

SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS



The Submission for Urgent Action for Protection of the 14 Sab Wai Villagers was also submitted to the following relevant UN Special Procedure Mandates:

- UN Special Rapporteur on the promotion and protection of the Right to Freedom of Opinion and Expression
- UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association
- UN Special Rapporteur on the Right to Housing
- UN Special Rapporteur on the Right to Food
- UN Special Rapporteur on Extreme Poverty and Human Rights
- UN Special Rapporteur on Human Rights and the Environment





SUBMISSION TO THE UN SPECIAL RAPPOREUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS & RELEVANT SPECIAL PROCEDURE MANDATES

Mr Michel Frost

Special Rapporteur on the situation of human rights defenders

C/o OHCHR-UNOG

Office of the High Commissioner for Human Rights (OHCHR)

Palais Wilson, 52 rue des Pâquis

CH-1201 Geneva, Switzerland Mr Michel Frost

Special Rapporteur on the situation of human rights defenders

Subject: Submission regarding 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.

Bangkok, 23 June 2019

Dear Mr. Frost,

This joint submission is respectfully submitted for consideration under your mandate, requesting urgent action to stop the ongoing human rights violations committed against prominent land rights defender, community leader and board member of Isaan Land Reform Network (ILRN), Ms. Nittaya Muangklang, who is facing court cases in relation to her legitimate human rights actions along with thirteen other villagers of the Sab Wai Village, all members of the ILRN. The other villagers are: Mrs. Seenuan Phasang; Ms. Pattama Komet; Ms. Sunee Nalin; Mrs. Sakl Prakit; Ms. Narisara Muangklang; Mrs. Thongpan Monggang; 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 thirteen 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 forest reclamation policy adopted in 2014. The criminalisation of the 14 Sab Wai villagers in the Sai Thong National Park is 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 64/2014 and 66/2014), targeting poor communities and land rights defenders to evict them from their lands, rather than recognizing them as key caretakers and protectors of the forest.

Even though Ms. Nittaya and the villagers have inhabited and made a livelihood on the land prior to its declaration as a national park and a reserved forest area; between July 2018 and September 2018, the Court of First Instance convicted the fourteen villagers on charges of encroaching, utilising, and clearing land belonging to the national reserved forest and national park area causing destruction of the forest. Consequently, they have been sentenced to imprisonment, varying from a period of five months 10 days to four years; payment of damages varying from THB 40,000 to THB 1,587,211 at 7.5 percent interest per year, to compensate for the harm caused to the forest through farming activities. They have also been ordered to remove themselves, their family, their representatives, employees working on their land, and any agency contracted by them; to demolish any structures, and remove anything else that may cause damage to the national reserved forest and national park. In all the aforementioned cases, an appeal has been brought against the judgment of the the Court of First Instance. Ms. Nittaya was the first to receive the judgment of the Appeal Court on 15 May 2019 and is currently in jail having been sentenced to four months imprisonment and payment for damages of THB 40,000 in the first case for trespassing. On 5 June 2019, she received the judgment of the Appeal Court in the second case against her, where the court added eight

months to her jail sentence and a payment for damages of THB 150,000 for destroying and seizing the forest for herself or others. Additionally, five other villagers received the Appeal Court judgment of the Chaiyaphum Provincial Court: on 4 June it sentenced Ms. Seenuan Phasang, elderly of 60-year old, to 5 month 10 days in jail and 150,000 THB fine; on 12 June it unfairly sentenced Ms. Sunee Nalin, elderly of 71-year old, to 5 months 10 days in jail and 439,027 THB fine, Ms. Pattama Komet to 8 months in jail and 200,000 THB fine, and Ms. Suphaphorn Seesuk to 5 months 10 days jail time and 381,010 THB fine; on 18 June Ms. Sakl Prakit was given a very heavy sentence of 4 years in prison, with the fine increased from 900,000 THB to 1,587,211 THB, as payment of damages for destroying the forest under the Forest Act B.E. 2484, the National Reserved Forests Act B.E. 2507, and the National Park Act B.E. 2504. The other 8 villagers will also receive the verdict of the appeal court between 25 June and 3 July 2019, and they are likely to have the same outcome, with the Appeal Court upholding the judgment of the Court of First Instance. All 14 Sab Wai villagers, 9 women and 5 men, will further be placed in a situation of poverty, with all their rights to be taken away from them, leaving children and families behind. Detailed information of the human rights defenders and the allegations against them are provided in the template for the submission of an allegation provided by OHCHR (Annex 1). A Summary table of the court hearings, criminal and civil charges faced by the 14 villagers is provided in Annex 2. The full profiles of the 14 land rights defenders are enclosed as Annex 3.

The charges and convictions against Ms. Nittaya and the 13 other HRDs are clearly linked to their activities to defend and exercise their rights to their land and livelihood. Their engagement through the ILRN has focused mainly on raising awareness amongst community members of their land related rights and of the negative impacts of domestic legislations related to conservation of forests and national parks, including the influence the orders of the National Council for Peace and Order (NCPO), have on them. Their actions to protect their land related rights are necessary to stand against laws which are often flawed and abused at the cost of the human rights of marginalised communities. In this case, their crucial activities oppose the government's forest reclamation policy and are considered against national interests. Therefore, the land right defenders are perceived by the government as a threat and are consequently casted as 'criminals'.

Besides the court cases and convictions, which we consider are unfair, the 14 Sab Wai villagers have been facing significant risk to their own security and that of their family, including during house visits by forest officials. In response to our request, the OHCHR Regional Office for Southeast Asia has voluntarily expressed interest in supporting the case of the fourteen human rights defenders and will be monitoring the developments in these cases. Thus, we request you to examine this complaint at the soonest and correspond with the Royal Thai Government, among other appropriate actions, to ensure they take all necessary steps, to withdraw charges and convictions against the fourteen human rights defenders, without any delay.

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 marginalised groups, particularly forest-dependent communities, peasants and indigenous groups, are taking place in a widespread manner, particularly in the course of enforcing domestic legislations 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.

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. Hence, we hereby submit this appeal 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 Director of Manushya Foundation, whose contact details have been provided in the Annex 1 following your template for submission of an allegation.

Your attention and action on this urgent matter will be highly appreciated.

Sincerely,

The Working Group in support of the 14 Sab Wai Villagers in the Sai Thong National Park Case

- Isaan Land Reform Network (ILRN)
- Manushya Foundation
- Focus on the Global South (FOCUS)
- iLAW
- Protection International (PI)
- Institute of Human Rights and Peace Studies, Mahidol University
- Rangsit University



Annex 1 – Details on the Sai Thong National Park Case following the template for submission of an allegation

