

1. Introduction

- 1.1. In this submission, the Manushya Foundation, Sai Thong Rak Pah Network, the Indigenous Women's Network of Thailand (IWNT), the Thai BHR Network and the Thai CSOs Coalition for the UPR, examine the compliance of the Thai government with the recommendations received during the 2nd UPR Cycle of Thailand. In this context, we analyse the efforts made by the Government to implement recommendations related to compliance with human rights treaties, and to respect, protect and fulfil its human rights obligations, particularly in relation to land-related rights, forest conservation laws and climate change policies. The authors then draw specific, measurable and result-oriented recommendations to suggest effective environmental protection respectful to the rights of local communities and indigenous peoples. In light of absence of codified "right to land", in the present submission, the right to land is considered to have both, collective and individual dimension, and is interconnected and interrelated with rights to property, right to adequate standard of living including food, right to the highest attainable standard of health, right to enjoy one's culture, right to expression, information and assembly, and group-specific rights such as right to ancestral lands and right to free, prior and informed consent of indigenous peoples.
- 1.2. During the 2nd UPR cycle, the Thai government received 3 recommendations directly related to land-related rights, forest conservation laws and climate change policies. All three of them were accepted, nevertheless, our assessment shows that none of them has been fully implemented (please see the annex).
- 1.3. We are deeply concerned with the Thai government's disregard for the rights of local communities, especially in rural areas. State agents misappropriate land under the guise of climate change mitigation and protection of the environment, and while large corporate actors are generally unaffected, small subsistence farmers and indigenous peoples who protect their forests through their traditional ways of living, including traditional farming techniques, bear the brunt of such policies. Human rights defenders and community leaders who defy such actions are harassed, often without access to appropriate remedies. Especially, women are excluded from public participation and find themselves at the margins of the community and society as a whole. Although the efforts to mitigate the effects of climate change and protect the national environment are commendable, they cannot come to the concerned communities' cost.
- 1.4. This submission indicates that the government's actions in regard to forest land reclamation and climate change mitigation result in violations of human rights, in the following manner:
 - Section 2 discusses Thailand's forest conservation laws and policies failing to protect and respect human rights.
 - Section 3 discusses rights of indigenous peoples vis-à-vis national park regulations.
 - Section 4 discusses the unsustainable pursuit of economic growth over human rights: community manipulation, land grabbing, land evictions, environmental degradation and lack of compensation.

- Section 5 discusses the criminalization and killings of Land and Environmental Human Rights Defenders.
- Section 6 examines the specific challenges faced by rural women and indigenous women while protecting their land.
- Section 7 discusses the ineffective access to remedy.
- Section 8 includes recommendations to the Thai government, addressing the challenges and rights violations discussed in foregoing sections.

Please note that issues of land-related rights, forest laws and climate change policies are closely related to and intersecting with matters concerning indigenous peoples, business and human rights, marginalized women and human rights defenders. These are addressed in other relevant UPR submissions by Manushya Foundation and its partners.

2. Thailand's False Climate Solutions: forest conservation laws and policies failing to protect and respect human rights of indigenous peoples and forest-dependent communities

- 2.1. Since the 2014 military coup, rural communities, indigenous peoples, and ethnic minority groups have been unfairly charged and criminalized under Thailand's false climate solution, including severe forest conservation laws and policies evicting indigenous peoples and forest-dependent communities from their land. Thailand's forest conservation laws and climate change policies totally ignore the fact that indigenous peoples and forest-dependent communities are 'protectors' of the forest. Instead of criminalizing capitalist investors destroying the forest, the Thai government unjustly cast impoverished communities as criminals and charge them with trespassing, encroachment, and utilizing and clearing land belonging to national parks or reserved forest areas, by enforcing Thailand's forest conservation laws implemented through the severe climate change solution: the Forest Reclamation Policy.¹ The policy was supposed to prevent further encroachment of forest land, and operationalize older forest legislation such as the Forest Act B.E. 2484 (1941), the National Reserved Forests Act B.E. 2507 (1971), and the National Park Act B.E. 2504 (1961) with more vigorous enforcement and stricter punishment. In 2019, the National Park Act was amended containing even more severe provisions violating the rights of indigenous peoples and forest-dependent communities.²
- 2.2. This leads to a violation of a wide range of individual and community rights, including the right to participate in decision-making processes, the right to work, and the right to an adequate standard of living and food of communities living off the land. While the 2017 Constitution stipulates that the State has the duty to distribute landholding in a way that allows people to have land to live on (Section 72), and to ensure a fair distribution of land holding (Section 258),³ in practice, the government limits communities' and individuals' rights to manage the lands they live on and cultivate through restrictive policies, NCPO orders, and laws.

