



RECLAIMING THE NARRATIVE

THE STRUGGLES OF ENVIRONMENT DEFENDERS
IN FIVE COUNTRIES IN SOUTHEAST ASIA



RECLAIMING THE NARRATIVE

**THE STRUGGLES OF ENVIRONMENT DEFENDERS
IN FIVE COUNTRIES IN SOUTHEAST ASIA**

Asia Pacific Network of Environment Defenders (APNED)
Center for Environmental Concerns – Philippines Inc. (CEC)

Reclaiming the Narrative:
The Struggles of Environment Defenders
in Five Countries in Southeast Asia

Published on April 2021

Copyright 2021

Project coordinator: Danica Castillo
Editor: Terence Lopez
Writers: Frieda Bosito, Ivan Phell Enrile, Jodel Dacara,
Lia Mai Torres, Mark Pascual, Weng Cahiles
Contributors: Amarin Saichan, Ayu Kusuma Pertiwi,
Ngoun Yemvedtey, Penchom Saetang, Saw Tha Phoe,
Sor.Rattanamanee Polkla
Project Assistant: Justine Siriban
Layout: Roneil Villegas
Printer: Inked Quill VPC

Publisher:
Asia Pacific Network of Environment Defenders
Email: info@apned.net
defendersasiapacific@protonmail.com
Website: apned.net

Center for Environmental Concerns – Philippines Inc.
E-mail: info@cecphils.org
Telefax: (632) 8356 2166
Website: <http://www.cecphils.org/>

This publication is an initiative of the Asia Pacific Network on Environment Defenders with the Center for Environmental Concerns – Philippines Inc. as the secretariat. The reproduction of this publication in full or in part is encouraged as long as it is properly acknowledged.

This publication has been developed with the support from the United Nations Development Programme (UNDP). The views herein shall not be taken to reflect the opinion of UNDP.

CONTENTS

Foreword

A Moral Imperative: Protecting Environmental Human Rights Defenders in Southeast Asia	1
---	---

Introduction	5
--------------	---

The Narratives

Cambodia

Growing Resistance: Defending Cambodia's Land and Forests	9
---	---

Myanmar

Crisis Unfolding: Extractives, Military Rule, and the Worsening Situation of Environmental Defenders in Myanmar	27
---	----

Thailand

Rights violations under the “post-junta” dispensation	49
---	----

The Philippines

Grim Regime: Unceasing Killings Despite the Pandemic	67
--	----

Indonesia

Resurging peoples' struggles against rights abuses and mega-development megalomania in Indonesia	85
--	----

The Call to Action	105
--------------------	-----

Collaborating Groups	109
----------------------	-----

A MORAL IMPERATIVE: PROTECTING ENVIRONMENTAL HUMAN RIGHTS DEFENDERS IN SOUTHEAST ASIA

In the midst of a global environmental crisis of unprecedented severity, the world urgently needs more people to stand up and fight for the protection and restoration of the air, water, soil, biodiversity, and climate that we all depend on. In short, we need more defenders of the right to a healthy environment, Indigenous rights, the rights of the child, and other human rights.

And yet, in far too many states, it is a dangerous activity to advocate for protecting the environment and human rights. The statistics are ugly—more than 200 documented murders of environmental human rights defenders every year, with South-East Asia a blood-stained global hotspot.

In Cambodia, Indonesia, Myanmar, the Philippines, and Thailand, we see common patterns. In each of these nations, environmentalists, farmers, women leaders, indigenous peoples, lawyers, scientists, community leaders, journalists, and social media activists are striving to make the world a more just and sustainable place. They may not apply this label to themselves, but they are serving as environmental human rights defenders. They understand that the nations where they live are among the most biologically diverse nations on Earth, with an extraordinary abundance of wild species.

Yet, instead of being celebrated and honoured, these visionary and courageous individuals are subjected to harassment, intimidation, violence, and criminalization. Governments are weaponizing the law, shrinking civic space,

and at least tacitly endorsing extrajudicial killings. Large corporations collude with government, putting private interests ahead of public interests and profits ahead of people.

Environmental human rights defenders themselves are pushing back with all their might, employing creative, nonviolent efforts, including education, research, lobbying, and direct actions. Their ongoing commitment, despite the daunting dangers they face, is incredible and inspiring.

What can we do to protect these environmental and human rights heroes?

We have the 1998 UN Declaration on Human Rights defenders. We have Human Rights Council resolution 40/11 on environmental human rights defenders. There is a new regional treaty, the Escazu Agreement, with pioneering obligations on States to protect environmental human rights defenders in Latin America and the Caribbean. A similar treaty could be negotiated in Southeast Asia. A new rapid response mechanism for environmental human rights defenders is being developed by Parties to the Aarhus Convention. Southeast Asian nations could join the Aarhus Convention.

What is needed right now, urgently, is to go beyond words and declarations. We need States and businesses to take action to protect environmental human rights defenders who are at risk. We need the immediate implementation of existing national protection mechanisms and the enforcement of existing laws. Where national protection mechanisms do not exist, they must be enacted and implemented. We need to reverse the rollbacks that have occurred during this terrible COVID-19 pandemic, which some States have used as an excuse to weaken environmental rules, processes, and enforcement. We need to use rights-based approaches to conserve nature, tackle climate change, reduce pollution and prevent future pandemics. Evidence demonstrates conclusively that protecting the rights of Indigenous Peoples and local communities produces positive conservation outcomes. States need to build capacity, reduce corruption, and strengthen the rule of law.

The UN Special Rapporteur on human rights defenders, Mary Lawlor, recently presented a strong report recommending actions that could reduce the threats against environmental human rights defenders. According to the Special Rapporteur, States should acknowledge and honor the work of all human rights defenders, condemning threats against them. All States should enact, strengthen and enforce laws that specifically protect human rights defenders, highlighting

the importance of gender equality. States should engage national human rights institutions or special commissions of inquiry to investigate patterns of threats and violence against human rights defenders. States should also collect and publish disaggregated data on the number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention, torture, and other harmful acts against human rights defenders, in accordance with Sustainable Development Goal indicator 16.10.1.

Businesses and international financial institutions also have an important role to play in ensuring safe conditions for environmental human rights defenders. These organizations should develop and publish specific policies to safeguard human rights defenders and commit to mandatory human rights and environmental due diligence.

This timely and vital report highlights the amazing work of women and men in Cambodia, Indonesia, Myanmar, the Philippines, and Thailand. Their stories are inspiring, but their abuse is heart-breaking. Our goal must be zero tolerance for violence, intimidation, and criminalization of environmental human rights defenders. We all need to take action immediately to protect and celebrate the brave individuals and communities working to protect this beautiful blue-green planet that we are all so fortunate to call home.



Dr. David R. Boyd

UN Special Rapporteur on human rights and the environment

INTRODUCTION

Sunthorn Duangnarong, Mr. Sumeth Rainpongnam, Betty Belen, Windel Bolinget, Egedius Pius Siam, Effendi Buhing, Ouch Leng, Mr. San Mala, Mr. HUN Vannak, Saw O Moo, Saw Thet Mee, Phattraporn Kaengjumpa, Somboon Sriburin, And Wiron Ruchichaiyawat.

These are some of the many brave defenders of the environment in Southeast Asia – forest rangers, indigenous leaders, community leaders, Non-Government organization (NGO) workers, women human rights defenders. They are ordinary people, standing up for the environment, their right to life, and the freedom to live in harmony with nature. They are in the front and center, working tirelessly to preserve biodiversity, protect the environment, and mitigate the effect of climate change. They seek to uphold the people's right to a safe, sustainable environment and their continuing access to and control of shared resources for survival, yet they are under attack.

