

## Laos must undertake transparent and independent investigation to ensure effective remedies for the victims of the Dam Collapse – and Thailand should also bear responsibility

20 August 2018, Bangkok – The Thai BHR Network, in an [official statement](#), calls on the Lao Government to immediately undertake a transparent and independent investigation to ensure effective remedies for the victims of the dam collapse at the Xe-Pian Xe-Namnoy hydropower project and to remove any barrier that prevent such investigation or remedies. Further, the companies, investors and the Thai government should also take immediate remedial and preventive steps to meet their responsibilities to those affected. In particular, the Thai government, currently in the process of developing a National Action Plan (NAP) on Business and Human Rights, should include a strong commitment to enact a law establishing criminal liability for businesses operating in Thailand or Thai outbound investments causing human rights violations.

On 23 July 2018, the failure of one of the dams in a hydropower project built by the Lao firm Xe-Pian Xe-Namnoy Power Co. Ltd. (PNPC) in Attapeu province in Southern Laos caused flash flooding in thirteen downstream villages. The 410 MW hydropower project is being built by a Lao firm Xe-Pian Xe-Namnoy Power Co. Ltd. (PNPC). It has shareholdings from two South Korean companies – SK Engineering and Construction, Korea Western Power, Ratchaburi Electricity Generating Holding PCL of Thailand and Lao Holding State Enterprise of Laos. Thai banks had 70% investment in the PNPC, which was going to export 90% of the electricity of the project to Thailand through the Electricity Generating Authority of Thailand (EGAT), a state-owned enterprise.

Since the beginning, the project has been of grave concern to non-governmental groups and communities with several problems arising from the project development phase. These [include](#) gaps in the public consultation process and environmental impact assessments (EIAs), lack of trans-boundary impact assessments, failure to meet international environmental standards and social safeguards, and the impact of resettlement of communities from the dam area.

Following the collapse of the dam, the businesses involved in the project tried to [blame](#) heavy rainstorms for the damage, but a Lao minister has [stated](#) that faulty construction caused the disaster and that the businesses are responsible for compensating victims.

Nevertheless, the local communities and others on the ground are revealing the truth of the situation and their struggles through social media. ***"Now more than ever, they are courageously spreading truth-telling information of the reality on the ground despite the government warning, so that the world does not forget them,"*** says Emilie Pradichit, Founder & Director of Manushya Foundation.

***"The Lao authorities' attempt to conceal information related to the dam collapse violates the [conclusions](#) by UN experts in the July 2018 review of the country's compliance with its International Covenant on Civil and Political Rights (ICCPR) obligations. They had urged the***

**government to promote plurality of opinions in the media and to guarantee their operations are free from "undue state interference,"** she added.

In response to its lack of prompt actions with regard to investigation, the Lao government has established two committees - one to investigate the reason for the collapse of the dam and the other to look into the responsibility of the stakeholders. It has also suspended the consideration of new investments in hydropower projects to review existing hydropower development strategies and plans.

While the Thai BHR Network's statement welcomes these steps taken by the Lao Government, it questions the credibility of the committees, set up and overseen solely by government authorities, who were themselves involved in granting permission for the project. **"The government and its authorities should instead provide an independent, transparent and accessible investigation process, with compensation, rehabilitation or restitution for the harm to the community, their livelihood and the environment. The needs of the communities and their losses should be at the centre of any effective remedy"** says Emilie Pradichit. She further stressed on the importance for the Lao Government to draw lessons from its failures in order to take urgent action to set up regulatory structures and obtaining qualified independent and technical support.

Besides Lao authorities, the business enterprises involved in the project also carry the responsibility for the human rights impacts of the dam collapse in accordance with the UN Guiding Principles on Business and Human Rights, which requires the governments of the home countries of enterprises to take steps to ensure they respect human rights abroad. Therefore, the Thai government bears particular responsibility for transboundary human rights violations.

Chainarong Setthachua, a Lecturer at Mahasarakham University documenting impacts of dam projects on affected communities, pointed out that the Thai government is currently drafting a National Action Plan (NAP) on business and human rights to ensure that Thai companies and investments abroad do not cause human rights abuses. **"This can be effective, only if the NAP includes a strong commitment to develop and implement a law mandating Thai companies and investors to carry out effective human rights due diligence, including human rights impact assessments with meaningful participation of affected communities, at home and abroad. This law must also establish criminal liability for human rights violations caused by Thai outbound investments."**

Further, the UN Guiding Principles require governments to take additional steps to protect human rights abuses by state-owned enterprises, so the EGAT should lead such a practice. **"EGAT should cancel the power purchase agreement with the PNPC or suspend the agreement until effective remedies are provided"** says Professor Direk Hemnakorn, community leader of the Songkla-Pattani Residents against the Coal-fired Power Plant. **"Thailand must move away from its dependence on energy imports and move towards sustainable and environment-friendly renewable energy projects that respect human rights"** he stressed, as his community has been lobbying to stop the construction of the Thepa coal-fired power plant.

**"Thailand has [enough energy capacity](#), there is no need to purchase energy from abroad and to build more power plants inside the country,"** added Professor Direk. **"The Thai government, the**

***private sector, and the community should collaboratively develop an energy strategy to promote and implement clean, renewable energy solutions."***

The Thai BHR Network ended its statement by strongly urging companies, governments as well as investors to learn from the failure of various parties in the Xe-Pian Xe-Namnoy dam and to put environment and human rights to the highest consideration before profit.

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**About the Thai BHR Network**

The Thai Business and Human Rights Network (TBHRN) is an informal, inclusive and intersectional coalition of human rights defenders, community leaders, researchers, academics, and non-governmental organisations from the local, national and regional spheres, who are joining hands to ensure local communities are central to the business and human rights response in Thailand. The Network engages in advocacy, dialogue, and monitoring of business and human rights commitments made by the Royal Thai Government, in particular in engaging in the development and monitoring of the National Action Plan on Business and Human Rights. More information on the TBHRN and its role can be accessed at:

<https://www.manushyafoundation.org/coalition-building-workshop-report>

**About Manushya Foundation**

Manushya Foundation is an Asia regional foundation promoting community empowerment to advance human rights, social justice and peace through a process of engagement, mobilisation and empowerment. With concern emerging on Business and Human Rights in Thailand, the bottom-up strategy of Manushya Foundation guarantees the empowerment of communities through a process of community led evidence-based research; the development of a national baseline assessment on BHR; and building capacity on BHR knowledge through the TBHRN, a unified national network comprising communities, academics and experts. For further information on the work of Manushya Foundation, visit:

<https://www.manushyafoundation.org>