

Updates on the Sai Thong National Park Case

14 Land Rights Defenders unfairly treated as 'criminals'

Update of 7 August 2019



All you need to know on the Sai Thong National Park Case, from charges, convictions, trial monitoring to national & international advocacy efforts, is available on our dedicated webpage:

<https://www.manushyafoundation.org/sai-thong-np-case>

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The criminalisation 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 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.

Summary & Pictures on the Appeal and Release on Bail, as of 19 July 2019 available here:
EN: <https://tinyurl.com/y4dtywnj> & TH: <https://tinyurl.com/y6354zz3>

Summary & Pictures on the Appeal and Release on Bail, as of 25 July 2019 available here:
EN: <https://tinyurl.com/y4y7phap> & TH: <https://tinyurl.com/y38sp4j2>

Summary & Pictures on the Appeal and Release on Bail, as of 31 July 2019 available here:
EN: <https://tinyurl.com/y5r5pt5p> & TH: <https://tinyurl.com/y37ltojz>

1. Submission of Appeal Petition to the Supreme Court

To follow up on the cases of the villagers, their lawyer Mr Somnuek Tumsupap has submitted 13 appeal petitions to the Supreme Court on 2 July and 15 July 2019. This submission was made within 30 days from the date of the appeal court judgment by the Chaiyaphum Provincial Court, along with an application for bail for 12 of the human rights defenders (HRDs) in jail. In the appeal before the Supreme Court, the lawyer questioned the validity of the exclusion of the poor villagers from NCPO Order 66/2014 which should protect them from being charged under NCPO Order 64/2014 (please refer to section 4, related to the legal framework misused to criminalise the 14 HRDs, at page 10).

1.1. Submission of the Appeal Petition to the Supreme Court for 5 WHRDs, 2 July 2019

On 2 July 2019, the lawyer submitted the appeal petition before the Supreme Court for Ms Nittaya Muangklang following an appeal court judgment of 15 May 2019 in once case (case 1739/2017) against her; for Ms Seenuan Phasang following an appeal court judgment of 4 June 2019; and for Ms Sunee Nalin, Ms Pattama Komet, and Ms Suphaphorn Seesuk following appeal court judgments of 12 June 2019.

The Supreme Court accepted the petitions submitted for Ms Pattama, Ms Seenuan, Ms Suphaphorn, Ms Sunee, and in one case against Ms Nittaya (case 1739/2017). These appeal petitions were approved by the Court of First Instance and Chaiyaphum Provincial Court with respect to questions of law and fact, as provided by Section 221 of the Thai Criminal Code.

It must be noted here that the appeal petition for Ms Nittaya Muangklang in another case (case 1738/2017) for which the appeal court judgment was given on 5 June 2019 was submitted before the Supreme Court only on 26 July 2019. This is because all judges of the provincial court at first did not certify the appeal petition, without which the submission to the Supreme Court cannot be processed. After a meeting with Ms Nittaya on 26 July 2019, the judges of the Provincial Court approved the appeal petition but only allowed for arguments with respect to the law in question, before the court.

1.2. Submission of the Appeal Petition to the Supreme Court for 8 HRDs, 15 July 2019

On 15 July 2019, the lawyer submitted the appeal petition before the Supreme Court for the 8 remaining HRDs, including Mrs Thongpan Monggang, Mr Wanchai Arphonkao, and Mr Samon Somchitr following appeal court judgments of 25 June 2019; Mr Put Sukbongkot following an appeal court judgment of 2 July 2019; Mr Sompitr Taennok following appeal court judgments on 2 and 3 July 2019; and Ms Narisara Muangklang, Ms Suwalee Phongam, and Mr Suwit Rattanachaisi following appeal court judgments of 3 July 2019. So far, the Supreme Court has accepted the petitions submitted by Mr Put, Ms Suwalee, Ms Narisara, and Mrs Thongpan. With respect to the other three defenders, before their cases are considered by the Supreme Court, they will need to be certified by judges from the Court of First Instance and the Appeal Court. Unfortunately, none of their cases have been certified by either of the courts as of yet.

1.3. Submission of the Appeal Petition for Mrs Sakl Prakit

In the case of Mrs Sakl Prakit, her husband has stated that he does not want the lawyer of the other 13 villagers, Mr Somnuek Tumsupap to submit the appeal to the Supreme Court. Instead, he wants his wife to be separated from the others and for her to submit her appeal separately to the Supreme Court, using a different lawyer. Community members suspected that government officials tried to convince Mrs Sakl's husband to do so as he has relatives in the military. They suspect that the person is attempting to 'steal money' from Mrs Sakl's family, as the person had requested 30,000 THB for lawyer fees alone. While the lawyer has taken a step back and not filed the appeal petition for Mrs Sakl before the Supreme Court, the lawyer, the community members and civil society organisations supporting the 14 villagers hope her appeal petition is submitted on time. This is particularly important given the heavy sentence of 4 years and the more than 1.5 million THB fine she is facing.