Large-scale mining, mega-dams, and industrial plantations disrupt the ecological balance, devastating the people's way of life. Intensified plunder of resources leads to more violations of indigenous, rural, and peasant communities' rights. Allowing increased foreign investments enables development aggression leading to the mass exodus of indigenous peoples from their territories and the killings of hundreds waging opposition and resistance.

Cambodia is one of the most biologically-diverse in Southeast Asia; the third-largest lowland dry evergreen forest is nestled in the country. The government-backed Economic Land Concession (ELC) has resulted in massive deforestation to accommodate corporate agriculture. International watchdogs have raised the alarm against the rise of attacks against environment defenders as seven have been killed from 2014-2019.

The double whammy of foreign investments in destructive mining and illegal logging activities in Myanmar has caused vast deforestation of up to 10 million hectares. These foreign investments fuel the fire to the ongoing internal conflicts involving ethnic minorities and government forces, causing thousands of

displacement among rural peoples, widespread land grabs of ancestral domain, and degradation of their indigenous way of life.

Indonesia's President Jokowi Widodo has touted mega-development projects as a salient feature in his administration. Such mega-development projects include oil palm plantations that facilitated widespread land grabs, destruction, and displacement among rural communities and indigenous peoples. Community organizations have reported both private and state security forces as instrumental in carrying out these transgressions.

In Thailand, the five-year military junta has further allowed the conditions and policies to accommodate corporate interests such as trade liberalization and free trade agreements, especially with China and Japan. State forces helped to implement policies and regulations that eased corporate operations on mining and drilling, industrial estates, or reforestation, resulting in massive land grabbing in exchange for foreign direct investments.

The Philippines had the worst COVID-19 outbreak in Southeast Asia, resulting in one of the longest lockdowns worldwide. The heavily militarized administration of President Duterte has yet to manage the health crisis; worse, it only weaponized the pandemic, targeting its critiques, ranging from traditional opposition, activists, lawyers, and even private individuals. The KALIKASAN People's network for the Environment has documented 260 cases of human rights abuse committed against environmental defenders, including two killings, 173 arrests and detentions, and 25 physical assaults as of July 2020.

The COVID-19 pandemic has not only triggered the wave of repression and authoritarianism in the subregion; it has also ignited the shift of spaces to digital, which meant further constriction of the already shrinking civic spaces. In this context, amplifying the marginalized voices has been doubly challenging, and sharing their truth has become a fierce battlefield.

Thus, in this report, Asia Pacific Network of Environment Defenders (APNED) seeks to harness the remaining spaces by retelling and reclaiming the narratives of environment defenders' struggles in five countries in Southeast Asia. Together with its collaborating partners, the report documented the people's collective experience as they challenge corporate power and state perpetuated violence in line with the defense of their communities and the environment.

The report aims to arm community leaders, activists, and environment defenders with an initial tool that chronicles the state of the environment and human rights in Southeast Asia; to inspire and guide them in their respective campaigns and movements, even as they find mutual grounds for building people to people solidarity in waging determined struggles against common aggressors.

Lastly, the report also honors the legacy of those who shed blood, sweat, and tears to preserve and defend the remaining swathes of lands, forests, and bodies of water in the subregion. The people continue to come together and march forward, ever more fervent in fulfilling their legacy.

GROWING RESISTANCE: DEFENDING CAMBODIA'S LAND AND FORESTS

By Frieda Bosito

'Even though I know my life is at risk, I still try to save the forest.'
- Ouch Leng, 2016 Goldman Environmental Prize Awardee

Ouch Leng was only six years old when he witnessed his family experience land grabbing by the government. The Khmer Rouge's rise to power has forced his family to flee the capital city of Phnom Penh to Takeo province. Since then, the forest has been Ouch Leng's refuge from conflict, hunger, and poverty during the brutal political regime. Forests have sustained his family for years, and Ouch Leng pledged on his life to return the favor – even if it means risking his own life and safety (Goldman, 2016).

A long-time human rights activist and a lawyer, Ouch Leng founded the non-government organization Cambodia Human Rights Task Force (CHRTF) to take action and defend Cambodia's land, forests, and people. He took an interest in the ELCs and studied how a mechanism that promises better opportunities for the people ends up razing forests to the ground. He gathered data and information and exposed the illegal activities of companies and business tycoons that benefit from the government's supposed questionable land concessions. Ouch Leng particularly pursued Try Pheap, one of the biggest timber magnates in Cambodia, and challenged his company in court. This legal action, coupled with widespread protest actions, has prompted the government to place a moratorium on land concessions in 2012 (Goldman, 2016).



Ouch Leng, founder of Cambodia Human Rights Task Forces – a non-government organization that fights against illegal logging and timber business in Cambodia, confiscating the illegal loggers' equipment to clear the forest. (Photo by Goldman Environmental Prize)

Cambodia's drive to enhance its national economic development, however, comes at the price of destroying its precious natural resources, including areas that hold Khmer heritage and are sacred to indigenous communities. Thousands of hectares of forests are being stripped bare, polluted, and desecrated by giant multinational companies that appear to enjoy immunity through highly skewed national laws and policies. Any rightful and just resistance against the unabashed environmental destruction were met with intimidation tactics, harassment, illegal detention, and human rights violations. Amid the environmental degradation and the economic challenges that directly affect people's welfare, the human rights situation in Cambodia has also grown increasingly alarming.

But Ouch Leng was not deterred in his quest to protect and save the forests of Cambodia. His courageous actions earned him global recognition, and in 2016 was awarded the Goldman environmental prize. Several years later, Ouch Leng continues to fight alongside fellow environmental defenders and honor the legacy of environmental activist and friend, Chut Wutty who was murdered in 2012 due to his advocacy against illegal logging (Vidal, 2016).

CAMBODIA'S NATURAL WEALTH

Cambodia is considered to be among the most biologically-diverse countries in Southeast Asia, with 8,260 plant species (10 % of which are said to be endemic) and as much as 1,402 animal species, according to the Convention on Biological

Diversity (CBD). The third-largest lowland dry evergreen forest in Southeast Asia stands in Cambodia, holding up to 2,300 plant species alone (USAID, 2019). Nearly half of Cambodia's land are protected areas, which include seven national parks, ten wildlife sanctuaries, three protected landscapes, three multiple-use areas, six protection forests, and eight fish sanctuaries, according to the ASEAN Centre for Biodiversity.

Such vast natural wealth comes with a hefty price – corporate-induced, man-made activities such as illegal logging and wildlife poaching pose a significant risk for the country's natural resources. Additionally, forest land conversion to accommodate corporate agriculture has led to the rapid decline of Cambodia's natural resources. Cambodia's forests, according to the CBD, have “decreased significantly in terms of both area and quality” in recent years, losing more than a quarter of its primary forests since 2000. The CBD cites commercial logging, land encroachment, farming, and infrastructure development as among the main drivers of forest degradation.

The country's fertile land and rich natural resources not only provide ecosystem services such as food, shelter, and livelihood – the Khmer peoples' way of life is deeply rooted in nature and the environment. But who benefits from such abundant natural resources?

LAND FOR SALE

Agriculture has always been among the economic drivers of Cambodia (Prachvuthy, 2011). According to the World Bank, Cambodia's economy is primarily based on agriculture, employing about 3 million people and contributing up to 22% of the country's GDP of \$27.09 Billion and \$1,643.12 per capita (World Bank, 2019). The indigenous communities traditionally practiced shifting cultivation, including slash and burn agriculture which allowed for the rotational use of the forest land and, subsequently, its own natural regeneration (Prachvuthy, 2011).