- 2.3. NCPO Order 64/2014, issued shortly after the military coup in May 2014, relates to suppressing and ceasing encroachment and destruction of forest resources, with state agencies given the authority to arrest those who encroach, seize, possess, destroy, or cause damage to the forest, specifically on protected land. The aim of the order is to stop deforestation which has been caused by exploitation of Thailand's natural resources by investors or large-scale outside developers.⁴ Complimentary NCPO Order 66/2014 establishes a list of people and entities considered 'poor' and permitted to use the land, and who shall not be impacted by the NCPO Order 64/2014. It also defines "investors" who were supposed to become target of the policy.⁵ However, in its implementation, the Government has persistently identified land-dependent villagers who lived on their land for decades as 'investors' or alleged villagers to have been funded by investors, resulting in the loss of protection set out by NCPO Order 66/2014.⁶
- 2.4. While Orders 64/2014 and 66/2014 were repealed in 2019,⁷ they have been integrated into the National Park Act of 2019 and the Wildlife Preservation and Protection Act of 2019.⁸ Both Acts focus on providing authority to officers rather than creating a collaborative process between communities and the authorities to sustain and maintain natural forest resources. As communities did not participate in the drafting of these regulations, they are not in line with their ways of living. Within national parks, families need approval for their own use of land lasting for maximum of twenty years, and they are not given ownership over the land. Prior to cutting plants, communities must inform the authorities.⁹ Dangerously, the 2019 National Park Act also increases maximum imprisonment to 20 years and the maximum fine to 2 million baht (US \$63,760) against those convicted under the Act.¹⁰ Forest officials also have the power to search and confiscate any property in national parks, including at night, without the need to investigate or obtain court orders.¹¹ These broad powers given to forest officers without any checks and balances and judicial oversight aim at silencing indigenous peoples and forest-dependent communities, forced to be evicted, left with no access to effective remedy.
- 2.5. Simultaneously, the government has started pursuing its 20-Year National Strategy, under which it aims to increase the country's forested area to 55% of the total Thai territory by 2037. Accordingly, the government plans to, inter alia, suppress forest encroachment, promote the restoration of forested areas and the ecosystem.¹² Furthermore, the government is in the process of establishing additional 22 National Parks, equal to 44 million Rai.¹³ In total, Thailand will have 155 National Parks, which will together amount to 146,488,000 Rai¹⁴ or 45 percent of Thai territory. While the Royal Forest Department has announced its new Forest Plantation Plan which will allow for distribution of 1.21 million Rai of public land to communities,¹⁵ even an area of this size will not be able to accommodate all the population in need of land and who is currently being evicted by forestry officers. Furthermore, certain ratio of the land will need to stay forested. Considering the current situation in Thailand where indigenous and local communities bear the brunt of climate change mitigation measures, it is feared that the 20-Year National Strategy, Forest Plantation Plan and legislation such as the 2019 National Parks Act will further exacerbate situation of poverty, leading to violation individual and collective human rights.
- 2.6. ***Thailand's False climate solution resulting in the criminalization of poor villagers:*** In Chaiyaphum province, 14 Sab Wai villagers have been unfairly convicted of trespassing,

