 2014.**<sup>35,36</sup>

### 3.6. THAILAND'S UNFAIR FOREST CONSERVATION LAWS

While the community is criminalized under older forest conservation laws (Forest Act 1941, National Park Act 1961, and the National Reserved Forest Act 1964), the new zeal for their enforcement only appeared following the enactment of the Forestry Master Plan: the Forest Reclamation Policy in 2014, setting up a target of 40% forestation rate in Thailand.<sup>37</sup>

This led to a violation of a wide range of individual and community rights, including the right to participate in decision-making processes, the right to work, and the right to an adequate standard of living and food of communities living off the land. While the 2017 Constitution stipulates that the State has the duty to distribute landholding in a way that allows people to have land to live on (Section 72), and to ensure a fair distribution of land holding (Section 258),<sup>38</sup> in practice, the government limits communities' and individuals' rights to manage the lands they live on and cultivate through restrictive policies, NCPO orders, and laws.

### 3.7. ABOLITION OF NCPO ORDERS 64/2014 & 66/2014 BUT MISUSE OF FOREST CONSERVATION POLICIES WILL REMAIN WITH CONTROVERSIAL NATIONAL PARK ACT OF 2019

An important development with respect to the law used to criminalize the 14 villagers has been the repeal of 70 NCPO Orders including NCPO Orders 64/2014 and 66/2014 on 9 July 2019.<sup>39</sup> These orders were withdrawn using the newly issued NCPO Order 9/2019 by the Prime Minister of Thailand, Prayut Chan-o-cha in his capacity as the head of the National Council for Peace and Order (NCPO). However, NCPO 64/2014 and 66/2014 will continue to criminalize the legitimate actions of communities and individuals as their content, particularly their negative aspects, have already been embedded into other laws including the new amendment to the National Park Act of 2019.<sup>40</sup>

### 3.8. FOCUS ON THE CONTROVERSIAL NATIONAL PARK ACT 2019

In May 2019, the National Legislative Assembly in Thailand passed the National Park Act 2019. This law is the continuity of NCPO orders 64/2014 and 66/2014 and is expected to affect the livelihoods of local communities, indigenous peoples and forest dwellers living adjacent and within national protected areas.

Article 65 of the new law allows communities who have traditionally lived in or near parks to access them and use some of the forest resources; however, the power to give permission to do so rests solely on the discretion of national park authorities. Main concerns with the law are related to:

- Restrictions on the amount to be harvested by the communities allowed to live in the national park areas;
- The use of natural and renewable resources from national parks can only be done legally through government-approved projects; therefore, the process to obtain the approval might be arbitrary and complicated;

- Forest officials will be provided with ‘search and destroy powers’ without the need to acquire court orders. Such powers are likely to result in forced evictions of communities and destroying their property, such as houses and crops;
- The law will impose stricter penalties to further limit the rights of Thai farmers and indigenous peoples: the penalties for those convicted of encroachment are much higher compared to the National Park Act of 1961. Whereas in the National Park Act of 1961, the maximum punishment for encroachment is 5 years of imprisonment and a fine not exceeding 20,000 Thai Baht, in the new National Park Act of 2019, those convicted might face imprisonment not exceeding 20 years, and fines not exceeding 2 million Thai Baht.
- The law will impose the use of Cabinet Resolution of 30 June 1998 to prove land rights of those living in reserved forest areas and national parks. As previously explained, the Cabinet Resolution of 30 June 1998 is problematic in its enforcement as forest officials tend to exclude community members who would need to be protected to remain on their lands. Additionally, it has been argued that the enforcement of the Resolution is flawed and has caused problems between authorities and local people. Communities’ rights to manage forests are not given importance by the Resolution, and on aerial photographs taken under the Resolution, it is almost impossible to determine traditional farms of indigenous peoples.<sup>41</sup>
- The new draft royal decree aiming at enforcing the National Park Act 2019 establishes that only individuals not previously ordered to vacate their land can utilize the natural resources within the national park through government-approved projects. The royal decree therefore automatically excludes all 14 Sab Wai villagers who became victims of older forest conservation laws.<sup>42</sup>

Furthermore, imposing the strict usage of Cabinet Resolution of 30 June 1998 will prevent Thai courts from ordering forest agencies to abide by other Cabinet Resolutions which are more beneficial to local communities<sup>43</sup>, such as the Cabinet Resolution of 3 August 2010. The Cabinet Resolution of 3 August 2010 reaffirms article 70 of the 2017 Constitution<sup>44</sup>, and states that Karen people have the right to stay in their ancestral land and continue their traditional farm rotation system. Moreover, the Resolution prohibits arrests of indigenous Karen forest dwellers.<sup>45</sup> The Supreme Court referred to this Cabinet Resolution of 3 August 2010 in the case regarding the eviction of villagers belonging to the traditional Karen community, residing in Kaeng Krachan National Park, in 2012. The Court concluded that the eviction of the villagers and the destruction of their property through the application of the National Park Act of 1961, the Forest Act of 1941, and the National Reserved Forest Act of 1964, was in violation of the protection guaranteed under the Cabinet Resolution of 3 August 2010.<sup>46</sup>