In his paper, Prachvuthy recounts that with the signing of the Paris Peace Agreement in 1991, a free market economy was ushered in Cambodia, and along with it, multinational corporations flocked to the country to partake in the concessions that the newly-democratic government regime had offered.

The ELCs are sizable tracts of state private land that the Cambodian government lease long-term to private companies for agricultural or agro-

industrial use (GRAIN, 2017). As of 2019, ELCs covered more than two million hectares of land. According to Forest Trends, “virtually all forest clearance is associated with ELCs” in 2013, which includes natural or pristine forests.

The government’s ELCs grant multinational companies the authority to own and develop a particular piece of land. According to a report by the OHCHR in 2015, ELCs have been granted mostly to large-scale agribusinesses. These projects, taking place in vast forests and agricultural lands, are affecting poor rural communities leading to forced evictions by large plantations and corporations. A 2020 report by The Observatory for the Protection of Human Rights Defenders revealed that the number of people displaced and affected by the widespread land grabbing in Cambodia has risen to more than 500,000 in the last 20 years, about 32,000 in the previous two years alone.

Among the enormous private corporations that benefited from large concessions include Korean-owned Think Biotech (Cambodia) Co Ltd, Chinese-owned Hengfu Group Sugar Industry, and Shukaku Inc, owned by a prominent Senator (Global Witness, 2018). Individuals too and supposed government cronies are taking advantage of the skewed ELC system to profit from the ‘violent’ land grabbing and wholesale plunder of Cambodia’s natural resources, according to Global Witness.

Shukaku Inc has dipped its fingers in the controversial Boeung Kak lake development, which reportedly displaced about 4,000 families living around the lake to put up the “Phnom Penh City Center The Pearl of Cambodia” (Baliga and Chakrya, 2017). The lake, considered by the Environmental Journal Atlas as the largest urban wetland in Cambodia, has been dredged and reclaimed to build infrastructures such as a sports complex, a golf driving range, an international school, and a residential villa. Meanwhile, in the rural village of Preah Vihear, peasants and indigenous peoples have been evicted from their land and homes to give way to foreign concessionaires. Forests and farmlands were destroyed, waterways have been poisoned, while the destruction of ancient cultural sites caused irreparable damage to the Kuy people’s indigenous heritage (GRAIN, 2017).

These companies’ so-called ‘development projects’ figure in massive-scale environmental destruction – hundreds of hectares of lakes and forests were cleared and reclaimed, polluting the remaining ecosystems and encroaching wildlife habitats. The loss of these vital ecosystems that are economically,

culturally, and spiritually significant to the people and local communities has only deepened the poverty in the rural areas.

A DANGEROUS UNDERCURRENT

It is natural, and in fact, imperative that the people protect these essential natural resources and halt any destructive activities that put their survival in peril. On the other hand, multinational companies are doing their own protection – that of their interests and millions of dollars' worth of investments, employing violent tactics to silence protests and sow fear among the people and the communities. Recently, Cambodia has been put in the spotlight as the attacks against critiques, social movements, and journalists continue to rise.

From 2014 to 2019, UK-based watchdog Global Witness noted the highly concerning rise in human rights violations in Cambodia, reporting seven (7) victims of killings in the period of five years. The victims were mostly rural villagers and forest defenders involved in efforts to stop massive deforestation and illegal logging.

On March 13, 2020, Think Biotech private security guards arrested four environment activists, including Ouch Leng, while monitoring its illegal logging activities. Along with Leng, Khem Soky and Srey Thei, from the Prey Lang Community Network (PLCN); and Men Mat were accosted by the company guards and were supposedly beaten and detained overnight before turning them over to the Sambor district police. While no charges were filed against them, the forest defenders deem that such acts are meant to harass and intimidate them.

Even virtual protests were met with similar repression. On September 3, 2020, three activists from the group Mother Nature were arrested over a social media post. Environmental rights defender Thun Ratha and women environmental rights defenders Long Kunthea and Phuong Keorasmey expressed their plans to livestream Long Kunthea's single person march from Wat Phnom to the Prime Minister Hun Sen's private residence to protest against the reclamation of Boeng Tamok Lake and raise the possible environmental issues that the project will cause. The three environmentalists were arrested even before they were able to conduct their activity (Front Line Defenders, 2020).

Amid the apparent intent to curtail mass actions, the people of Cambodia continue to push back and fight for their right to land and its bountiful



Environmental Defenders held a peaceful protest at the Kratie Province Court after Think Biotech Security arrested and handed the four environmental activists to local authorities on March 13, 2020. (Photo by Mech Dara, Twitter)

resources. Environment defenders -- from peasants, indigenous peoples, women leaders, and the youth -- have taken the front lines against illegal logging, deforestation, and land grabbing cases enabled by the ELCs. According to The Observatory report, the use of state forces in dealing with land disputes has become “a worrying trend.” Security forces have been known to use threats, harassments, and other intimidation tactics and more severe rights violations such as illegal detention and arrests from trumped-up charges and blatant shooting at peaceful protestors.

The perpetrators, both those with direct and indirect hand in the ensuing violence, remain unscathed, protected by the bubble of national policies that serve to repress and curtail democratic rights. Legislations such as the 2015 Law on Associations and Non-Governmental Organisations (LANGO); the 2016 Law on Trade Unions (LTU); the 2015 Law on Telecommunications; and the recently-passed Law on the State of Emergency have become tools to shrink civil society space further. Environment defenders, farmers, women leaders, indigenous peoples, and journalists, social media activists are arrested and detained based on vague charges such as incitement to commit a felony, incitement to commit chaos, public insult of the leader, and slander, among others. Resisting villagers have been known to disappear for months only to come back severely injured and in a state of shock (The Observatory, 2020).

From the repressive national policies to the use of excessive violence, to silencing the opposition and the media and other avenues for expression – these violations of environmental defenders' fundamental rights were systematically committed to break the resistance being determinedly waged by environmental advocates and rural peoples of Cambodia.

STURDY RESISTANCE AND A GROWING HOPE

The values of non-confrontation and deference to authority has been central in Cambodian society, which the Cambodian elites “continue to exploit” to “legitimize their power” (Landau, 2008). But now, the Cambodian people are pushing back and resisting the skewed development policies to protect the environment and ensure their survival and their future. Over the years, as the unsustainable use of natural resources and outright plunder of the environment grow worse, the people have been responding in various ways to express their opposition and show their resistance against these so-called development projects.

Their strategies run the gamut from education, research, policy lobbying, and direct actions. For instance, local communities from the Prey Lang forest, led by the PLCN, have been conducting independent patrols and surveillance around the forest and documenting the data they gathered using mobile applications. Data and results from these monitoring activities are sent to national legislators to support the communities' claim of illegal logging and deforestation.

To raise awareness on the environmental issues and the precarious situation of the communities, advocates take on a variety of creative actions. In 2020, 18 young environmental activists initiated a cycling activity in support of the “Save Koh Kong Krao Island” campaign. This is part of a larger petition signing campaign to declare the island as a protected national sea park and preserve its natural resources. Petition signing is among the most popular means of generating interest and calling the attention of the relevant government officials.