Template for the submission of an allegation

<p><i>Name of victim(s):</i></p>	<p>Ms. Nittaya Muangklang and thirteen other villagers of the Sab Wai Village located inside the Sai Thong National Park. They are all members of the Isaan Land Reforms Network (ILRN): Mrs. Seenuan Phasang; Ms. Pattama Komet; Ms. Sunee Nalin; Mrs. Sakl Prakit; Ms. Narisara Muangklang; Mrs. Thongpan Monggang; Ms. Suwalee Phongam; Mrs. Suphaphorn Seesuk; Mr. Suwit Rattanachaisi; Mr. Samon Somchitr; Mr. Put Sukbongkot; Mr. Wanchai Arphonkaeo, and Mr. Sompitr Taennok.</p>
<p><i>Gender:</i></p>	<p>Ms. Nittaya Muangklang is Female. The other 13 members include 8 females and 5 males, including elderly persons.</p>
<p><i>Nationality:</i></p>	<p>All ILRN members are Thai citizens</p>
<p><i>Profession:</i></p>	<p>Farmers</p>
<p><i>Describe human rights activities in which the victim(s) is/are engaged, including involvement with human rights organisations (the name of the organisation, main activities, focus area etc.)</i></p>	<p>Engagement of the Isaan Land Reform Network (ILRN) in human rights activities</p> <p>Ms. Nittaya Muangklang (Ms. Nittaya) is a prominent land rights activist, residing in Sab Wai village in Sai Thong National Park, Chaiyaphum Province in the northeastern part of Thailand. The villagers have inhabited the area for four decades since the 1970s after business enterprises vacated the land. From the 1970s, the villagers have made a livelihood through farming activities. However, in 1992, the Royal Thai Government (RTG) established the Sai Thong National Park, which covers an area where eight communities (over 8,000 people) had settled and are making their living through farming. Ms. Nittaya and the 13 other Sab Wai Villagers are all members of the Isaan Land Reform Network.</p> <p>1. Establishment of the ILRN</p> <p>The villagers’ right to live and farm on forest land has been threatened since 1992, when the government declared the area where the villagers live and farm as a national reserved forest and national park area. The Forest Act B.E. 2484, the National Reserved Forests Act B.E. 2507, and the National Park Act B.E. 2504 provide that national reserved forests and national parks shall be preserved and those who encroach, clear, and utilise land belonging to such area will be punished and evicted accordingly. Thus, in 2006, the community-based Isaan Land Reform Network (ILRN) was established in order to assist community members to defend their land rights.</p> <p>2. Affiliation with the People’s Movement for a Just Society (P-Move)</p> <p>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</p>



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 the Prime Minister Prayuth Chan-o-cha, the National Human Rights Commission of Thailand (NHRCT), the Ministry of Natural Resources and Environment (MNRE), the Governor of Chaiyaphum 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.

In the case of Sai Thong National Park, together with ILRN, Ms. Nittaya has led her community in their resistance against the government's push for eviction which is based on the forest reclamation policy. The human rights activities that Ms. Nittaya and the ILRN conduct include:

3. Awareness raising among villagers and peasants on land related rights

ILRN raises awareness among villagers and peasants on their rights to land that they have inherited by birth. The Network also raises awareness among the villagers of the consequences of what will happen when they lose access to their land and will not be able to make a livelihood.

4. Network for Food Security

ILRN and the villagers have worked together to initiate sustainable land and natural resource management plans, through community participation. The overarching rationale for the community plan is to emphasise the principle of coexistence between individuals and the forest. It aims to promote community rights on participatory resource management.

It also focuses on environmentally-friendly agricultural practices, integrated farming practices, biodiversity and forest expansion. The approach ensures local people in the areas of the Sai Thong National Park lead the movement to balance responsible natural resource management and sustainable livelihoods. ILRN also assists villagers and peasants to guarantee their food security, by organising various farming activities.

5. Awareness raising on the negative impacts of domestic legislation, particularly those related to Forests and National Parks, and NCPO Orders

In Thailand, laws and administrative orders are often misused. In the case of Ms. Nittaya and the 13 other villagers, they have been charged based on the failure of NCPO Order 64/2014 and 66/2014. While NCPO Order 64/2014 states that those who encroach protected forests and national parks will be punished according to the violated law, the subsequent Order 66/2014 states that poor people and those who settled on the land before the policies were announced, would not be



	<p>affected by order 64/2014. Order 64/2014 was initiated to target large scale outside investors. However, since the establishment of the Order more than 80 percent of the affected persons are poor people, who should not have been impacted, in accordance with the subsequent Order 66/2014.</p>
<p><i>Describe what happened, where, when, and what is the current situation (please provide as much relevant detail as possible and describe events chronologically, including any previous incidents)</i></p>	<p>1. Contextual Background on the Sai Thong National Park Case</p> <p>As previously mentioned, Ms. Nittaya Muangklang (Ms. Nittaya) is a prominent land rights activist, residing in Sab Wai village in Sai Thong National Park, Chaiyaphum Province in the northeastern part of Thailand. The villagers have inhabited the area for four decades since the 1970s after business enterprises vacated the land. From the 1970s, the villagers have made a livelihood through farming activities. However, in 1992, the Royal Thai Government (RTG) established the Sai Thong National Park, which covers an area where eight communities (over 8,000 people) had settled and are making their living through farming.</p> <p>1.1. False Climate Solution & Misuse of the Forest Reclamation Policy and NCPO orders related to its enforcement to criminalise land rights defenders</p> <p>The Sai Thong National Park case and the criminalisation of the 14 Sab Wai villagers is representative 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 64/2014 and 66/2014), targeting poor communities and land rights defenders to evict them from their lands, rather than recognizing them as key caretakers and protectors of the forest.</p> <p>a. False Climate Solution: The Forest Reclamation Policy developed and justified by Thailand's REDD+ Implementation</p> <p>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+).ⁱ 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+.ⁱⁱ Thailand was selected as one of the REDD participant country in 2009. Its REDD+ readiness preparation proposal 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.ⁱⁱⁱ Subsequently, in 2014, the Forestry Master Plan, the 'Forest Reclamation Policy', was issued based on NCPO Order 64/2014.</p>



b. The Forestry Master Plan: 'Forest Reclamation Policy' as a strategy to evict the Poor

Ms. Nittaya leads her community in their resistance against the government's push for eviction, which is based on the military government's forest reclamation policy adopted in 2014. Following this policy, the Thai government, specifically 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 upto 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 which states that government operations 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, resulting in a complete disregard of the protection measures set out by Order 66/2014. The RFD 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 B.E. 2484, (b) the National Reserved Forests Act B.E. 2507, and (c) the National Park Act B.E. 2504.

c. Focus on the controversial NCPO orders operationalizing the Forest Reclamation Policy

To operationalise 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 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. 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.

These existing laws, policies and NCPO Orders place limitations on community rights, while restricting land rights, management and utilisation 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.^{iv} Further, since the 2014 military coup, there are at least 226 women human rights defenders (WHRDs) from rural areas who have been subjected to judicial harassment by State and non-state actors.^v

1.2. The case of the 14 Sab Wai villagers living in the Sai Thong National Park

State's manipulation and abuse of power to enforce the Forest Reclamation Policy, without protection of impoverished villagers as guaranteed under NCPO order 66/2014

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. If forest areas are destroyed, their livelihoods will be impacted. On the contrary, local communities have been the caretakers of the forest areas and should be considered as stakeholders who protect and conserve the forest, not as those who destroy and trespass, as believed by the government.

As a result, villagers who had been living on their land for decades were ordered to vacate their land without being offered any alternative or compensation.

- 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 order 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 clearly 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; violating their constitutional right to information (section 41.1 of the Constitution).

- 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 above-mentioned 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.
- 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 (for a detailed explanation of the charges, please refer to the following section, as well as Annex 1).
- Since May 2019, the Appeal Court hearings of the 14 villagers have taken and will take place until July 2019. As of 17 June 2018, five women human rights defenders (WHRDs) among the 14 Sab Wai villagers have been convicted by the Appeal Court of Chaiyaphum Province, upholding the first instance court's rulings.