encroaching, and clearing land belonging to Sai Thong National Park area under the Forestry Act, National Park Act, and National Reserved Forests Act, enforced through the severe Forest Reclamation Policy of 2014. Criminalization of the villagers happened even though they are protectors of the forest, and have been living in the area since the 1970s, prior to its declaration as a national park.¹⁶ The villagers have been intimidated by national park officers and were forced to sign papers stating that they would vacate their land. In 2018, the Court of First Instance found all 14 villagers guilty, and between May and July 2019 the Chayaphum Appeals Court confirmed the judgments of the Court of First Instance. The villagers were then imprisoned and ordered to pay high fines and to evict from their land.¹⁷ However, the 14 Sab Wai villagers have resisted eviction and submitted an appeal to the Supreme Court, being the first villagers in Thailand to challenge Thailand's false climate solution.¹⁸ On 3rd of March 2021, the Supreme Court found the first one of the villagers, community leader Nittaya Muangklang, guilty with a suspended jail term sentence of three years. She was put on probation, and has to pay high fines (20,000.00 THB for being found guilty, and 150,000.00 THB for destroying the forest with her farming activity).¹⁹

- 2.7. ***Misinformation by the Thai government to justify the criminalization of small-scale farmers:*** In June 2019, Manushya Foundation and other organizations submitted a complaint of the case to UN Special Procedures, after which the UN sent a communication to the Thai government in August 2019, questioning them about the alleged human rights violations and unfair criminalization of the villagers.²⁰ In June 2020, the Thai government sent a disappointing reply to the UN, ignoring threats and intimidations faced by villagers, and refusing to acknowledge them as 'land rights defenders' and 'poor' villagers who should have been protected by NCPO Order 66/2014.²¹ Further, the community is growing and cultivating cassava, known to be a "survivor" crop, and recognised as an effective climate change adaptation measure, contributing to the resilience of local economy and food chain in a long term.²² Instead, in its preparation activities for REDD+, the government indicates that cash crops are the most important driver of deforestation in Thailand, and will therefore need to be tackled.²³ While it is true for industrial cash crop agriculture,²⁴ small-scale subsistence farmers, whose only revenue comes from cassava farming, are targeted, accused and jailed for destroying the forest and the environment; such like in the case of the 14 Sab Wai villagers.

3. Rights of indigenous peoples vis-à-vis national park regulations

- 3.1. Indigenous peoples are not legally recognised under the Thai Constitution and thus have no right over land they have lived on for generations and forest resources they depend on. Many indigenous communities still maintain their traditional form of agriculture, rotational farming, which alternates between periods of forests, farmed land and fallows. Research has shown that rightly done, rotational farming is a strong self-sustainable system supportive of climate change mitigation measures while providing food security to indigenous communities.²⁵ Instead, the Thai government has been trying to eradicate the practice as a driver of deforestation,²⁶ basing its actions on misconceptions and racial discrimination.
- 3.2. Indigenous peoples are considered trespassers and are extremely vulnerable to eviction. Under the Cabinet Resolution of 3 August 2010, forest officials were prohibited from

arresting indigenous peoples until land disputes were resolved by a neutral, multi-party committee. It also states that if it is proven that the indigenous peoples have lived in the area before it was designated as a national forest, they are entitled to continue living there.²⁷ However, following the enactment of the 2019 National Parks Act, the authorities are now guided by the Cabinet Resolution 20 June 1998 which gives way to excluding large numbers of forest dwellers from protective measures ensuring they will be able to stay living on their land.²⁸