SAI THONG NATIONAL PARK CASE
14 LAND RIGHTS DEFENDERS UNFAIRLY TREATED AS CRIMINALS

Communities do not destroy the forest; they protect it better than anyone else!

MRS. SAKL PRAKIT
42 years old

“It's so sad because it's unfair to charge the villagers who have farms and land in the national park. I want the government to help the villagers who do not have a place to live.”

COURT HEARING

CASE 1732/20 17	18 June 2019
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CONVICTED TO

	ALLEGED ENCROACHED SURFACE	CRIMINAL CHARGES	CIVIL CHARGES
CASE 1732/20 17	46 rai, 3 ngan and 3 square wah	Jail time 4 years	Fine - each one with 7.5% interest per year 1,587,211 THB

+ LAND EVICTION

Within 15 days from the date of the court judgment

*1rai = 0.16 hectare *1ngan = 400 square meters *1square wah = 4 square meters

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1.4. Land eviction notice for Ms Seenuan Phasang

On 7 July 2019, a court notice was sent to enforce the order of the appeal court, asking Ms Seenuan Phasang to vacate her land within 15 days. She was also asked to pay 150,000 THB to the Department of National Parks, Wildlife and Plant Conservation (DNP). However, with respect to vacating the land, it has been concluded that no action will be taken until the final judgment of the Supreme Court is provided. However, if the villagers lose their case and the Supreme Court upholds the Appeal Court's decisions, the land eviction will be enforced, and no compensation or alternate land will be provided to them.

More info please see here in EN: <https://bit.ly/31561c6> and TH: <https://bit.ly/2KaYckZ>

2. Approval of Bail Application by the Supreme Court

All 14 villagers were found guilty and casted as criminals. 13 villagers (9 women and 4 men) were given prison sentences, while 1 villager, Mr. Samon Somchitr, is being monitored. Therefore, bail applications were submitted along with the appeal petition before the Supreme Court, for the 12 villagers represented by the lawyer, Mr Somnuek Tumsupap.

2.1. Granting of Bail by Supreme Court for 3 WHRDs on 18 July 2019 & Release from jail on 19 July 2019

On 18 July 2019, the Supreme Court granted bail to Ms Seenuan Phasang with the bail amount set at 180,000 THB; to Ms Pattama Komet with the bail amount set at 500,000 THB; and to Ms Suphaphorn Seesuk with the bail amount set at 180,000 THB. On 19 July 2019, after the payment of the bail amounts as provided under the Justice Fund, Ms Seenuan, Ms Pattama and Ms Suphaphorn were released on bail from the Chaiyaphum Provincial Prison, until their trial by the Supreme Court at a later date.



Summary & Pictures on the Appeal and Release on Bail, as of 19 July 2019 available here:

EN <https://tinyurl.com/y4dtywnj>

TH <https://tinyurl.com/y6354zz3>

SAI THONG NATIONAL PARK CASE

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MRS. SUPHAPHORN SEESUK
38 years old

She's Nittaya's and Narisara's sister. She has a lot of debt and worries about how it will be paid. She also takes care of her child when her husband is farming. She doesn't know who will take care of their child if she goes to jail.

“It affects the livelihoods and economy of the community and discourages me from fighting. I do not feel like doing anything, because it's like I'm fighting for nothing. No matter how much I fight, nothing is getting better so far.”

COURT HEARING

CASE 1731/2017	12 June 2019
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CONVICTED TO

	ALLEGED ENCROACHED SURFACE	CRIMINAL CHARGES	CIVIL CHARGES
		Jail time	Fine - each one with 7.5% interest per year
CASE 1731/2017	6 rais, 3 ngan and 31 square wah	5 months and 10 days	38,10 THB
+ LAND EVICTION			

*1rai = 0.16 hectare *1ngan = 400 square meters *1square wah = 4 square meters

SAI THONG NATIONAL PARK CASE

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MRS. SEENUAN PHASANG
60 years old

After 33 years of marriage, her husband asked for divorce because he was ashamed of the fact she was facing criminal charges.

“I am concerned that my children won't have land to live on because it belongs to the national park, and they are not allowed to live there. I am fighting for those who don't have a place to live and for all of my friends who face the same situation.”