2. Detailed information on Ms. Nittaya Muangklang, WHRD, leading the Sab Wai villagers in their resistance against land eviction due to the unfair application of the forest conservation policy

Ms. Nittaya, 36 years old, is one of the fourteen residents of Sab Wai village who has been facing court cases. All villagers have similar cases and are being charged under the same law. Therefore, the villagers find themselves in similar conditions and experience similar risks. As Ms. Nittaya is a prominent land rights activist, the leader of her community, and the first one to be summoned and convicted, her cases have been explained in detail.

2.1. Chronology of Events



Provided below is the chronology of events leading to up to her trial:

a. Facts considered for legal proceedings

On 17 May 2015, rangers of Sai Thong National Park conducted a survey in two districts in Chaiyaphum Province. During the survey, the rangers found that Mrs. Thongpan (Ms. Nittaya's mother) was preparing land to grow tapioca. However, it was found that Mrs. Thongpan was not included in the list of those permitted to utilise land inside the National Park, according to the NCPO Order 66/2014. Therefore, she was requested to return the land (100 Rai), which also included Ms. Nittaya's land (10 Rai, 1 Ngan, and 30 Square wah). However, Ms. Nittaya was permitted to remain on the land until 31 January 2016 to finish harvesting the tapioca. Mrs. Thongpan signed a Memorandum of Understanding with the rangers to vacate the land after 31 January 2016, on behalf of Ms. Nittaya. When Ms. Nittaya was unable to complete harvesting by 31 January 2016, she was permitted to remain on the land until 31 March 2016 after submitting a letter to the Damrongtham Centre (government complaint centre for general public to submit petition at provincial level) requesting an extension.

On 7 April 2016, the rangers returned to the land and found that on 8 Rais and 90 square wah of the land, tapioca had been harvested. Accordingly, the rangers filed a case against her for trespassing. On 8 April 2016, Ms. Nittaya reported herself to the investigator at Wong Thakae Police Station and denied the charge. This case is numbered as 1739/2017.

On 11 July 2016, the rangers inspected the land again and found that a new batch of tapioca was planted on Ms. Nittaya's land covering 1 rai, 2 ngan and 98 square wah and they filed a case against her for destroying the forest through farming activities. On the same day, Ms. Nittaya reported herself to the investigator at Wong Thakae Police Station. She once again denied the charges and was not detained during the investigation. This case is numbered as 1738/2017.

On 20 July 2017, the public prosecutor submitted both cases (1738/2017 and 1739/2017) to the Court of First Instance.

b. Judgement of the Court of First Instance

On 8 August 2018, at the hearing at the Court of First Instance, for cases 1738/2017 and 1739/2017, Ms. Nittaya was found guilty under:

1. The Forest Act B.E. 2484, Section 54(1), and Section 72(1)
2. The National Reserved Forests Act B.E. 2507, Section 14 and Section 31(1)
3. The National Park Act B.E. 2504, Section 16(1), (2), (4), and (13), Section 24, and Section 27.

To explain further, in both the cases 1739/2017 and 1738/2017 filed on



7 April and on 11 July 2016 respectively, Ms. Nittaya was convicted of encroaching, utilising, and clearing 10 Rai, 1 Ngan, and 30 Square wah of land belonging to national reserved forest and national park area. She has been charged under The National Reserved Forests Act B.E. 2507, Section 14 and Section 31(1). In total, Ms. Nittaya was sentenced to 12 months in prison and a fine of THB 190,000 at 7.5 percent interest per year as compensation for the damages caused to the national park. In addition, Ms. Nittaya was ordered to remove all structures that cause damage to the national park area and vacate the land.

The precise charges in cases 1738/2017 and 1739/2017 are as provided below:

Case 1738/2017: Ms. Nittaya was accused of encroaching, utilising, and clearing 8 Rai and 90 square wah of land belonging to national reserved forest and national park areas between 8 April 2016 and 11 July 2016. Her farming activities were considered as destroying the forest and seizing the forest for herself or others and for farming activities, which will lead to forest deterioration. She has been charged with both criminal and civil charges.

- **Criminal charges:** Ms. Nittaya was sentenced to 12 months in jail, according to Criminal Code Section 90. However evidence provided by Ms. Nittaya was perceived as 'provisions of new knowledge' and the punishment was decreased to eight months in prison, according to Criminal Code Section 78. As evidence, Ms. Nittaya had provided that her family moved to Sab Wai village in 1986, six years prior to the area being declared as a national park. She had received 10 Rai of land from her mother, and in 2015, her mother had unwittingly signed a document returning the land and Ms. Nittaya had filed several complaints with government agencies regarding this.
- **Civil charges:** Ms. Nittaya was ordered to remove any structures that cause damage to the national park area and to pay for the damages caused by her farming activities. The damages are stipulated at an amount of THB 150,000 at 7.5 percent interest per year, starting from 11 July 2016, until the entire amount has been paid off to the Department of National Parks, Wildlife and Plant Conservation according to the National Reserved Forests Act B.E. 2507 Sections 26 (4), and 26 (5), and the National Reserved Forests Act B.E. 2559, Section 12.

Case 1739/2017: Ms. Nittaya was accused of encroaching, utilising, and clearing 1 Rai 2 ngan and 98 square wah of land belonging to national reserved forest and national park areas between 17 May 2015 and 8 April 2016, which she is using for farming activities. Her farming activities are considered as destroying the forest and seizing the forest for herself or others and for farming activities, which leads to forest deterioration. She has been charged with both criminal and civil charges.

- **Criminal charges:** Ms. Nittaya was sentenced to six months in jail,



according to Criminal Code Section 90. However, evidence provided by Ms. Nittaya was perceived as 'provisions of new knowledge' and the punishment was decreased to eight months in prison, according to Criminal Code Section 78. As evidence, Ms. Nittaya had provided that her family moved to Sab Wai village in 1986, six years prior to the area being declared as a national park. She had received 10 Rai of land from her mother, and in 2015, her mother had unwittingly signed a document returning the land and Ms. Nittaya had filed several complaints with government agencies regarding this.

- **Civil charges:** Ms. Nittaya had been ordered to remove any structures that may cause damage to the national park area and to pay for the damages caused by her farming activities. The damages are stipulated at an amount of THB 40,000 at 7.5 percent interest per year, starting from 8 April 2016, until the entire amount has been paid off to the Department of National Parks, Wildlife and Plant Conservation according to the National Reserved Forests Act B.E. 2507 Sections 26 (4), and 26 (5), and the National Reserved Forests Act B.E. 2559, Section 12.

Following the proceedings before the Court of First Instance, Ms. Nittaya has continued to deny all charges against her and was summoned for the appeal process before the Chaiyaphum Provincial Court.

c. Appeal Court Proceedings and Decision

On 28 January 2019, the public prosecutor of Chaiyaphum Province appealed the judgment of the Court of First Instance for case 1739/2017. He requested the Environmental Law Division of the Appeal Court to revise the civil charges set out by the Court of First of Instance, instead requiring the defendant to pay THB 87,339 at 7.5 percent interest per year, starting from 8 April 2015 until the entire amount has been paid off to the Department of National Parks, Wildlife and Plant Conservation according to the National Reserved Forests Act B.E. 2507 Sections 26 (4), and 26 (5), and the National Reserved Forests Act B.E. 2559, Section 12.

On 18 April 2019, Ms. Nittaya was summoned to hear the judgment of the Appeal Court Division 3 at the Chaiyaphum Provincial Court, on 15 May 2019 in case 1739/2017.

On 10 May 2019, Ms. Nittaya was summoned to hear the judgment of the Appeal Court Division 3 at the Chaiyaphum Provincial Court, on 5 June 2019 in case 1738/2017.