Finally, the implementation of the Forest Mastery Plan and the NCPO Orders continues to be in the hands of the military, with the Internal Security Operations Command (ISOC), established under the Internal Security Act involved in enforcement.<sup>47</sup>

### **3.9. THE 20-YEAR NATIONAL STRATEGY: INCREASE THE COUNTRY'S FORESTED AREA TO 55 PERCENT BY 2037**

As written in its 20-Year National Strategy, the Royal Thai Government (RTG) aims to increase the country’s forested area to 55 percent of the total Thai territory by 2037. The forested area will include 35 percent of natural forest; 15 percent of forest plantations, and 5 percent of recreational areas.<sup>48</sup> The RTG wishes to achieve this ambitious goal through the following strategies: (1) suppressing forest encroachment; (2) promoting the restoration of forested areas and the ecosystem; (3) communities’ participation in protecting forest resources and planting forests; (4) developing a tourism strategy to limit the number of tourists;<sup>49</sup> (5) providing incentives to corporations doing business in the forest plantation industry; and (6) enhancing natural resource management by amending relevant legislation.<sup>50</sup>

In 2019, the Royal Forest Department (RFD) noted that through its current model and budget it will not be possible to increase the country’s forested area to 55 percent by 2037. The department blamed this on landless villagers

who occupied newly planted forests, leading to a decreased rate of forested area despite replantation efforts made by the Royal Forest Department. Therefore, the Royal Forest Department introduced a new forest plantation model through which the cost could be reduced to 1,000 THB per Rai<sup>51</sup> and more forested area could be created. According to the Director of the Royal Forest Department, this new forest plantation model would economically benefit communities; solve problems of landlessness, and reduce income inequality.<sup>52</sup> Under the new model, the military government introduced a land allocation scheme in which 1.21 million Rai of public land in degraded forests will be given to communities, to plant trees from which they will economically benefit. Communities who will be allocated land will be given sprouts and have to utilise 20 percent of their land to plant three types of trees: (1) native trees that they will not be allowed to cut; (2) economic trees that they can cut for personal use but must be replanted, and (3) edible trees.<sup>53</sup>

As noted, only 1.21 million Rai of public land of degraded forest will be given to communities under the new forest plantation model. Even though this may sound like a lot, it is only 0.37 percent of the Thai territory, which amounts to approximately 321 million Rai. 1.21 million Rai would not be sufficient to accommodate all those in need of land, and who rely on it for their livelihood.

Moreover, the government aims to achieve its goal of expanding forested area to 55 percent by 2037 by suppressing encroachment and promoting restoration of forested areas and the ecosystem, which has proved problematic.<sup>54</sup> Consequently, the RTG makes significant efforts to increase the number of National Parks in the country and has established five parks, equal to 331,952 Rai, between 2016 and 2019. Currently, the RTG is in the process of establishing additional 22 National Parks, equal to 44 million Rai.<sup>55</sup> In total, Thailand will have 155 National Parks, which will together amount to 146,488,000 Rai<sup>56</sup> or 45 percent of Thai territory. The increase of national parks to 45 percent of the country will be problematic for local communities living within and adjacent to such areas as they will be subject to the restrictive National Parks Act of 2019 described above and face increased risks of being evicted from their lands and not being able to make a livelihood. Therefore, it can be concluded that the plan to increase the forested area to 55 percent by 2037 is more likely to worsen the issues of poverty, landlessness, and income inequality, rather than enhancing them not just for at present but also for generations to come.

#### **4. THE NEED FOR JUST TRANSITION: A JUST, INCLUSIVE, GREEN AND FEMINIST TRANSITION**

Considering the plans for future REDD+ activities in Thailand, the Government's renewed climate targets, and the 20-Year National Strategy aiming at increasing the total forested land to 55%, Thailand's flawed forest conservation laws might have widespread adverse human rights impacts on marginalized communities in the years to come. Climate change mitigation, as well as conservation of biological diversity, then become a new undemocratic tool of the Government's oppression.

Instead, the cases such as one of Sab Wai villagers should represent an opportunity to promote and further a Just, Inclusive, Green, and Feminist Transition, where forest conservation is based on human rights principles of participation and non-discrimination. Furthermore, relying on forest conservation only is a false climate solution; while real cuts in fossil fuel electricity generation are needed.

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### About Manushya Foundation

Manushya Foundation was founded in 2017 with the vision to build a movement of Equal Human Beings #WeAreManushyan. Manushya is an intersectional feminist human rights organization reinforcing the power of humans, in particular women, human rights defenders, indigenous peoples, forest-dependent communities, environmental defenders, LGBTI groups, and Youth, to be at the heart of decision-making processes that concern them and to speak truth to power at the forefront of their fight for Human Rights, Equality, Social Justice and Peace. Through coalition building, capacity building, community-led research, advocacy and campaigning, and sub-granting, local communities become Agents of Change fighting for their rights and providing solutions to improve their lives and livelihoods, pushing back on authoritarian governments and harmful corporations. Manushya defends local communities and seeks justice with them before the United Nations, focusing on women's rights and gender equality, digital rights, climate & environmental justice, and corporate accountability across Asia.

For further information on the work of Manushya Foundation, visit:

<https://www.manushyafoundation.org/>



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