COURT HEARING

CASE 1736/2017	4 June 2019
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CONVICTED TO

	ALLEGED ENCROACHED SURFACE	CRIMINAL CHARGES	CIVIL CHARGES
		Jail time	Fine - each one with 7.5% interest per year
CASE 1736/2017	6 rais and 4 square wah	5 months and 10 days	150,000 THB
+ LAND EVICTION			

*1rai = 0.16 hectare *1ngan = 400 square meters *1square wah = 4 square meters

SAI THONG NATIONAL PARK CASE

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MS. PATTAMA KOMET
47 years old

She's taking care of her disabled mother, and has young children that she had to put in boarding school. If she is jailed, she doesn't know who will take care of her mother.

“We are not investors, just poor people who either farm on the land or do nothing. If we do not farm there, our family cannot survive. We are human too. Although we are poor, we still have rights that should be equal to any other Thai people's rights.”

COURT HEARING

CASE 1744/2017	12 June 2019
CASE 1745/2017	

CONVICTED TO

	ALLEGED ENCROACHED SURFACE	CRIMINAL CHARGES	CIVIL CHARGES
		Jail time	Fine - each one with 7.5% interest per year
CASE 1744/2017	11rais, 3 ngan and 9 square wah	8 months	200,000 THB
CASE 1745/2017	15 rais and 83 square wah		
+ LAND EVICTION			
<i>Within 15 days from the date of the court judgment</i>			

*1rai = 0.16 hectare *1ngan = 400 square meters *1square wah = 4 square meters



2.2. Granting of Bail by Supreme Court to Mr Put Sukbongkot on 18 July 2019 and release from jail on 25 July 2019

On 18 July 2019, the Supreme Court granted bail to Mr Put Sukbongkot with the bail amount set at 200,000 THB. However, Mr Put continued to be detained and was only released from Chaiyaphum Provincial Prison once he was granted the bail amount under the Justice Fund on 25 July 2019.



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MR. PUT SUKBONGKOT
47 years old

COURT HEARING

CASE 1734/2017	2 July 2019
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CONVICTED TO

ALLEGED ENCROACHED SURFACE	CRIMINAL CHARGES	CIVIL CHARGES
CASE 1734/2017	14 rai, 3 ngan and 8 square wah 6 months and 20 days	Fine - each one with 7.5% interest per year 370,000 THB

+ LAND EVICTION

*1 rai = 0.16 hectare *1 ngan = 400 square meters *1 square wah = 4 square meters

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Summary & Pictures on the Appeal and Release on Bail, as of 25 July 2019 available here:
EN: <https://tinyurl.com/y4y7phap> & TH: <https://tinyurl.com/y38sp4j2>



2.3. Granting of Bail by Supreme Court for Ms Suneer Nalin on 24 July 2019 and release from jail on 25 July 2019

On 25 July 2019, the Supreme Court granted bail to Ms Suneer Nalin. After payment of the bail amount set at 160,000 THB as provided under the Justice Fund, Ms Suneer was released on bail from Chaiyaphum Provincial Prison, until her trial by the Supreme Court.



SAI THONG NATIONAL PARK CASE
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MS. SUNEER NALIN
71 years old

She has a lot of health issues, and she's taking care of her youngest son who is mentally disabled. She doesn't know where he will live if she is jailed.

"I'm worried about my grandchildren. Who will take care of them? Their mother has to work, and their father already passed away. Without me, their lives will be tough. This situation I am in is not my bad karma, it is a bad law."

COURT HEARING

CASE 1735/2017	12 June 2019
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CONVICTED TO

ALLEGED ENCROACHED SURFACE	CRIMINAL CHARGES	CIVIL CHARGES
	Jail time	Fine - each one with 7.5% interest per year
CASE 1735/2017	11 rai, 3 ngan and 73 square wah	5 months and 10 days 439,027 THB

+ LAND EVICTION

*1rai = 0.16 hectare *1ngan = 400 square meters *1square wah = 4 square meters

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Summary & Pictures on the Appeal and Release on Bail, as of 25 July 2019 available here:
EN: <https://tinyurl.com/y4y7phap> & TH: <https://tinyurl.com/y38sp4j2>

2.4. Granting of Bail by Supreme Court for Ms Suwalee Phongam on 26 July 2019

On 26 July 2019, the Supreme Court granted bail to Ms Suwalee Phongam with the bail amount set at 200,000 THB. However, the Provincial Justice Board only approved her bail amount during a meeting which was held on 5 August 2019. Ms Suwalee is currently awaiting her release on bail from the Chaiyaphum Provincial Prison.

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MS. SUWALEE PHONGAM
36 years old

She's worried about her daughter, who is very young.