On 15 May 2019, Ms. Nittaya received the judgment of the Appeal Court with respect to case 1739/2017. Unfortunately, the Appeal Court upheld the decision of the lower court and convicted Ms. Nittaya to four months in prison and payment of damages amounting to THB 40,000 with an interest rate of 7.5 percent per year until the amount has been



paid off. The reason given by the Appeal Court is that Ms. Nittaya was asked to harvest her crops by 31 March 2016, but on 7 April 2016 the rangers found that she had still not harvested the crops on 1 Rai 2 ngan of her land. Therefore, she is occupying the land illegally as she has not entitled to any form of clemency or grace by the authorities.

Please see Manushya Foundation's summary monitoring of the court hearing:

- English language: <https://bit.ly/2KyzD48>
- Thai language: <https://bit.ly/2N6R3qA>

On 5 June 2019, Ms. Nittaya received the judgment of the Appeal Court with respect to case 1738/2017. Once again, the Appeal Court upheld the decision of the lower court and convicted Ms. Nittaya to eight months in prison and payment of damages amounting to THB 150,000 with an interest rate of 7.5 percent per year until the amount has been paid off. While referring to and explaining the content of NCPO Order 66/2557 in the case of Ms. Nittaya for the first time, the Appeal Court concluded that in applying this order to the facts of the case it has been seen that the government gave Ms. Nittaya an opportunity to prove that she lived on the land before it was declared a national park. However, she could not present sufficient evidence to properly prove her rights. In addition, Ms. Nittaya was also allowed to collect her crops many times. Therefore, the Court reached a conclusion that she occupied the 8 Rai of land knowing it was a national park.

As a result of these judgments, Ms. Nittaya is currently in prison where she faces a total jail sentence of twelve months, and a payment of damages amounting to THB 190,000 at 7.5 percent interest per year, until the entire amount has been paid off to the Department of National Parks, Wildlife and Plant Conservation.

Please see Manushya Foundation's summary monitoring of the court hearing:

- English language: <https://bit.ly/2FuAZIK>
- Thai language: <https://bit.ly/2Rz1CkS>

d. Submission of the petition before the Supreme Court

An appeal was submitted before the Supreme against the first appeal court judgments given against Ms. Nittaya on 15 May for case 1739/2017, within the 30 days allowed to submit the petition after the Appeal Court judgement. This petition challenges NCPO Order 66/2014 stating that it is unfair, as it does not meet its intended aim of protecting poor people; thus, of protecting Ms. Nittaya. Instead, it is being used against her. This was submitted along with an application for bail.

3. Brief information on the cases of the 13 other Sab Wai villagers

Besides Ms. Nittaya, thirteen other Sab Wai villagers who are ILRN



members and thus land right defenders have also been facing court cases. All of them are Thai citizens and reside in Yae Sub-district, Nong Bua Rawe District of Chaiyaphum Province. They are farmers by profession, making their livelihood by conducting farming activities. Accused of occupying land that they use for their farming activities, they have been found guilty under a) The Forest Act B.E. 2484, Section 54(1), and Section 72(1); b) The National Reserved Forests Act B.E. 2507, Section 14 and Section 31(1); and c) The National Park Act B.E. 2504, Section 16(1), (2), (4), and (13), Section 24, and Section 27. Their penalties for these alleged offences have been determined according to the National Forest Act B.E. 2507 Section 14 and Section 31(1) for encroaching, utilising, and clearing land belonging to a national reserved forest and national park area. Details of the villagers and their charges are provided below (please refer to table 1 for the summary table of the 14 villagers' charges). Please note that some of the charged persons are elderly while some others face multiple cases.

Villagers convicted and currently serving jail time as they were found guilty by the Appeal Court of Chaiyaphum Province on 5, 12 and 18 June 2019

3.1. Appeal Court hearing on 4 June 2019 - Mrs. Seenuan Phasang (60 years old): For her Case 1736/2017, Mrs. Seenuan has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to five months and 10 days in prison, and payment for damages amounting to THB 150,000 at 7.5 percent interest per year starting from 6 July 2016 until she pays off the entire amount to the Department of National Parks. Mrs. Seenuan was also ordered to remove herself, her family, her representatives, employees working on her land, and any agency contracted by her, to demolish any structures, and remove anything else that may cause damage to the national reserved forest and national park. Her husband divorced her as he does not want his last name to be undermined by her conviction. On 4 June 2019, Mrs. Seenuan received the judgment of the Appeal Court of Chaiyaphum Province in her case, upholding the decision of the Court of First Instance. However, the judge of the Appeal Court highlighted that of the 27 Rai of land Ms. Seenuan owns; the National Park authorities filed a case against her with respect to only 6 Rai of that land. The usage of land for all 27 Rai was the same, but her ownership and usage only of 6 Rai and 4 square wah of that land was called into question. Therefore, the judge of the Appeal Court asked her if she understood that NCPO Order 66/2014 was meant to protect the poor and those who had settled on the land before it was declared as a national park. Therefore, she could submit an appeal before the Supreme Court, questioning the validity of her exclusion from protection under NCPO Order 66/2014. Mrs. Seenuan is currently in prison, serving her sentence. A petition before the Supreme Court has been submitted by her lawyer, along with a request for bail, within the 30 days allocated after the Appeal Court judgement. The decision on the granting of the bail shall be given within the month of June 2019.

Please see Manushya Foundation's summary monitoring of the court



hearing:

- English language: <https://bit.ly/2N4r573>
- Thai language: <https://bit.ly/2XtWnbk>

3.2. Appeal Court hearing on 12 June 2019 – Ms. Pattama Komet (47 years old): Ms Pattama has been prosecuted for two cases, namely Case 1744/2017 and 1745/2017. However, the Court of First Instance has decided to merge the cases and treat them as one. Ms. Pattama has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to eight months in prison, and payment for damages amounting to THB 250,000 at 7.5 percent interest per year starting from 3 July 2016 until she pays off the entire amount to the Department of National Parks. She is accused of having encroached 11 rais, 3 ngan and 9 square wah for case 1744/2017 and 15 rais and 83 square wah for case 1745/2017; so a total of more than 27 rai of land considered encroached. Mrs. Pattama was also ordered to remove herself, her family, her representatives, employees working on her land, any agency contracted by her, to demolish any structures, to remove the tapioca grown on her land, and to remove anything else that may cause damage to the national reserved forest and national park; within 15 days from the date of the judgment. On 12 June 2019, Ms. Pattama received the judgment of the Appeal Court of Chaiphum Province in her case, upholding the decision of the Court of First Instance. In the appeal court judgment it was concluded that exemption under NCPO 66/2557 does not apply to Ms. Pattama as there is insufficient evidence to show that she lived on that land before it was declared as a National Park, under the Cabinet Resolution of 1998. Due to this, Ms. Pattama cannot be exempted from criminal charges as these are past crimes. In the future she can only request relocation or compensation and she cannot continue to live on the land being reclaimed. Therefore, the judgment of the Court of First Instance was upheld on the prison sentence of 8 months and with respect to land eviction. Payment of damages was reduced from 250,000 THB to 200,000 THB as the court believed that the amount for payment in damages was too high, compared to the damage caused.