Meanwhile, ethnic Kuy communities in the Preah Vihear province held traditional ceremonies to “call upon the local spirits to curse the companies” in 2015 and 2017, according to GRAIN. Communing with the local spirits added to the courage and unity of the villagers, who proceeded to hold direct actions against the companies, forming barricades and blocking the entry of bulldozers, backhoes, and other equipment that will clear their ancestral lands. These

collective actions yielded small victories, such as compelling the companies to engage with them or the local authorities to visit the conflict areas and concede some areas for the affected villagers, but then again, most of these gains are short-lived.

Sustaining these pockets of victories and consolidating them into huge decisive wins can be challenging, but these are not insurmountable. Bold, direct actions; strong and robust organizing and solidarity; and in-depth education continue to be among the most effective responses that the Cambodian environmental defenders and advocates can do to resist environmental plunder. These must be done, however, in a collective and united manner, as one Khmer peoples protecting nature and environment and defending their ancestral lands.

The community actions and other forms of people's response to guard their lands, preserve biodiversity, and defend their environment are laborious, lengthy, and at times dangerous and deadly. Cambodian environment defenders' experience - rural peoples, indigenous peoples, women leaders, and the youth proves that the resources, culture, and wisdom that come with it are worth fighting for. The environment is not only for the present but also for future generations, so resistance will continue until the communities can reclaim their dignity.



Ethnic Kuy Communities held a traditional ceremony to "call upon the local spirits to curse the companies" who have been clearing the land in Preah Vihear province. (Photo by The Phnom Penh Post)

FOLLOWING ARE CASES OF VIOLATIONS COMMITTED AGAINST ENVIRONMENTAL DEFENDERS IN CAMBODIA

Prepared by Ngoun Yemvedtey, Not1More



Ouch Leng (right) and his colleague Mr. Mart (left) at the Kratie province's temporary jail. (Contributed photo)

OUCH LENG

*Founder, Chairman of Cambodia Human Rights Task Force (CHRTF)
2016 Goldman Environmental Prize Awardee*

THE VICTIM

Ouch Leng is a well-known forest protection activist who dares to risk his life in fighting to prevent the devastation of the Prey Lang Wildlife Sanctuary, the largest forest in Cambodia. He treads a dangerous yet determined mission to investigate and protest the rampant cutting of timber carried out by multi-billion corporations in this protected area. For his work, he was awarded the Goldman Environmental Prize in 2016 even as he has also been a target of persecution by state authorities and private business interest. Mr. Leng is of Khmer nationality who was born on August 4, 1975 at Seam Dek village, Krang Leav Commune, Batie District, Takeo province.



Ouch Leng (in front, right) set free from jail. (Contributed photo)



Ouch Leng (third from the left) and his colleagues and supporters after being freed from jail. (Photo by central-cambodia.org)

THE VIOLATIONS

Type of violations: Illegal arrest and detention

Date and Place of incident:

- March 13, 2020, Sombo district, Kratie province
- February 5, 2021, Sombo district, Kratie province

Perpetrator: security of Think Biotech Co., Ltd and state environment officials

THE INCIDENT

Forest protection activist Ouch Leng along with a number of his colleagues were arrested on two separate occasions -- first, by private company security guards and second, in tandem with state environment officials.

On March 13, 2020, Three days before the arrest happened, Ouch Leng together with five other activists set out to investigate illegal logging activities in the Prey Lang forests at Sambo district, Kratie province perpetrated by Korean owned Think Biotech Co., Ltd.

They arrived at Preah Vihear province on the second day of their journey to also investigate illegal harvest of timber at the Rovieng district by Thi Nga

Company, another private business granted Economic Land Concession (ELC) by the government. The group took pictures of the activities of timber workers and truckloads of illegal timber being transported to the company premises.

On March 13, the group arrived at Sambo district and one activist, Man Mart, was the first to pay a visit to the company premises of Think Biotech. When asked by security what his purpose of coming was, he honestly replied he was there to take pictures. Man Mart was immediately arrested by company security guards. Ouch Leng and two colleagues followed Man Mart to the site and saw how the latter got injured in a scuffle with company guards who forcibly confiscated his camera.

The four activists were detained in the site for hours before they were jailed at the Sambo district police office and questioned successively by the District Inspector, the Kratie Province Deputy Prosecutor and the Kratie Provincial Commissioner. They were later brought to the Kratie Provincial Court on March 15, even as during proceedings supporters demonstrated at the court demanding their release. Ouch Leng and his colleagues were released the same day after they were made to sign a document to cease entering Prey Lang. Their mobile phones and motorcycles were also confiscated by the court.

Relentless in his advocacy, Ouch Leng was part of a group of 10 environmental activists who entered Prey Lang at the Sandan district, Kampong Thom province to put slogan which read, "Participate in protecting our ancestral heritage." They were also there to take pictures and install two hidden cameras to capture the movement of hired workers and big trucks delivering illegal timber to a certain Mr. Lai Heang of Think Biotech.

On the fifth day of their action, while in the middle of tree stamping at noontime, around 20 Think Biotech security guards and workers riding motorbikes surrounded and prevented the activists from leaving the area. State environment officials later took custody of the five activists, including Ouch Leng, while releasing their other five colleagues who agreed to sign waivers.

The arrested activists were detained for three days at the Kratie City Inspectorate and brought before the provincial court which released them on February 8, 2021. The prosecutor ordered they sign a document promising cessation of entry to Prey Lang unless approval is secured with the Ministry of Interior, and taking pictures and sharing information to institutions about Prey Lang without consent from the Kratie Provincial Department of Environment



Mr. Thon Ratha (in red shirt) at the Phnom Penh Municipal Court. (Photo by cambojanews.com)



Reaksmey (left) and Kunthea (right) on the way to their hearing at the Supreme court. (Photo by khmertimes.kh)

THREE MOTHER NATURE ACTIVISTS

Mr. Thon Rotha, Ms. Long Kunthea, and Ms. Phoun Keo Raksmeay

Young environment defenders from Mother Nature Cambodia

THE VICTIMS

Thon Rotha, 29, married and raising a year-old son, is an environmental activist from Dom Dek district, Kandal province. He joined Mother Nature Cambodia in 2015.

Ms. Long Kunthea, 23, quit her job as a primary school teacher to join Mother Nature Cambodia because of her passion to protect the environment's natural resources. She hails from Kompong Cham province.

Phoun Keo Raksmeay, 19, is a native of Svay Rieng Province and an Information Technology student at a university in Phnom Penh. Her involvement in civic activities to protect natural resources and her interest in social justice

issues motivated her to become an environmental activist for Mother Nature Cambodia in mid-2019.

The three activists were behind the group's video exposé released on Facebook raising alarm over reclamation projects on Ta Mok Lake, one of the remaining large lakes in the country's capital Phnom Penh. From 2016 to 2020, hundreds of thousands of square meters and several hectares of lake areas have been allocated to state and private business projects. The lake provides livelihood to hundreds of fishing families living in 25 villages, an important habitat for bird species, and a vital reservoir to prevent flooding.

THE VIOLATION

Type of violation: Illegal arrest and detention; trumped-up charges based on "incitement to commit a felony or disturb " under Articles 494 and 495 of the Penal Code on 6th September.

Date and Place of incident: September 3, 2020, Chbar Ampov district, Phnom Penh

Perpetrator: Phnom Penh authorities



Reaksmeay (left) and Kunthea (right) at the Phnom Penh Municipal Commissioner. (Photo by tnaot.com)

THE INCIDENT

After posting in social media that they plan to march from Wat Phnom to the house of Prime Minister Hun Sen to raise awareness on the negative impacts of unhampered filling in of Ta Mok Lake, the three activists were arrested on separate occasions on September 3, 2020. The arrest happened when they had not even embarked on their protest march. Kunthea and Raksmeay were nabbed at the latter's aunt's house in Chbar Ampov district while Rotha was seized.