- 3.3. **The case of Bang Kloei Karen villagers:** In 2018, the Supreme Administrative Court delivered its ruling in the Bang Kloei land dispute between indigenous Karen peoples and authorities of the Kaeng Krachan National Park. Karen indigenous peoples had lived in the forest for centuries, with the national park demarcated only in 1981. Considered as intruders, forest dwellers, including several elderly members were violently evicted by park officials. One of the community leaders in this case was, until his enforced disappearance in 2014, a prominent land rights defender, Porlajee "Billy" Rakchongcharoen.
- 3.4. In 2016, the Administrative Court of First Instance ruled that forest dwellers were illegal forest encroachers, so the violence by the park authorities to evict them was justified. While the Supreme Administrative Court condemned the arson and forced eviction, it nevertheless found Karen dwellers could not return to their former homes as they had no land-related rights documents or permits issued by authorities.²⁹ The community members were evicted from their ancestral lands without their free, prior and informed consent (FPIC), violating their collective right to self-determination, land, culture, and others.
- 3.5. The Karen villagers returned to the area in January 2021, as their livelihood and spiritual practices derive from their ancestral lands. Many of them have also suffered from poverty as wage workers, the situation further exacerbated by the COVID-19 pandemic.³⁰ On 22 February 2021, the Kaeng Krachan National Park authorities started to forcibly remove the returned indigenous peoples from their homes in Bang Kloei village accusing them of forest encroachment, and the Phetchaburi Court issued an arrest warrant leading to detainment of 22 villagers on 5 March 2021, including mothers separated from their children, in Phetchaburi Central Prison. They have been bailed out on 8 March 2021, but under the conditions that they must not encroach on the Bang Kloei Bon forest again and must report to the authority every 12 days or risk to go back to jail and pay 50,000.00 fine.³¹

4. Thailand's unsustainable pursuit of economic growth over human rights: community manipulation, land grabbing, land evictions, environmental degradation and lack of compensation

- 4.1. Section 58 of the 2017 Constitution states that activities that may severely affect natural resources, environmental quality, health, sanitation, quality of life, or any other essential interest of the people or the environment, must conduct an impact assessment, including the arrangement of public hearings. Under Section 41, communities also have the right to access public data or information in possession of the State.³² Nevertheless, the Thai government prioritizes economic growth over human rights. It has established development projects and special economic zones which are supposed to contribute to development, urbanization, and job creation,³³ and often used its power to provide companies with land

concessions and operating licenses without having conducted adequate environmental impact assessments (EIAs) or Environmental and Health Impact Assessments (EHIA).³⁴

- 4.2. At times, community members opposing the project are barred from entering public hearings and receiving information on the projects with insufficient time in advance, or the meetings are held at faraway locations.³⁵ Consequently, concerned communities face negative impacts of such projects such as land grabbing, forced evictions or severe environmental degradation. Environmental disasters caused by development-related projects have negatively impacted the rights of the communities in the enjoyment of their rights to life, environment, food and the highest attainable standard of health.
- 4.3. In Chachoengsao province, which is part of the EEC, 635 people have been threatened with eviction from land totalling at least 1,580 acres that they have farmed for three generations but have no legal title to, not realizing that it has passed from one private owner to another, and eventually ending up in hands of the State. While concerned farmers received official letters ordering them to vacate and have received promises of public consultations on decisions on their farmland from the government after their protests, land brokers have told more farmers nearby to leave to make way for EEC industrial zone.³⁶ In Omkoi District, Chiang Mai Province, an EIA for a coal mining project has been drafted without participation from the community members. The documents contained false information and signatures of villagers who did not attend any public hearing or names of minors. If implemented, mining activities might interfere with water sources for agriculture, bring air and noise pollution, and damage large swathes of community's sacred forest, a place of worship for all three faiths present in the community.³⁷
- 4.4. In Thepa district in Songkhla province, the government planned to build the Thepa Coal-fired Power Plant which is owned by the Electricity Generating Authority of Thailand (EGAT). To build the plant, EGAT would purchase the land, which would result in the eviction of about 250 households, and the destruction of community facilities. Concerns were raised over the irregular EHIA process and flawed EHIA study. According to the opponents of the Thepa coal-fired power plant, the process lacked meaningful public participation, transparency, and proper access to information; failed to seek communities' consent to be evicted from their land; and failed to provide full and accurate baseline data regarding the environment and impacts on the ecosystem and local people's livelihoods.³⁸
- 4.5. In contrast, only in recent years illegal activities of large estate developers and resorts in protected forests have started being revealed. A resort owner was accused of encroaching forest land in Erawan National Park, and consequently required to demolish resort buildings.³⁹ In July 2020, the Department of Special Investigation suspected a property developer of encroaching about 400 rai (64 hectare) of Thung Salaeng Luang forest. It was later found that the land documents had been issued illegally by authorities.⁴⁰ In Wang Nam Khiao district of Nakhon Ratchasima, one of the largest resorts of Thailand has been built on land that is a part of the government's agricultural reform programme. Although a complaint was filed against the resort management in 2019, nobody was formally indicted.⁴¹ It was found in 2016 that 35% of the land allocated to poor farmers is occupied by tourist resorts.⁴²