Please see Manushya Foundation’s summary monitoring of the court hearing:

- English language: <https://bit.ly/2Y8RzVS>
- Thai language: <https://bit.ly/2x93R4P>

3.3. Appeal Court hearing on 12 June 2019 – Ms. Sunee Nalin (71 years old): For her Case 1735/2017, Ms. Sunee has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to five months and 10 days in prison, and payment for damages amounting to THB 150,000 at 7.5 percent interest per year starting from 11 September 2016 until she pays off the entire amount to the Department of National Parks. She is accused of having encroached 11 rais, 3 ngan and 73 square wah. Ms. Sunee was also ordered to remove herself, her family, her representatives, employees working on her land, and any agency



contracted by her, to demolish any structures, and remove anything else that may cause damage to the national reserved forest and national park. On 16 January 2019, the public prosecutor of Chaiyaphum Province appealed the judgment of the Court of First Instance. On 12 June 2019, Ms. Sunee received the judgment of the Appeal Court of Chaiyaphum Province in her case, upholding the decision of the Court of First Instance. In the appeal court judgment it was concluded that although Ms. Sunee had a land title for agricultural purposes with her daughter in law also having a similar title; this was granted after the land was already declared as part of a National Park under Cabinet Resolution 1998. Therefore, the judgment of the Court of First Instance was upheld on the prison sentence of 5 months and 10 days, and with respect to land eviction. However, payment of damages was increased from 150,000 THB to 439,027 THB as the court believed the damages suggested by the Court of First Instance was too little compared to the crime committed. Additionally, a request was made to the appeal court to make a special consideration to apply for bail before the appeal court, considering her age and circumstances. The bail application was submitted before the appeals court, but the presiding judge decided to forward the application to the Supreme Court instead. On Friday 14 June 2019, the bail request was rejected indicating that the request for bail has to be submitted to the Supreme Court, along with the petition to appeal to the Supreme Court.

Please see Manushya Foundation's summary monitoring of the court hearing:

- English language: <https://bit.ly/2Y8RzVS>
- Thai language: <https://bit.ly/2x93R4P>

3.4. Appeal Court hearing on 12 June 2019 – Mrs. Suphaphorn Seesuk (38 years old): For her Case 1731/2017, Mrs. Suphaphorn has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to five months and 10 days in prison, and payment for damages amounting to THB 190,000 at 7.5 percent interest per year starting from 11 July 2016 until she pays off the entire amount to the Department of National Parks. She is accused of having encroached 6 rais, 3 ngan and 31 square wah. Mrs. Suphaphorn was also ordered to remove herself, her family, her representatives, employees working on her land, and any agency contracted by her, to demolish any structures, and remove anything else that may cause damage to the national reserved forest and national park. On 31 January 2019, the public prosecutor of Chaiyaphum Province appealed the judgment of the Court of First Instance. On 12 June 2019, Mrs. Suphaphorn received the judgment of the Appeal Court of Chaiyaphum Province in her case, upholding the decision of the Court of First Instance. In the appeal court judgment it was concluded that NCPO Order 64/2557 would be applied in this case, as although NCPO Order 66/2557 exists, Ms. Suphaphorn was excluded from protection under the order as there is no evidence to prove that she had lived on this land given to her by her mother before its declaration as a national park. This decision is based on aerial pictures



taken in 2002 and 2014, which shows clearing of the forest and reduced green coverage. Therefore, the judgement of the Court of First Instance was upheld on the prison sentence of 5 months and 10 days, and with respect to land eviction. Payment of damages was increased from 190,000 THB to 381,010 THB as the court believed the damages suggested by the Court of First Instance was too little compared to the crime committed.

Please see Manushya Foundation's summary monitoring of the court hearing:

- English language: <https://bit.ly/2Y8RzVS>
- Thai language: <https://bit.ly/2x93R4P>

3.5. Appeal Court hearing on 18 June 2019 – Mrs. Sakl Prakit (42 years old): For her Case 1732/2017, Mrs. Sakl has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to four years in prison, and payment for damages amounting to THB 900,000 at 7.5 percent interest per year starting from 25 June 2016 until she pays off the entire amount to the Department of National Parks. She is accused of having encroached 46 rai, 3 ngan and 3 square wah and is facing the most severe criminal and civil charges among the 14 Sab Wai villagers. Mrs. Sakl was also ordered to remove herself, her family, her representatives, employees working on her land, any agency contracted by her, to demolish any structures, to remove the tapioca grown on her land, and to remove anything else that may cause damage to the national reserved forest and national park; within 15 days from the date of the judgment. On 18 June, in the appeal court judgment before Chaiyaphum provincial Court, it was concluded that Ms. Sakl Prakit cannot be considered as poor because of her lifestyle since her family owns a house, a tractor, and a computer. This was also concluded by the court based on the fact that she owns more than 25 Rai of land, an amount considered to be owned by those in normal circumstances as determined by NCPO Order no. 66/2014. Therefore, the judgment of the Court of First Instance was upheld with a very high prison sentence of 4 years, and with respect to land eviction. Payment of damages was increased to almost double the amount from 900,000 THB to 1,587,211 THB as the court believed the damages suggested by the Court of First Instance was too little compared to the crime committed.

Please see Manushya Foundation's summary monitoring of the court hearing:

- English language: <https://bit.ly/2Y8EMTt>
- Thai language: <https://bit.ly/31OWgXq>

8 Remaining villagers awaiting Appeal Court Hearings between 25 June and 3 July 2019

3.6. Appeal Court Hearing on 25 June 2019 – Mrs. Thongpan Monggang (58 years old): Ms Thongpan is Nittaya's mother. She has been prosecuted for two cases, namely Case 1740/2017 and 1741/2017.



However, the Court of First Instance has decided to merge the cases and treat them as one. Mrs. Thongpan has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to nine months and 10 days in prison, payment for damages amounting to THB 70,000 at 7.5 percent interest per year starting from 8 April 2016 for Case 1740/2017, and an additional payment for damages in the combined second case 1741/2017 amounting to THB 30,000 at 7.5 percent interest per year starting from 6 July 2016 until she pays off the entire amount to the Department of National Parks. She is accused of having encroached 5 rais, 3 ngan and 11 square wah for case 1740/2017 and 2 rais, 2 ngan and 50 square wah for case 1741/2017; so a total of more than 7 rais of land. Mrs. Thongpan was also ordered to remove herself, her family, her representatives, employees working on her land, and any agency contracted by her, to demolish any structures, and remove anything else that may cause damage to the national reserved forest and national park. On 16 January 2019, the public prosecutor of Chaiyaphum Province appealed the judgment of the Court of First Instance. Currently, Mrs. Thongpan is awaiting the judgment of the Appeal Court, which is scheduled for 25 June 2019.

3.7. Appeal Court Hearing on 25 June 2019 - Mr. Wanchai Arphonkaeo (28 years old): For his Case 1733/2017, Mr. Wanchai has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to six months and 20 days in prison, and payment for damages amounting to THB 300,000 at 7.5 percent interest per year starting from 11 July 2016 until he pays off the entire amount to the Department of National Parks. He is accused of having encroached 14 rais, 3 ngan and 73 square wah. Mr. Wanchai was also ordered to remove himself, his family, his representatives, employees working on his land, and any agency contracted by him, to demolish any structures, and remove anything else that may cause damage to the national reserved forest and national park. On 6 February 2019, the public prosecutor of Chaiyaphum Province appealed the judgment of the Court of First Instance. Currently, Mr. Wanchai is awaiting the judgment of the Appeal Court, which is scheduled for 25 June 2019.