On the third day after their arrest, they found out that Reasmey and Kunthea were at Chbar Ampov district police station. They only found Rotha a few hours after they were sent to Phnom Penh, Municipal Commissioner.

On September 6, 2020, the three activists were charged under articles 494 and 495 of the Criminal Code after a three-day pre-trial detention ordered by the Phnom Penh Municipal Court judge. The criminal case - direct incitement to commit a felony or disturb social security - metes out a punishment of imprisonment between six months to two years.

The Appeals Court on September 20, 2020 denied the victims' application for bail and rejected their request for the case against them to be dismissed. The Director of Cambodian Center for Human Rights insisted that the environmental defenders should be released on bail, adding that they should not have been arrested in the first place because they were merely exercising their basic human rights to peaceably assemble and express their opinions. And that instead of warranting a criminal case, their actions should be seen as active youth involvement on relevant issues of society like protection of the environment.

With the case now brought to the Supreme Court, the three activists continue to assert that their work and, in particular, the Ta Mok Lake advocacy video is not intended to incite chaos targeting the government but to raise public concern over a pressing environmental problem.



Mr. Ven Vorn at the Department of Planning of Koh Kong province. (Contributed photo)

VEN VORN

Farmer and former government commune councilor

THE VICTIM

Ven Vorn, 42, is a respected Areng Valley activist and community leader for eight villages of Thmor Bang district in Koh Kong province, aside from being a government commune councilor. A member of the Chorng indigenous people, he was born, and still currently lives, in Chom Norb Village, Chom Norb Commune with his wife and three children.

Ven Vorn along with villagers from the eight communities of Thmor Bang have been protesting the detrimental impacts of huge dam projects. In particular, Areng Valley activists were sounding the alarm against a China-backed hydropower dam construction, for which they have earned the ire of state authorities.

THE VIOLATION

Type of violation: Illegal arrest and detention, tramped-up charge

Date and Place of incident: October 17, 2015, Koh Kong Province Court

Perpetrator: local authorities



Mr. Ven Vorn being interviewed by the media about his case. (Photo by rfi.fr)



Koh Kong court imprisoned Mr. Ven Vorn. (Contributed photo)

THE INCIDENT

Ven Vorn showed up at the Koh Kong Province court on October 7, 2015 to present his clarification for violating Article 98 of the Forestry Law which punishes harvesting of forest products without authorization. It was the deadline of the court summons and the day ended with Ven Vorn being arrested and sentenced to one year imprisonment.

Defense lawyers and environmental activists supporting Ven Vorn argue that there is no basis for the case as the law does not illegalize the use of forest products by members of forest communities for non-business activities. Ven Vorn asserted that the timbers were for building a community center for local activities of the villagers. Moreover, the timbers in question were not harvested by Ven Vorn but bought for the purpose of construction. He further argued that even the council members supported the idea of building the center so long as it only covers half of the allotted land for the project.

For Ven Vorn, the real reason behind the charge is that on top of their staunch anti-dam resistance, the community center will provide a venue for more public engagement and further strengthen their cause. Thus, the lawsuit is precisely to force him to abandon his fight as proved by government people who he said visited him and asked him to stop his advocacy.

Eventually, the Koh Kong court released Mr. Ven Vorn after four months and 25 days and the case was dismissed.

REFERENCES

- ASEAN Centre for Biodiversity. (n.d.) Biodiversity in Cambodia. Accessed from <https://aseanbiodiversity.org/the-richness-of-biodiversity-in-the-asean-region/biodiversity-in-cambodia/>
- Baliga, A. and Chakrya, K.S. (2017). Boeung Kak: A Disastrous Decade, February 3. Accessed from <https://www.phnompenhpost.com/national-post-depth-politics/boeung-kak-disastrous-decade>
- Convention on Biological Diversity. (n.d.). Biodiversity Facts Status and trends of biodiversity, including benefits from biodiversity and ecosystem services. Accessed from <https://www.cbd.int/countries/profile/?country=kh#facts>
- Environmental Justice Atlas. (2015). Boeung Kak Lake Evictions in Phnom Penh, Cambodia. Accessed from <https://ejatlas.org/conflict/boeung-kak-lake-evictions-phnom-penh>
- Forest Trends. (2015). Conversion Timber, Forest Monitoring, and Land-Use Governance in Cambodia. Accessed from <https://forest-trends.org/wp-content/uploads/2015/07/Cambodia20Concessions20Report20small20size.pdf>
- Front Line Defenders. (2020). Cambodia: Three environmental rights defenders arbitrarily detained [Urgent Appeal]. Accessed from <https://www.frontlinedefenders.org/en/case/three-environmental-rights-defenders-arbitrarily-detained#case-update-id-12330>
- Global Witness. (2015, April 20). How Many More? Accessed from <https://www.globalwitness.org/en/campaigns/environmental-activists/how-many-more/>.
- Global Witness. (2016, June 20) Killings of land and environmental defenders in 2015. Accessed from <https://www.globalwitness.org/en/campaigns/environmental-activists/dangerous-ground/>.
- GRAIN. (2017). Cambodia: communities in protracted struggle against Chinese sugar companies' land grab. Accessed from <https://www.grain.org/es/article/5728-cambodia-communities-in-protracted-struggle-against-chinese-sugar-companies-land-grab>
- Global Witness. (2018, July 20). Who profits from the death of Cambodia's democracy? <https://www.globalwitness.org/en/campaigns/cambodia/who-profits-death-cambodias-democracy/>
- Global Witness. (2020) Defending Tomorrow. Accessed from <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/>.
- Landau, I. (2008). Law and Civil Society in Cambodia and Vietnam: A Gramscian Perspective. *Journal of Contemporary Asia* Vol. 38, No. 2, May 2008, pp. 244-258.
- Kossov, P. S. and I. (2016, March 29). Lauded activist attacked while patrolling Prey Lang forest. *Phnom Penh Post*. Accessed from <https://www.phnompenhpost.com/national/lauded-activist-attacked-while-patrolling-prey-lang-forest>.
- Narim, K. (2020, September 6). Three Mother Nature activists charged with incitement: CamboJA News. *Cambodian Journalists Alliance*. Accessed from <https://cambojanews.com/three-mother-nature-activists-charged-with-incitement/>.

Office of the United Nations High Commissioner for Human Rights. (2015, January 26). Economic and other land concessions. Accessed from <https://cambodia.ohchr.org/en/economic-social-rights/economic-and-other-land-concessions>.

Open Development Cambodia (ODC). (2020, November 9). Environment and natural resources policy and administration. Accessed from <https://opendevdevelopmentcambodia.net/topics/environment-and-natural-resources-policy-and-administration/>.

CRISIS UNFOLDING: EXTRACTIVES, MILITARY RULE, AND THE WORSENING SITUATION OF ENVIRONMENTAL DEFENDERS IN MYANMAR

By Mark Moreno Pascual

In the wee hours of April 5th 2018, indigenous environmental activist Saw O Moo was travelling along the plains of Ler Mu Plaw, Myanmar to attend a community meeting when he was shot dead by the Burmese military. Saw is a well-respected community leader devoted to preserving the culture of Myanmar's ethnic minority Karen people. Before he was killed, Saw fought for the conservation of the Salween Peace Park which is a biodiversity hotspot and part of the Karen people's ancestral lands. Local authorities confirmed Saw's death but never released his body, preventing his family from performing funeral rites (Feyerabend Foundation, 2018).