5. Criminalization and Killings of Land and Environmental Human Rights Defenders

- 5.1. The legitimate human rights work of land rights defenders to protect their lands is criminalized as they are subjected to the violation of their freedom of expression and right to assembly. According to an analysis of Environmental Human Rights Defenders (EHRDs) by the UN conducted in 2016, Thailand is amongst the ten most dangerous countries for environmental defenders,⁴³ and as specified by Protection International, more than 50 environmental rights defenders have lost their lives in Thailand in the last 20 years.⁴⁴ In some cases, land rights defenders have even been victims of enforced disappearances and extrajudicial killings. The Thai government lacks effective legislation to tackle these problems. While Thailand signed the Convention for the Protection of All Persons from Enforced Disappearance, the treaty still has not been ratified.
- 5.2. In Thung Lui Lai Subdistrict, Khon San district in Chaiyaphum Province, the Khok Yao community was ordered to leave their ancestral lands and to demolish their buildings. The chairman of the community, M. Den Kham Lae refused and gathered with the community to submit a complaint on the case to government agencies. On 16 April 2016, he disappeared near the bamboo forest in Khok Yao Forest. In 2017, human remains found were 90 percent confirmed to belong to Den. DSI claimed that finding evidence to clear doubts and determine the cause of the death would be hard as the incident happened two years ago and rainfall might have washed away evidence.⁴⁵
- 5.3. In May 2018, P-Move (The People's Movement for a Just Society) held a protest in Bangkok to voice their concerns about the impacts of the Forest Land Reclamation Policy of 2014 on communities. They were consequently arrested by the police and soldiers and three land rights defenders were forced to sign an agreement that they would not repeat their action.⁴⁶ In March 2019, P-Move went to the Parliament while the National Legislative Assembly (NLA) deliberated amendments to the National Park Act, a law opposed by the movement. The movement demanded participation in the deliberation process but was only allowed to observe for fifteen minutes and was then sent away.⁴⁷
- 5.4. In July 2016, in Phichit province, 100 villagers affected by a gold mining company, held a peaceful protest to prevent trucks of a mining company from transporting ore out of the mining area, as this would cause additional air and noise pollution to the communities. After the protest, the Thab Khlo district police filed charges against 27 out of 100 villagers who participated in the protest for allegedly violating Section 309 of the Penal Code and Article 16 of the Public Assembly Act of 2015. Additionally, the police charged Ms. Preamsinee under Article 10 of the Public Assembly Act of 2015 for her alleged role in organizing the protest. The same day, the 27 accused villagers were jailed for half a day at the Phichit Provincial Court and had to be bailed out accordingly. They received assistance from an academic in their network, and the bail amounts of 100,000 THB (\$3170) per person were then provided by the Justice Fund under MoJ, after which the villagers were released.⁴⁸