I am concerned about many things such as my children, my parents, my husband, expenses for food, water and electricity, school and my previous husband's debt. Basically I am responsible both for taking care of my family and working to earn money every month.

COURT HEARING

CASE 1748/2017	3 July 2019
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CONVICTED TO

	ALLEGED ENCROACHED SURFACE	CRIMINAL CHARGES	CIVIL CHARGES
		Jail time	Fine - each one with 7.5% interest per year
CASE 1748/2017	5 rai, 3 ngan and 9 square wah	5 months and 10 days	160,000 THB

+ LAND EVICTION

*1rai = 0.16 hectare *1ngan = 400 square meters *1square wah = 4 square meters

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2.5. Granting of Bail by Supreme Court for Ms Nittaya Muangklang and release from jail on 31 July 2019

On 31 July 2019, the Supreme Court granted bail to Ms Nittaya Muangklang in both cases, with case number 1738/2017 and 1739/2017 that were filed against her. After payment of the bail amount set at 350,000 THB for both cases as provided under the Justice Fund, Ms Nittaya was released on bail from Chaiyaphum Provincial Prison, until her trial by the Supreme Court.



คดีอุกยานแห่งชาติไทรทอง
นักปกป้องสิทธิในที่ดิน **14** รายถูกดำเนินคดี
อย่างไม่เป็นธรรมในฐานะอาชญากร

ผู้คนที่ชุมชนไม่ได้เป็นคนทำลายป่า พวกเขาปกป้อง
ป่าได้ดีกว่าใครอื่น!

นางสาวนิตยา ม่วงกลาง
อายุ 36 ปี

“อยู่ดีวันหนึ่งก็มียอบายทวงคืนผืนป่าที่เขาบอกว่า
จะไม่ให้กระทบกับคนจนคนยากไร้ แต่สิ่งที่ถูกกระทำ
ทุกวันนี้คือมันมีแต่คนจนที่ถูกกระทำ เรารู้สึกถึง
ความเหลื่อมล้ำระหว่างคนรวยกับคนจน”

ฟังคำพิพากษา

คดีเลขที่ 1738/2560	5 มิ.ย. 2562
คดีเลขที่ 1739/2560	15 พ.ค. 2562

คำตัดสินของศาลอุทธรณ์

คดีเลขที่	จำนวนเนื้อที่ที่ ถูกฟ้องร้อง	คดีอาญา	คดีแพ่ง
		ระยะเวลาจำคุก	ค่าเสียหาย - พร้อมดอกเบี้ย อัตราร้อยละ 7.5% ต่อปี
คดีเลขที่ 1738/2560	8 ไร่ 90 ตารางวา	8 เดือน	150,000 บาท
คดีเลขที่ 1739/2560	1 ไร่ 2 งาน 98 ตารางวา	4 เดือน	40,000 บาท
รวม		12 เดือน	190,000 บาท

+ การขับไล่ออกจากที่ดิน

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EN: <https://tinyurl.com/y5r5pt5p> & TH: <https://tinyurl.com/y37ltojz>

2.6. Consideration of the Bail Application for the 5 remaining HRDs

The bail application submitted by the lawyer for the other 5 HRDs on 19 July are still to be accepted by the Supreme Court. Regarding the process, once the application has been accepted, the Supreme Court will have to give its decision on the granting of bail within 3 days.

3. Provision of Bail Amount through the Justice Fund

In Thailand, the Justice Fund Act of 2015 provides legal aid to assist indigent persons being tried by the court system. The justice fund supports access to justice and justice procedures, by financially supporting legal assistance in litigation, temporary release for the defender on bail, compensation for human rights abuses, and for legal education of the public. The Justice Fund is managed, approved and disseminated by the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice at the National level, and by Provincial Justice Boards in each province across the country.



3.1. Provision of Bail Amount through the Justice Fund for 4 WHRDs

Following continuous engagement by OHCHR and civil society organisations with the RLPD, the bail amounts of 180,000 THB for Ms Seenuan Phasang; 500,000 THB for Ms Pattama Komet; and 180,000 THB for Ms Suphaphorn Seesuk were approved under the Justice Fund by the Provincial Justice Board. This amount was transferred by the Provincial administration on 18 July 2019, with the oversight of civil society organisations, and the coordination of the Provincial Justice Officer and the Provincial Court Officer the bail amount was submitted and processed.

Additionally, a bail amount of 160,000 THB for Ms Sune Nalin was approved under the Justice Fund by the Provincial Justice Board and transferred to the Provincial Court Officer on 25 July 2019 for the processing of her bail.