3.8. Appeal Court hearing on 2 July 2019 - Mr. Put Sukbongkot (47 years old): For his Case 1734/2017, Mr. Put has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to six months and 20 days in prison, and payment for damages amounting to THB 370,000 at 7.5 percent interest per year starting from 6 July 2016 until he pays off the entire amount to the Department of National Parks. He is accused of having encroached 14 rais, 3 ngan and 8 square wah. Mr. Put was also ordered to remove himself, his family, his representatives, employees working on his land, and any agency contracted by him, to demolish any structures, and remove anything else that may cause damage to the national reserved forest and national park. On 15 February 2019, the public prosecutor of Chaiyaphum Province appealed the judgment of the Court of First Instance. Currently, Mr. Put is awaiting the judgment of the Appeal Court scheduled on 2 July 2019.



3.9. Appeal Court hearing on 2 July 2019 – Mr. Sompitr Taennok (54 years old): Mr Sompit has been prosecuted for two cases, namely Case 1746/2017 and 2452/2017. Mr. Sompit faces charges in both cases under the National Forest Act B.E. In the first case 1746/2017, Mr. Sompit has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to ten months in prison, and payment for damages amounting to THB 100,000 at 7.5 percent interest per year, starting from 11 September 2016 until he pays off the entire amount to the Department of National Parks. In this case, he is accused of having encroached 10 rais, 3 ngan and 49 square wah. Mr. Sompit was also ordered to remove himself, his family, his representatives, employees working on his land, and any agency contracted by him, to demolish any structures, and remove anything else that may cause damage to the national reserved forest and national park; within 30 days from the date of the judgment. On 24 December 2018, the public prosecutor of Chaiyaphum Province appealed the judgment of the Court of First Instance for case 1746/2017. Currently, Mr. Sompit is awaiting the judgment of the Appeal Court in this case scheduled on 2 July 2019.

In the second Case 2452/2017, Mr. Sompit has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to ten months and 20 days in prison, and payment for damages amounting to THB 100,000 at 7.5 percent interest per year, starting from 3 June 2017 until he pays off the entire amount to the Department of National Parks. In this case, he is accused of having encroached 11 rais, 1 ngan and 88 square wah. Mr. Sompit was also ordered to remove himself, his family, his representatives, employees working on his land, and any agency contracted by him, to demolish any structures, and remove anything else that may cause damage to the National Reserved Forest and National Park. On 7 February 2019, the public prosecutor of Chaiyaphum Province appealed the judgment of the Court of First Instance for case 2452/2017. Currently, Mr. Sompit is awaiting the judgment of the Appeal Court scheduled on 2 July 2019.

3.10. Appeal Court Hearing on 3 July 2019 – Ms. Narisara Muangklang (33 years old): Ms Narisara has been prosecuted for two cases, namely Case 1742/2017 and 1743/2017. However, the Court of First Instance has decided to merge the cases and treat them as one. Ms. Narisara has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to nine months and 10 days in prison, payment for damages amounting to THB 40,000 at 7.5 percent interest per year starting from 11 July 2016 for Case 1742/2017, and an additional payment for damages in the combined second case 1743/2017 amounting to THB 90,000 at 7.5 percent interest per year starting from 8 April 2016 until she pays off the entire amount to the Department of National Parks. She is accused of having encroached 3 rais, 1 ngan and 87 square wah for case 1742/2017 and 8 rais, 3 ngan and 51 square wah for case 1743/2017; so a total of more than 11 rais of land. Ms. Narisara was also ordered to remove herself, her family, her representatives, employees working on her land, and any agency contracted by her, to demolish any structures, and remove anything else that may cause



damage to the national reserved forest and national park. On 30 January 2019, the public prosecutor of Chaiyaphum Province appealed the judgment of the Court of First Instance. Currently, Ms. Narisara is awaiting the judgment of the Appeal Court scheduled for 3 July 2019.

3.11. Appeal Court hearing on 3 July 2019 - Ms. Suwalee Phongam (36 years old): For her Case 1748/2017, Ms. Suwalee has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to five months and 10 days in prison, and payment for damages amounting to THB 160,000 at 7.5 percent interest per year starting from 3 July 2016 until she pays off the entire amount to the Department of National Parks. She is accused of having encroached 5 rais, 3 ngan and 9 square wah. Ms. Suwalee was also ordered to remove herself, her family, her representatives, employees working on her land, and any agency contracted by her, to demolish any structures, and remove anything else that may cause damage to the National Reserved Forest and National Park. Currently, Ms. Suwalee is awaiting the judgment of the Appeal Court scheduled fro 3 July 2019.

3.12. Appeal Court hearing on 3 July 2019 - Mr. Suwit Rattanachaisi (62 years old): For his Case 1747/2017, Mr. Suwit has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1 to seventeen months in prison, and payment for damages amounting to THB 40,000 at 7.5 percent interest per year starting from 3 July 2016 until he pays off the entire amount to the Department of National Parks. He is accused of having encroached 2 rais, 1 ngan and 20 square wah. Mr. Suwit was also ordered to remove himself, his family, his representatives, employees working on his land, and any agency contracted by him, to demolish any structures, and remove anything else that may cause damage to the national reserved forest and national park. On 5 February 2019, the public prosecutor of Chaiyaphum Province appealed the judgment of the Court of First Instance. Currently, Mr. Suwit is awaiting the judgment of the Appeal Court scheduled on 3 July 2019.

3.13. Mr. Samon Somchit (63 years old): For his Case 1737/2017, Mr. Samon has been sentenced under the National Forest Act B.E. Sections 14 and 31, paragraph 1. Mr. Samon will be monitored for one year, under parole for 3 years, has to report to the monitoring office four times per year, and carry out 24 hours of voluntary social service activities related to forest conservation and protection of the environment. Mr. Samon is charged with payment for damages amounting to THB 80,000 with 7.5 percent interest per year, starting from 3 July 2016 until he pays off the entire amount to the Department of National Parks. He is accused of having encroached 8 rais and 1 square wah. Mr. Samon was also ordered to remove himself, his family, his representatives, employees working on his land, and any agency contracted by him, to demolish any structures, and remove anything else that may cause damage to the national reserved forest and national park; within 30 days from the date of the judgment. On 16 January



	<p>2019, the public prosecutor of Chaiyaphum Province appealed the judgment of the Court of First Instance. Currently, Mr. Samon is awaiting the judgment of the Appeal Court which hearing has not yet been scheduled.</p>
<p><i>Describe actions taken by the victim(s) and/or the authorities after the alleged violation. Is there any ongoing investigation of the case?</i></p>	<p>1. Actions taken through State-based non-judicial grievance mechanisms: Villagers' constructive engagement with Chaiyaphum Provincial authorities</p> <ul style="list-style-type: none">• In 2016, with respect to this case, the 'land conflict solution committee of P-Move' agreed to temporarily halt the eviction of local people and removal of the assets of individuals from the 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 dispute on the ground. In addition, a provincial land conflict solution and fact-finding committee has been established to address land disputes at the Sai Thong National Park.• Between 2016 and 2018, a number of meetings were organised between government agencies and local representatives to solve 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 through the participatory approach proposed by affected villagers at the Sai Thong National Park. However, till 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, they continue to face the negative impact of the legislations and the policies, including the judicial cases filed against them. 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, which are critical to defend their cases.• On 12 June 2019, the Sab Wai villagers under the leadership of the ILRN met with the Chaiyaphum Provincial authorities to follow-up on the discussions held in 2018 in Korat and made the following requests to the Authorities^{vi}:<ul style="list-style-type: none">◦ (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 official heading the Sai Thong National Park.