6. Rural Women & Indigenous Women: living the struggle within the struggle to protect their land

- 6.1. Rural women and indigenous women are the most deprived and marginalised groups in society and are denied access to land ownership based on discriminatory gender representations. They are often not consulted and involved in decision-making processes that concern them. Consequently, they are more likely to lose access to land and resources but also less likely to receive profits from their occupation.⁴⁹ They face more threats of physical and sexual abuses in the context of land evictions and displacement, and almost half of all women human rights defenders (WHRDs) were harassed for defending community land and environmental rights.
- 6.2. Suphab Khamlae, wife of prominent land rights defender Den Khamlae who disappeared, fights for the right to land of her community, was asked to leave the land they occupied for 45 years. In 2013, she was convicted of illegal land encroachment and deforestation. In June 2017, she was again sentenced to six months imprisonment for encroaching a protected area under the Forest Act and the National Reserved Forest Act. She was finally released in January 2018.⁵⁰
- 6.3. Since 2014, 225 women human rights defenders from rural areas have been subjected to judicial harassment. 70% of those defenders are land rights defenders accused of encroaching on national parks and other lands.⁵¹ For example, in the Sai Thong National Park case, 9 out of the 14 Sab Wai villagers currently facing trial before the Supreme Court are women. Furthermore, 6 out of them are financially supporting their elderly parents or children. This responsibility has been compromised by their imprisonment and high fines.⁵²

7. Ineffective Access to Remedy

- 7.1. We note the positive contribution of the Justice Fund established in 2015, which has been able to provide impoverished communities with financial means for legal proceedings against them.⁵³ For instance, the aforementioned Sab Wai villagers have been able to use its support to cover bailout after they were unfairly jailed in 2019 due to the severe implementation of forest conservation laws, under the Forest Reclamation Policy.⁵⁴ However, the judicial system is generally complex and inaccessible for local communities, especially for indigenous peoples who lack citizenship, access to formal education, financial resources and face additional language barriers. In cases where communities have sought remedy through the legal system, they have faced many challenges, particularly women. Manifestation of corporate capture such as community manipulation and malpractices in legal proceedings through judicial interference have also occurred. Villagers who filed complaints against involved stakeholders and perpetrators have also faced threats because of their legitimate human rights actions.
- 7.2. ***The Case of the Urak Lawoi in Koh Sireh:*** Ancestral lands of an Urak Lawoi community in Sireh island in Phuket province were sold to investors. In 2012, the investors notified the community with a legal notice for eviction which the Urak Lawoi did not respond to. In 2013, the investors' case against the Urak Lawoi was dismissed. Investors appealed the court decision, and the appeal court made a court decision against the Urak Lawoi, ordering eviction from the land and compensation of 5,000 THB per month to the plaintiffs since March 2013. The Urak Lawoi submitted an appeal to the Supreme Court in February 2019, and in August the Supreme Court ruled in favour of the community and dismissed the case.

The villagers have then requested the Land Department to withdraw the investors' land titles and they are currently awaiting the community land title deeds.⁵⁵ However, the court proceedings were marked by serious malpractices: (1) when women of the community expressed their doubts about a lawyer chosen by a former Member of Parliament, they were excluded from the meetings and accused of having lack of competence; (2) communities' choice of witnesses was ignored and a person who was not born in the area was chosen, and the testimony of the witness was counterproductive for the villagers, and (3) the community, especially the women, were not meaningfully consulted, the few consultations held were not inclusive, and legal proceedings in the Appeal Court were not undertaken in compliance with the principle of FPIC.⁵⁶

7.3. ***The Phichit Villagers fighting a Gold Mining company in Phichit Province:*** in Phichit and Phetchabun Provinces, located in Central Thailand, over 6,000 villagers have been severely affected by the operations of a gold mining company since 2001. Ever since, the villagers' livelihoods and health have worsened, and the environment they live in and the natural resources they are dependent on are heavily polluted. During years, villagers fought to protect their rights and the environment, and have undertaken numerous efforts to seek effective remedy and solutions for the negative impacts they experience. While the government closed the mine in 2017, no remedy or compensation were provided to the villagers. Despite the judicial harassment and challenges faced, the villagers do not give up and continue their fight against the company, seeking fair compensation for the harm they suffered, and to hold the company accountable for the damage it caused. The class action lawsuit filed in May 2016 by 362 villagers was finally accepted by the Ratchada Civil Court in Bangkok on 31 October 2019.⁵⁷ However, since then, the hearing was repeatedly postponed by Akara Resources Public Company, the company responsible for the gold mine, as they allegedly needed more time to collect evidence. Even after years of prolonged lawsuits, community members still have not received adequate remedy for adverse impacts of the gold mine on their health, land, the environment and their loss of livelihoods.⁵⁸