Saw's case presents a grim picture of the current situation of environmental defenders and people's movements in Myanmar. Situated in a country afflicted by decades of ethnic conflict and military overlords, they face the direst of challenges in efforts to protect and conserve their environment and defend their ancestral lands.

Unsurprisingly, foreign investments in the form of extractive enterprises combined with the full force of Myanmar's military junta pose grave threats to environmental defenders in this conflict-affected state. Despite the National



Karen villagers protest to demand environmental conservation and the right to self-determination against Salween Peace Park's military rules. (Photo by Zoya Phan, Twitter)

League of Democracy's (NLD) landslide victory in 2015 and the renewed hope to transition to democratic rule, the country underwent rapid structural reforms exposing its vast natural resources even further to extractive mining and logging industries. To date, the extractives sector makes up 4.8% of Myanmar's Gross Domestic Product (GDP), contributes 5.2% of total government revenues and constitutes 35% of net exports making it an indispensable base for the country's economy (EITI, 2018).

But the combined impact of foreign investments in the form of destructive mining practices and illegal logging activities have resulted in more than 10 million hectares of forests completely denuded across Myanmar (World Bank, 2019). Between 2002 to 2019, Myanmar also lost 577 kha of forest which made up 16 percent of total tree cover loss in the same period (Ei Min, 2020). The neoliberal impetus to facilitate foreign investment further fuels ongoing ethnic disputes and political divides, destroys the environment, and violates people's rights in the process. At the receiving end of these attacks are ethnic minorities who, over the years, have been increasingly marginalized, targeted, and forced to flee their ancestral lands.

ESCALATING ABUSES

Human rights abuses in Myanmar are systematic and widespread. Environmental defenders especially those belonging to ethnic groups are particularly vulnerable to these attacks as they are at the forefront of resisting the encroachment of foreign mining and logging companies onto their lands.

However, due to the persisting conflict in many parts of the country, the monitoring of human rights violations in Myanmar could not happen openly thus, a representative sampling of violations that take place is not always possible. Nevertheless, various local organizations continue to document these cases as much as possible despite the risks. Table 1 below shows the aggregate number of documented human rights abuses in Myanmar from 2015 to June 2020:

Table 1. Documented Cases of Human Rights Violations in Myanmar from 2015-2020

Year	No. of Documented Cases
2015	84
2016	154
2017	50
2018	94
2019	418
2020 (Jan-Jun)	446

Source: ND – Burma, 2015-2020

Cases of human rights violations have clearly spiked in 2019 as ethnic wars escalated in many states and draconian laws passed to the detriment of farmers and indigenous communities. Documented violations include arbitrary/illegal arrests, forced displacements, land grabs, rape, torture, forced disappearances, and extra-judicial killings. The figures above do not include millions of internally displaced indigenous groups who have fled the country in search of refuge elsewhere.

While there are no specific data points pertaining to attacks against environmental defenders, several anecdotal evidence indicate an emerging trend of persisting violence and impunity. Case in point is the killing of Htay Aung in 2017. Htay Aung is a land rights activist who helped local villagers reclaim their



Thousands of people protest peacefully in Myitkyina to immediately call the authorities to drop the defamation charges against three Kachin Activists. (Photo by CIVICUS)

land after being forcibly seized by the government. Aung was beaten to death by a mob of about 20 people in northern Shan state. Three people were arrested for his murder but was shortly released by authorities (FIDH, 2017; Reuters, 2017).

Aung's death is but one of countless extra-judicial killings and other human rights abuses perpetrated by Myanmar's armed forces – the Tatmadaw. Indigenous and environmental activists are unsurprisingly at the forefront of these state-sponsored attacks touted by UN Special Rapporteur on the situation of human rights in Myanmar Yanghee Lee as tantamount to the “most serious crimes under international law” (OHCHR, 2020).

To further incentivize the entry of mining and logging concessionaires, the Vacant, Fallow and Virgin (VFV) Lands Management Law was passed in 2019 requiring all citizens residing in VFV lands to apply for a permit. Failure to do so may result in arrest on grounds of “trespassing” on one's own land with violators facing up to two years in prison.

According to official data, the VFV law covers more than 30 percent of the country's land area, three-quarters of which is home to ethnic minorities. The law quickly triggered public outcry among environmental activists, farmer organizations and ethnic groups who argue the law risks opening the floodgates for more land grabs by big business and local authorities. True enough, the VFV

law is modelled after British colonial policies that allowed the government to categorize indigenous people's territories as "wastelands" to justify undue expropriation.

SILENCING DISSENT, WEAPONIZING THE LAW

Despite difficulties in collecting comprehensive human rights data in Myanmar, what has been documented thus far speaks to the following trends:

a) Weaponization of the law

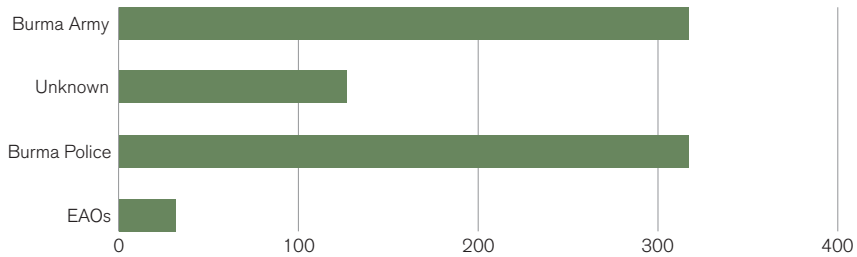
On March 7th, 2020, authorities attempted to arrest Karen environmental activist Saw Tha Phoe in Karen State on charges filed by the General Administration Department under section 505(b) of Myanmar's Penal Code. Section 505(b) criminalizes statements "with intent to cause, or which is likely to cause, fear or alarm the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility" – another draconian measure meant to stifle dissent carrying a maximum penalty of two years in jail.

Saw Tha Phoe participated in a traditional Karen prayer ceremony on January 17th 2020 in Myaingkalay District, Kayin State. The prayer was focused on concerns raised by local residents on the environmental impacts of a cement factory operating nearby. Villagers have complained about air quality issues, water pollution and the poisoning of their fish stocks. The cement company has also been linked to land confiscation and cases of destroying cultural sites.

b) State-sponsored violence

In 2017, police forces fired rubber bullets against a crowd of protesters denouncing the environmental degradation caused by the operations of Letpaudang Copper Mine. The same tactic was used by the police again in 2019 as they fired rubber bullets against a peaceful assembly calling for an end to the coal-powered cement factory in Mandalay Division's Patheingyi Township.

Data from ND-Burma (Figure 1) also suggest that the majority of documented cases of human rights violations are perpetrated by state armed forces. For example, from January to June 2020, 317 violations documented by human rights organizations across Myanmar were committed by the Tatmadaw against ethnic minorities.

Figure 1. Human Rights Abuses According to Reported Perpetrators

(Source: *ND – Burma, 2020*)

c) Silencing dissent

Another means to crackdown on dissent is the shutdown of mobile internet services ordered by the Ministry of Transport and Communications in February 2020. The shutdown order covered the townships of Buthidaung, Kyauktaw, Maungdaw, Minbya, Mrauk-U, Ponnagyun, and Rathedaung in Rakhine state and Paletwa township in Chin state – places of escalating conflicts in recent years primarily due to state-sponsored attacks which includes indiscriminate firing and aerial bombings in efforts to eliminate Ethnic Armed Organizations (EAOs) operating in these areas. The internet shutdown came at the heels of a statement issued by the Arakan Army claiming that it would produce concrete evidence (including GPS locations) of massacres and mass graves of the Rohingya dug by the Burmese army. The same internet shutdown order was used on June 21st 2019 to quell mass unrest. Not only does the internet blockade hamper media coverage of the fighting between the Tatmadaw and EAOs, it also makes it difficult for humanitarian organizations to provide much needed aid in conflict-afflicted communities (Human Rights Watch, 2020).