The Chaiyaphum Provincial authorities agreed to:

- (1) Make an appeal to the person considering the provision of Justice Fund. However, the fund can only be provided for bail and other fees, but not for the lawyers expenses;
- (2) The authorities in Korat and Bangkok have been contacted and they will be sharing the meeting minutes with the Chaiyaphum provincial authorities and the ILRN;
- (3) The facts of the condition of each family member will be considered, and local authorities will 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 will be sent by the Chaiyaphum 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 Chaiyaphum), and the Office of the Prime Minister so that these cases may be considered, in order to reach a more equitable solution.

Although villagers are willing to engage constructively to resolve the land evictions' issues, pressure from the international community is necessary in order to guarantee good faith and sincerity from the government side in addressing the challenges.

2. Actions taken through State-based Judicial Grievance Mechanism: villagers are treated as 'criminals'

Appeal Court Hearings

Redress has also been sought through the judicial system in Thailand. However, the proceedings and judgment of the Court of First Instance have not been in favour of the 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 was declared as 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 investors (and not villagers who have lived in the area before it has been declared as a national park or protected area) should be charged. Currently, five of the fourteen villagers, namely Ms. Nittaya, Mrs. Seenuan, Ms. Pattama, Ms. Sunee and Ms. Suphaphorn, have received the appeal judgment of the Chaiyaphum Provincial Court. Unfortunately, the sentence of the Court of First Instance was upheld in five cases and five WHRDs are currently in jail, having to pay damages, and are ordered to vacate their land.

- *In the case of Mrs. Seenuan*, the judge of the Appeal Court noted that NCPO Order 66/2014 was meant to protect communities and it is a protection she may access as well. Therefore, she could submit an



appeal before the Supreme Court, questioning the validity of her exclusion from protection under NCPO Order 66/2014.

- *However, in the four other cases*, while the Appeal Court judgment did explain NCPO Order 66/2014 in their cases for the first time, it was only referred to while stating that government authorities had provided them with an opportunity to prove that the NCPO Order applied to them but they could not produce sufficient evidence to prove their rights.
- *Increased civil charges for three WHRDS*: finally, more worrying is the payment of damages which has considerably increased for Ms. Sunee, Ms. Suphaphorn and Ms. Sakl as the Appeal Court believes the damages suggested by the Court of First Instance was too little compared to the crime committed:
 - Ms. Sunee has seen her civil charges increased from 150,000 THB to 439,027 THB,
 - Ms. Suphaphorn has seen her civil charges increased from 190,000 THB to 381,010 THB, while
 - Ms. Sakl has seen her civil charges increased from 900,000 THB to 1,587,211 THB.

As has been undertaken so far, Manushya Foundation will continue to monitor all appellate court proceeding at the Chaiyaphum Provincial Court.

Petitions before the Supreme Court

To follow up on the cases of all the villagers, the lawyer will submit an appeal to the Supreme Court within 30 days from the date of the appeal court judgment, along with an application for bail. In the appeal before the Supreme Court, the lawyer expects to question 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. However, with respect to the proceedings before the Thai Supreme Court, it has to be noted that this will be the first time that such a case, questioning NCPO Order 66/2014, will be brought to the Supreme Court. Moreover, a judgment in the cases of the villagers are expected to be given only after one year due to the high volume of cases submitted to the Supreme Court, operating in Bangkok, and this will be a closed-door process which defendants and prosecutors being unable to attend. Instead, once a final decision is reached, a written judgment will be provided by the Court to the lawyer. Therefore, there is no transparency in this process as there is no knowledge about how laws are analysed and decisions are reached. In the event the Supreme Court dismisses the cases against the villagers, they will be entitled to receive compensation for the time they unjustly spent in jail. With respect to vacating the land, no action will be taken until the final judgment of the Supreme Court is provided. However, when the land eviction will be enforced, no compensation or alternate land will be provided to them.

As of today, petition before the Supreme Court has been submitted for Ms. Nittaya along with her request for bail, while the lawyer is planning



to submit the petitions before the Supreme Court for the four other WHRDs convicted within the 30 days allocated.

3. Actions taken to seek financial redressal

Besides legal grievance redressal, various stakeholders are seeking financial redressal. Firstly, ILRN and community members are engaging in fundraising at the national level to support the daily expenses of the families of those imprisoned. The six WHRDs were either taking care of their children and/or parents, who are now left behind. Additionally, in order to be able to apply for bail, a fee of THB 200,000 per person needs to be paid. Efforts are being made to obtain the required amount through the Justice Fund,^{vii} a fund established under the Ministry of Justice with the objective of being '*a source of funding for expenses relating to the provision of assistance to the people in litigation, the petition for temporary release of the accused or the defendant, the violation of human rights and the provision of legal knowledge to the people*'. However, there has been no initiative from the authorities to provide this, despite an attempt to access the Justice Fund.

Further, international funding support is being sought in the form of emergency assistance from the Lifeline Embattled CSO Assistance Fund in order to provide for various expenses, such as the daily expense of those in prison, family prison visits, transportation for villagers and families to the appeals court hearings so that they can attend the proceedings and express their solidarity, and workshops for provision of knowledge and strategising in relation to the litigation and advocacy.

4. Advocacy Actions planned to raise the profile of the Sai Thong National Park Case at national and international level: Emblematic case showcasing the misuse of Forest Conservation Policies to criminalise the impoverished land rights defenders, including WHRDs and Elderly

Additional redress is sought through national and international advocacy. Action will be undertaken to support the villagers by raising national and international awareness of the cases and the misuse of the forest reclamation policy in Thailand.^{viii} As the first set of cases of its kind and representative of what is happening in the country, advocacy efforts will also be directed towards ensuring a fair decision from the Supreme Court so that the cases of the 14 villagers can serve as jurisprudence for all similar future cases. This will be achieved by: explaining the cases of the 14 villagers and providing regular updates to civil society in Thailand and in the media; discussing how the law is used; and by developing and disseminating a global statement and petition calling on the Thai government (a) to drop all charges against the 14 villagers, (b) abolish NCPO Order 64/2014 and 66/2014, and (c) provide access to effective remedy and adequate compensation for all rights that have been violated, in accordance with international human rights standards related to due process and administration of justice. With this submission addressed to the UN Special Rapporteur on Human Rights Defenders,



	<p>it is hoped he will call on the Thai authorities to withdraw all charges and convictions against the fourteen human rights defenders.</p>
<p>Describe the link between the alleged violation and the victim's human rights work or their exercise of human rights</p>	<p>1. Linkage between alleged violation and the victim's human rights work</p> <p>It is evident that there is a clear linkage between the rights violations that Ms. Nittaya and the other 13 land rights defenders are facing, and the human rights activities that she and the ILRN undertook. Ms. Nittaya and the ILRN have been engaged in raising awareness among community members on land related rights, as well as the negative impact of domestic legislations, particularly of the laws related to reserved forests and national park areas, including the NCPO Orders. Moreover, Ms. Nittaya refused to leave her land because she considered that the land is rightfully hers, clearly linking the defence of her rights to the violations. NCPO Order 66/2014 emphasises that poor people should not be targeted by NCPO Order 64/2014, instead, large scale outside investors should be the target of the Order. Therefore, Ms. Nittaya made a statement and took a powerful position by remaining on the land that is rightfully hers. Being a prominent land rights activist, the community leader in the community's resistance against the government's forest reclamation policy, and the spokesperson of the community, Ms. Nittaya was the first one to be convicted and imprisoned. By doing so, the government is trying to send a strong message to the other villagers and community members that opposition against its policies would not be tolerated and will be repressed with punitive measures, such as imprisonment and fines.</p> <p>2. Authorities involved</p> <p>The direct perpetrators of the violations are the Department of National Park 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 defenders 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. 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 to 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 costs of the human rights of marginalised communities resulting in unfair trials and conviction of all those charged.</p> <p>3. Discrepancies in the application of NCPO Order 66/2014, meant to protect poor people from being evicted for forest land</p> <p>In order to target HRDs 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. This case clearly demonstrates the discrepancies in the application of NCPO Order 66/2014: the Royal Forest Department (RFD) said that NCPO</p>