7.4. ***State impunity for extra-judicial killings and enforced disappearances:*** In 2011, publicly denouncing the violence by national park officials and seeking legal support for Karen indigenous peoples living in the forest, local politician Thatkamon Ob-om was shot dead. Former national Park officer, Chaiwat Limlikhit-aksorn was arrested, but later acquitted with claims that the evidence against him was insufficient. In January 2020, state prosecutors dropped murder charges against him and three of his former subordinates accused of murdering Karen rights activist Porlajee "Billy" Rakchongcharoen, citing a lack of evidence. Later, in August 2020, DSI moved to reopen Billy's case. Billy was last seen on 17 April 2014, after he was stopped by Chaiwat at a checkpoint while traveling to meet Karen people who had accused national park officials of destroying their homes three years earlier. The four suspects were arrested after bone fragments with Billy's DNA were found in an oil tank submerged in a reservoir.⁵⁹

8. Recommendations

8.1. **Thailand's False Climate Solutions: forest conservation laws and policies failing to protect and respect human rights**

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

b. Reform the National Park Act 2019 to avoid charges of encroachment and criminalization of local communities and indigenous peoples who have traditionally lived in or near the protected area, and regularize their land tenure therein.

c. In line with the Framework Principles on Human Rights and the Environment, A/HRC/37/59, 2018, ensure that national environmental standards are non-discriminatory and that they protect and respect human rights.

8.2. Rights of indigenous peoples vis-à-vis national park regulations

a. In line with the 2017 Concluding Observations of the Human Rights Committee to Thailand, recognize the status of indigenous peoples and guarantee the full enjoyment of their rights, including protection against discrimination regarding citizenship, access to basic services and land rights.

b. In line with the 2017 Concluding Observations of the Human Rights Committee to Thailand, ensure that prior consultations are held with a view of obtaining indigenous peoples' free, prior and informed consent regarding decisions that affect them, in particular with regard to their land rights.

c. In line with the 2015 Concluding Observations of the Committee on Economic, Social and Cultural Rights to Thailand, effectively remove all obstacles to enjoyment of traditional individual and communal rights by ethnic minorities in their ancestral lands and take effective measures to guarantee land tenure rights without discrimination so as to ensure access to land and adequate housing for all. Reform the National Parks Act of 2019 to respect indigenous peoples' right to their ancestral lands.

8.3. Thailand's unsustainable pursuit of economic growth over human rights

a. In line with the 2015 Concluding Observations of the Committee on Economic, Social and Cultural Rights to Thailand, legally prevent forced and arbitrary land grabbing and eviction of local communities, including cases for the purpose of public, private, economic and development projects.

b. In line with the Principles 1 and 2 of the UN Guiding Principles on Business and Human Rights, take all necessary measures to ensure that businesses operating in its territory respect and uphold human rights of local communities, including their right to land.

c. In line with the 2015 Concluding Observations of the Committee on Economic, Social and Cultural Rights to Thailand, adopt a human rights-based approach in its development

projects and establish participatory mechanisms in order to seek the free, prior and informed consent of affected communities.

d. In line with the 2015 Concluding Observations of the Committee on Economic, Social and Cultural Rights to Thailand, address, as a matter of priority, the underlying causes of corruption and enhance the effectiveness of the legal, structural and policy measures to combat corruption at all levels and sectors.