In June 2020, six activists were arrested for protesting the Internet ban. The protesters questioned the integrity of the internet shutdown suggesting through their posters and paraphernalia that the ban was actually just a cover-up to atrocities committed by state forces. In addition to the 505(b) of the penal code, state forces also often cite the Peaceful Assembly and Peaceful Processions Law which requires protesters to secure a permit 48 hours before the demonstration.

INDIGENOUS COMMUNITIES UNDER ATTACK

Majority of attacks against environmental defenders can be found in ethnic states where there is ongoing armed conflict between EAOs and government military forces. For example, 84 cases of documented human rights violations in 2019 happened in Northern Shan State, 75 were documented in Rakhine State, while 3 cases were observed in both Chin and Kachin States. The geographical distribution of these attacks are not coincidental insofar as the state is using its war against ethnic minorities to pave the way for big business investments. These conflicts often result in entire swathes of land abandoned as ethnic groups flee from gunfire and armed encounters (ND-Burma, 2019).

The main environmental issues related to these attacks involve: 1) land grabbing by using the VJV law to forcibly displace ethnic minorities such as the Rohingya; 2) cases of water pollution and fish kill as in the case of mobilizations against a cement factory in Kayin State; 3) anti-mining campaigns such as the protests against Letpaudang Copper Mine in Salingyi Township, Sagaing Region; and 4) struggles for environmental conservation and the right to self-determination such as in the case of Salween Peace Park in Karen State. It is also worth noting that these high-profile environmental issues are part of the broader movement against abusive corporate practices that damage the environment and harm communities.

PEOPLE'S RESPONSE

Despite the systemic attacks on environmental defenders and internet blockades to silence dissent, people's movements in Myanmar have successfully fought to expose government atrocities to the international community. On March 10, 2020, the UN Human Rights Council heard the report of the Special Rapporteur on the human rights situation in Myanmar detailing various incidents where the government committed crimes in contravention to international humanitarian law (UN News, 2020).

At the home front, peaceful protests led by students met with police brutality and arbitrary arrests have sparked public outrage against the government and the military. Demonstrations across Myanmar led by ethnic groups are also gaining steam as they assert their autonomy in Myanmar's borderlands in accordance with the 1946 Panglong Agreement which gives them significant ruling power over their respective ethnic territories (Milko, 2019).

Table 2. Human Rights Violations According to ND-Burma Member Data

Organization	Cases	Perpetrators	HRVs	Location
Ta'ang Women's Organization (TWO)	61	Burma Army: 30 Militias: 2 RCSS: 2 Unknown Perpetrator: 27	Landmines: 15 Forced to Porter: 6 Arbitrary Arrest: 10 Artillery Shelling: 13 Indiscriminate Shooting: 5 Destroyed Property: 4 Torture: 3 Killing: 2 Forcibly recruited: 1 Forcibly displaced: 1 Humanitarian aid blockages: 1	Northern Shan: 61
Ta'ang Students and Youth Union (TYSU)	23	Burma Army: 11 TNLA: 5 RCSS: 4 Myanmar Police: 2 Kaung Khar Militia: 1	Arbitrary Arrest: 4 Confiscation/Destruction of Property: 4 Death by Indiscriminate Shelling: 3 Arrest by Unlawful Association: 1 Torture: 4 Injury by weapon: 1 Villagers taken hostage: 1 Taxation: 1 Death by landmine: 2 Injury by landmine: 1	Northern Shan: 23
Chin Human Rights Organization (CHRO)	9	Burma Army: 1 Arakan Army: 4 Unknown Perpetrator: 4	Property damage: 1 Shelling and indiscriminate fire: 1 Arbitrary arrest: 7	Chin State: 6 Rakhine State: 3

Table 2. Human Rights Violations According to ND-Burma Member Data (Continued)

Organization	Cases	Perpetrators	HRVs	Location
Kachin Women's Association - Thailand (KWAT)	3	Burma Army: 2 Unknown Perpetrator: 1	Shelling and Indiscriminate firing: 2 Arbitrary Arrest: 1	Kachin State: 3
All Arakan Students and Youth Congress (AASYC)	72	Burma Army: 38 Government: 3 Unknown: 31	Killed by gunfire: 8 Killed by landmine: 1 Killing by interrogation: 1 Killed by artillery fire and shelling: 3 Assassination: 14 Wounded in landmine: 6 Wounded in artillery shelling: 16 Wounded in gunshot: 12 Forced portering: 4 Destruction of Property: 2 Obstruction of Humanitarian Aid: 1 Arbitrary Arrest: 1	Rakhine State: 72

Source: ND-Burma, 2019



Protesters gather and wave National League for Democracy party flags as they block Yangon's roads, Myanmar against the military coup. (Photo by Ye Aung Thu, AFP News)

These protests and demonstrations in many parts of the country attest to the inevitable winds of change emanating from environmental activists and people's movements on the ground fighting for a sustainable and peaceful future. At the forefront of these struggles are ethnic groups fighting for their right to self-determination and the conservation of their ancestral lands in the face of widespread abuse, military offensives, exploitation and oppression.

FOLLOWING ARE CASES OF VIOLATIONS COMMITTED AGAINST ENVIRONMENTAL DEFENDERS IN MYANMAR

Prepared by Saw Tha Phoe, Karen River's Watch Network



Saw O Moo was a Karen Indigenous Rights Defender from Karen Environmental and Social Action Network. (Photo by KESAN)

SAW O MOO

Karen Indigenous Rights Defender

Indigenous Karen leader in Salween Peace Park

THE VICTIM

Saw O Moo was born in 1975 in his parents' hut on their land in T'Ri Plaw, in the Ler Mu Plaw area. Since 2006, he has worked as a local community partner with the Karen Environmental and Social Action Network (KESAN). He dedicated his life to preserving Indigenous Karen cultural traditions, promoting customary land stewardship, and leading local community forest conservation activities as the Luthaw Paw Day Community Forest Coordinator. He was also one of the most active local community leaders in the Salween Peace Park, a grassroots initiative to create a 5,400-sq. Km Indigenous Karen reserve in Mutraw District.

THE VIOLATION

Type of violation: Murder

Perpetrators: Burma Army soldiers

Date and place ate of incident: April 5, 2018, Wah Klo Hta on the edge of the T'Ri Plaw plain

THE INCIDENT

On April 5, 2018, Saw O Moo traveled from his home on Ler Mu Plaw's plains to a community meeting at the Luthaw Paw Day community center, over an hour's motorbike ride away. They held this meeting to organize humanitarian assistance for villagers forcibly displaced by recent and ongoing Burma Army attacks in the area. On his way home after the meeting, Saw O Moo offered a ride to Saw Hser Blut Doh, a Karen National Liberation Army (KNLA) assigned to provide security to protect Karen civilians in the Ler Mu Plaw area.