3.2. Provision of Bail Amount through the Justice Fund for Mr Put Sukbongkot

For Mr Put Sukbongkot, an application was submitted to the Justice Fund, for the provision of the bail amount of 200,000 THB. Although Mr Put was granted bail on 18 July 2019, the Provincial Justice Board first asked him to provide anything of value as a guarantee, in order to get access to the fund. This was later reconsidered and the bail amount was granted under the Justice Fund on 25 July 2019.

3.3. Provision of Bail Amount through the Justice Fund for Mr Suwalee Phongam

An application was submitted to the Justice Fund for the provision of the bail amount of 200,000 THB for Ms Suwalee Phongam. Although Ms Suwalee was granted bail by the Supreme Court on 26 July, the Provincial Justice Board only approved her bail amount during a meeting which was held on 5 August 2019.

3.4. Provision of Bail Amount through the Justice Fund for Ms Nittaya Muangklang

An application was submitted to the Justice Fund, for the provision of the bail amount of 350,000 THB for Ms Nittaya Muangklang. This application was processed by the Provincial Justice Board and the amount was transferred as soon as Ms Nittaya was granted bail on 31 July 2019.

3.5. Provision of Bail Amount through the Justice Fund for the 5 remaining HRDs

During the meeting held on 5 August 2019, the Provincial Justice Board did not only approve the bail amount of Ms Suwalee, but also approved the bail amounts for Mrs Thongpan Monggang; Ms Narisara Muangklang; Mr Suwit Rattanachaisi; Mr Sompitr Taennok; and Mr Wanchai Arphonkaeo. Although the Appeal petitions are not yet accepted by the Supreme Court, the Provincial Justice Board has approved the granting of bail amount for these cases in advance. However, even though the Justice Board has approved the bail amounts for the defenders, the amount has not yet been received from the provincial administrative authorities. Another meeting has been scheduled on 9 August 2019, to discuss the receipt of this amount from the Centre. Besides that, it has been suggested that a contract with the



defenders' family members needs to be established, stating that they will not leave the country.

All those assisting in the process of obtaining the bail amount under the Justice Fund are working tirelessly in the process, to ensure quick approval and so that this develops into a good practice. This is due to the fact that there are several thousand such cases pending against land rights defenders all over Thailand and such a practice could (1) guarantee legal aid support in individual cases; and (2) prevent complacency from the authorities involved and it could be used to hold these authorities accountable.

4. Overview of the Legal Framework misused to criminalise 14 HRDs

4.1. Thailand's false climate solution & the misuse of forest conservation policies to criminalise rural communities rather than capitalist investors

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.

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

With 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.



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.

Discrepancies in the application of NCPO Order 66/2014, meant to protect poor people from being evicted for forest land

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. 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 RFD, is not properly defined and depends on the appreciation of the Thai authorities and judges. All the 14 Sab Wai 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. Finally, their criminalisation further put them in poverty situation, leaving their families, elders and children behind, with insufficient financial resources and care.

The abovementioned 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

4.3. 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 criminalise the 14 villagers has been the repeal of 70 NCPO Orders including NCPO Orders 64/2014 and 66/2014 on 9 July 2019.^{vi} These orders were withdrawn using the newly issued NCPO Order 9/2019 by the Prime Minister of Thailand, Prayuth Chan-ocha 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 criminalise the legitimate actions of communities and individuals as: (1) This new order will take some time to come into effect, during which NCPO Orders 64/2014 and 66/2014 will continue to be misused; and (2) The content of the NCPO Orders 64/2014 and 66/2014, particularly their bad aspects have already been embedded into other laws including the new amendments to the National Parks Act in 2019.^{vii}

Focus on the National Park Act 2019

In May 2019, the National Legislative Assembly in Thailand passed the National Parks Act 2019, which will be effective from November this year. 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 reserved forest areas and 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 at 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 on 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 of their properties, such as houses and crops;
- The law will impose **stricter penalties** to further limit the rights of Thai farmers, indigenous peoples: Under this new law, the penalties for those convicted of encroachment are much higher compared to the National Parks Act of 1961. Whereas in the National Parks 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 Parks 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 strict 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.^{viii}

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^{ix}, such as the Cabinet Resolution of 3 August 2010. The Cabinet Resolution of 3 August 2010 reaffirms article 70 of the 2017 Constitution^x, 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.^{xi} 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 Parks 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.^{xii}

Finally, the powers and functions of the NCPO are now also being slowly passed on to the Internal Security Operations Command (ISOC), established under the Internal Security Act.^{xiii}

All you need to know on the Sai Thong National Park Case, from charges, convictions, trial monitoring to national & international advocacy efforts, is available on our dedicated webpage:

<https://www.manushyafoundation.org/sai-thong-np-case>



Endnotes

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