8.4. **The criminalization and Killings of Land and Environmental Human Rights Defenders**

a. Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance and accept the competence of the Committee under articles 31 and 32.

b. Extend the invitation to the Working Group on Enforced or Involuntary Disappearances.

c. In compliance with Article 13.3 of UN Commission on Human Rights, Declaration on the Protection of All Persons from Enforced Disappearance, E/CN.4/RES/1992/29, 1992, ensure that all persons involved in investigations of cases of enforced disappearance are protected against ill-treatment, intimidation or reprisal.

d. In line with the 2017 Concluding Observations of the Human Rights Committee, to Thailand, initiate an ex-officio investigation into all pending cases of enforced disappearances, and conduct that investigation in a serious manner.

8.5. **Rural Women & Indigenous Women: living the struggle within the struggle to protect their land**

a. In line with the 2017 Concluding Observations of CEDAW Committee to Thailand, undertake preventive measures to avoid future cases of lawsuits, harassment, intimidation and violence against women human rights defenders, including by improving the effectiveness, in consultation with women human rights defenders, of the Witness Protection Office within the Ministry of Justice.

b. In line with the 2017 Concluding Observations of CEDAW Committee to Thailand, effectively investigate, prosecute and adequately punish all cases of harassment, violence and intimidation against women human rights defenders and provide effective remedies to victims.

c. Ensure effective consultations with women from affected communities with regard to the zoning of national parks and the economic exploitation of lands and territories traditionally occupied or used by them, seek their free, prior and informed consent, and provide adequate compensation as necessary. In line with the 2017 Concluding Observations of CEDAW Committee to Thailand, ensure that women participate in the formulation and implementation of climate change responses, and that such responses fully include their perspectives, especially of rural women.

8.6. Ineffective Access to Remedy

- a. Enhance access to justice and governmental services for people living in rural and remote areas to ensure fair and equal access to the rights in case of land disputes.

- b. In line with the 2015 Concluding Observations of Committee on Economic, Social and Cultural Rights to Thailand, ensure protection to victims of violations of economic, social and cultural rights caused by corruption and their lawyers, as well as to whistle-blowers and witnesses of corruption cases.

Endnotes

- ¹ Manushya Foundation, *Rights of Indigenous Peoples in Business Contexts: Working Paper*, 2019, p. 29, available at: https://a9e7bfc1-cab8-4cb9-9c9e-dc0cee58a9bd.filesusr.com/ugd/a0db76_a0eec2a5d1004c1899bcaa987e6b40c1.pdf ; World Rainforest Movement, *Thailand's New "Forestry Master Plan": Same old strategy dressed up in new clothes*, 9 December 2014, available at: <https://wrm.org.uy/articles-from-the-wrm-bulletin/section1/thailands-new-forestry-master-plan-same-old-strategy-dressed-up-in-new-clothes/> ; Master Plan to Resolve the Problems of Forest Destruction, Trespassing of Public Land and Sustainable Management of Natural Resources (Forestry Master Plan), 31 July 2014, p. 2, available at: <https://multi.dopa.go.th/criminal/assets/modules/news/uploads/3355465e2bdeb8c8e23ae0fba2b742f0592550f7d7948122258396482430569.pdf>
- ² See the Analysis of the Sai Thong National Park Case – Section 6: Focus on the National Park Act 2019 on Manushya Website at: Manushya Foundation, #SaveSabWaiVillagers from Going to Jail! The Unfair Criminalization of 14 Sab Wai Villagers under Thailand's Forest Reclamation Policy!, available at: <https://www.manushyafoundation.org/sai-thong-np-case>
- ³ Constitution of the Kingdom of Thailand (2017), Section 41, available at: http://www.constitutionalcourt.or.th/occ_en/download/article_20170410173022.pdf
- ⁴ NCPO Order No. 64/2014 Re: Suppression and Cessation of Encroachment and Destruction of Forest Resources, issued 14 June 2014, effective 20 June 2014, available at: https://library2.parliament.go.th/giventake/content_ncpo/ncpo-order64-2557.pdf
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