	<p>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 RFD, is not properly defined and depends on the appreciation of the Thai authorities and judges. All the villagers currently prosecuted find themselves unfairly targeted as they are only small-scale farmers. 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.</p>
<p>Confirm if the victim(s) has provided informed consent for the intervention by the Special Rapporteur on his/her behalf*</p> <p>* consent by the victim(s) or their family/lawyer, including their understanding of the risks involved, is absolutely essential in cases of violations against individuals</p>	<p>Yes, consent has provided by Ms Nittaya and the other thirteen ILRN members for the intervention by the Special Rapporteur.</p>
<p>Provide name, contact details and professional role (if relevant) of the individual or organisation submitting the allegation*</p> <p>*This shall remain confidential</p>	<p>Ms Emilie Pradichit Manushya Foundation (MF) Founder & Director emilie@manushyafoundation.org +66 (0) 929 015345</p> <p>Ms. Tai Oranuch Isaan Land Reform Network (ILRN) Coordinator lumnampasak5748@gmail.com</p>

+ Subsequent to the submission of an allegation, it is essential to keep the mandate holder updated by sending on information of any positive or negative developments which may occur and which bring about a change in the situation of the victim(s).



Annex 2 – Summary Table of the Court Hearings, Criminal & Civil charges and Conviction Status of the 14 HRDs

Villagers	Case	Court Hearing	Alleged encroached area	Criminal charges		Civil charges		Status
				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	Convicted – currently in jail
	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 and 10 days		150,000 THB		Convicted – currently in jail
3. Ms. Pattama Komet	1744/2017	12 June 2019	11 rais, 3 ngan and 9 square wah	8 months		200,000 THB		Convicted – currently in jail
	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 and 10 days		439,027 THB		Convicted – currently in jail
5. Mrs. Suphaphorn Seesuk	1731/2017	12 June 2019	6 rais, 3 ngan and 31 square wah	5 months and 10 days		381,010 THB		Convicted – currently in jail
6. Mrs. Sakl Prakit	1732/2017	18 June 2019	46 rais, 3 ngan and 3 square wah	4 years		1,587,211 THB		Convicted – currently in jail
7. Mrs. Thongpan Monggang	1740/2017	25 June 2019	5 rais, 3 ngan and 11 square wah	9 months and 10 days		100,000 THB		Waiting for court hearing
	1741/2017		2 rais, 2 ngan and 50 square wah					



8. Mr. Wanchai Arphonkaeo	1733/2017	25 June 2019	14 rais, 3 ngan and 73 square wah	6 months and 20 days		300,000 THB		Waiting for court hearing
9. Mr. Put Sukbongkot	1734/2017	2 July 2019	14 rais, 3 ngan and 8 square wah	6 months and 20 days		370,000 THB		Waiting for court hearing
10. Mr. Sompitr Taennok	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	Waiting for court hearing
	2452/2017	2 July 2019	11 rais, 1 ngan and 88 square wah	10 months and 20 days		100,000 THB		Waiting for court hearing
11. Ms. Narisara Muangklang	1742/2017	3 July 2019	3 rais, 1 ngan and 87 square wah	9 months and 10 days		130,000 THB		Waiting for court hearing
	1743/2017		8 rais, 3 ngan and 51 square wah					
12. Ms. Suwalee Phongam	1748/2017	3 July 2019	5 rais, 3 ngan and 9 square wah	5 months and 10 days		160,000 THB		Waiting for court hearing
13. Mr. Suwit Rattanachaisi	1747/2017	3 July 2019	2 rais, 1 ngan and 20 square wah	17 months		40,000 THB		Waiting for court hearing
14. Mr. Samon Somchitr	1737/2017	To be scheduled	8 rais and 1 square wah	Will be monitored for 1 year and on parole for 3 years, and will have to report to authorities 4 times a year		80,000 THB		Waiting for court hearing



Endnotes

- i Forest Carbon Partnership. N.d. *About FCPF*. [online] Available at: <https://www.forestcarbonpartnership.org/about-fcpf-0>
- ii Forest Carbon Partnership Facility. N.d. *What is REDD+?*, available at: <https://www.forestcarbonpartnership.org/what-redd>
- iii *Thailand R-PP: TAP Comments and Recommendations, 2013*, available at: <https://www.forestcarbonpartnership.org/sites/fcp/files/2013/Thailand%20R-PP%20TAP%20Comments%20and%20Recommendations.pdf>. See also, Response Matrix to TAP Final Review, available at: <https://www.forestcarbonpartnership.org/sites/fcp/files/2013/Response%20matrix%20to%20TAP%20Final%20review%20%20comment%2018%20March.pdf>
- iv Thai CSOs Coalition for the UPR, *Information on the Status of the Human Rights Situation in Thailand – UPR Advocacy Factsheet on The Rights of Indigenous Peoples in Thailand*, developed by the Network of Indigenous Peoples of Thailand (NIPT) and the Asia Indigenous Peoples Pact (AIPP) to inform Thailand 2nd UPR Cycle, (2016), available at: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/THA/INT_CCPR_ICO_THA_23570_E.pdf
- v APWLD and Protection International, Joint Statement of 25 May 2019 'Human Rights Groups Urge Thai Government to Release Nittaya Muangklang, Women Human Rights Defenders Working on Land Rights Issues', available at: <https://apwld.org/statement-human-rights-groups-urge-thai-government-to-release-nittaya-muangklang-women-human-rights-defenders-working-on-land-rights-issues/>
- vi Please see Thai PBS News reporting on the meeting between the ILRN and the Provincial authorities, held on 12 June 2019, at the following link: <https://bit.ly/2KwecAz>
- vii The Justice Fund Office, 'Justice Fund Act 2015', available under 'Download' at: <http://www.jfo.moj.go.th/Eng/>
- viii Please see Manushya Foundation and the Isaan Land Reform Network's News Release of 19 June 2019 '*Thailand: End the Unfair Criminalisation of Land Rights Defenders in Sai Thong National Park*', available at: <https://www.manushyafoundation.org/sai-thong-np-case-news-release>. See also, APWLD and IWNT Press Release of 12 June 2019 '*Press Release: Drop All Charges Against Land and Human Rights Defenders from Ban Sapwai, Thailand*', available at: <https://apwld.org/press-release-drop-all-charges-against-land-and-human-rights-defenders-from-ban-sapwai-thailand/>



About Manushya Foundation (MF)

Manushya Foundation is an Asia regional organisation aiming at empowering local communities to put them at the heart of decision making processes that concern them, to advance human rights, social justice and peace. Manushya Foundation serves as a bridge to engage, mobilise, and empower agents of change by: connecting humans through inclusive coalition building and; by developing strategies focused at placing local communities' voices in the centre of human rights advocacy and domestic implementation of international human rights obligations and standards. Manushya Foundation strengthens the solidarity and capacity of communities and grassroots to ensure they can constructively raise their own concerns and provide solutions in order to improve their livelihoods and the human rights situation on the ground. For further information on the work of Manushya Foundation, visit:

<https://www.manushyafoundation.org>