At 5:20 PM of the said date, just as they were nearing Saw O Moo's home in Ler Mu Plaw, they were ambushed and shot at by Burma Army soldiers at the



Supporters of Saw O Moo joined his funeral march as they call for justice over his murder. (Photo by KESAN)

place called Wah Klo Hta, on the edge of the T'Ri Plaw plain. Although KNLA authorities have confirmed Saw O Moo's death, several attempts to retrieve the body have been unsuccessful, as Burma Army soldiers were shooting at anyone approaching the area. As a result, Saw O Moo's family has not performed their Indigenous funeral rites.

Saw O Moo's was another casualty of the ongoing fight that has broken out between the Burma Army and the Karen National Liberation Army as the former broke the Nationwide Ceasefire Agreement to seize territory and construct a military operation road through Indigenous Karen people's ancestral lands that led to over 2,300 villagers have been forced to flee their homes. Saw O Moo could have followed his wife and children into hiding in the forest, but he remained at his home in Ler Mu Plaw to protect his people from the Burma Army's attacks.



The victim's blood spattered in the bamboo leaves where he was killed on April 5, 2018. (Photo by freeburmarangers.org)



Saw Tha Phoe is an environmentalist and Karen Indigenous Leader from the Karen Rivers Watch Network (Photo by irrawaddy.com)

SAW THA PHOE

*An environmentalist and Karen Indigenous Leader
Karen Rivers Watch Network*

THE VICTIM

Karen communities near Hpa-An town have been facing contaminated water since October 2019, which they believe results from a coal-fired cement factory's operations. The villagers first attempted to work with Kayin State Government agencies to find a way to address this situation, but the problem has not been resolved. With no other options, the communities decided to conduct a public prayer ceremony to raise these issues to any other persons or groups that could assist them. Shortly after this event, Myanmar Police moved to detain one of the coordinators of this event, environmental and human rights activist Saw Tha Phoe. He has been working to support the communities affected by water pollution by coordinating emergency water supplies and providing updates and information about the water contamination issue.



Members of the Karen River Watch stage a protest action against dams during the commemoration of the International Day of the Rivers on March 14, 2019. (Photo by Karen Rivers Watch)

THE VIOLATION

Type of violation: Judicial harassment

Perpetrators: Kayin State Authorities

Date and place of the incident: March 6, 2020, Saw Tha Phoe's residence

THE INCIDENT

On March 6, 2020, a Friday, a group of people in civilian clothes who appeared to be intoxicated went to Saw Tha Phoe's home looking for him. Later in the evening, ten policemen also arrived at his house looking for him but did not find him as he was not yet home.

The police presented what appeared to be a court summons for Saw Tha Phoe for a hearing on March 10, 2020. However, instead of requesting a family member to sign the document and left it at the house, they took the record away with them and did not allow anyone to take a photograph of it. The police threatened to arrest Saw Tha Phoe, despite not having an arrest warrant. Police also searched the family home without a search warrant.



Karen peoples hold a symbolic action to defend the Salween River against mining aggressors. (Photo by Karen Rivers Watch)

In the following days, Saw Tha Phoe's family members, colleagues, people he works with, and their families have been subject to harassment—people in civilian clothes have either followed them or loitered around their houses. They were also repeatedly telephoned by the police.



The Salween Peace Park in Karen state officially opened to the public on December 18, 2018. (Photo by KESAN)

The court summons was about a complaint made directly to the court by an officer of the General Administration Department (GAD) that alleges a breach of section 505(b) of the Myanmar Penal Code. This means that if Saw Tha Phoe does not respond to the court summons, the court will likely issue another summons and an arrest warrant. If he attends court and the judge has commenced (or decides to begin) the proceedings, Saw Tha Phoe is likely to be detained until the end of a trial because the offense is non-bailable. The trial could take at least 12 months. Regardless of whether it is even possible to defend charges under this oppressive law, a person accused can expect to spend a substantial time in custody. Often, the sentence is just slightly more than the time already served by the accused.



The victim, Saw Thet Mee and his family. (Photo by Karen Rivers Watch)

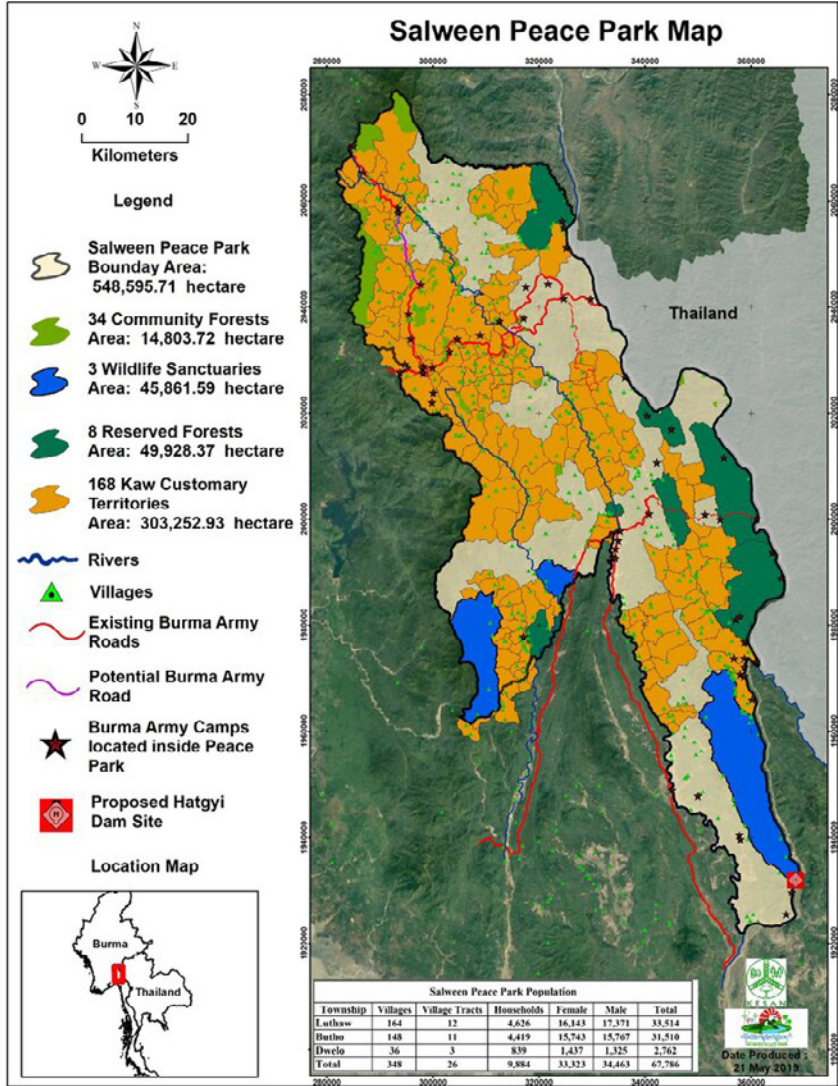
SAW THET MEE

A community leader of Salween Peace Park (SPP) and a family man

THE VICTIM

Saw Thet Mee was born in 1970 in Htee Baw Kee Village, in the mountains of Luthaw Township, Mutraw District, Kawthoolei. In 1995, Saw Thet Mee married Naw Yu Mer. However, in 1997 the young couple was forced to abandon their Ler Mu Plaw fields when the Burma Army constructed the military road through their farmland's heart.

Saw Thet Mee practiced Indigenous Karen animist traditions. He was a very active community leader who became involved in protecting the Kaw customary land and community forests in 2006. He was vice-chair of the Luthaw Hkoh Community Forest committee and an advisor to the Kaw Thay Ghu customary land governance committee. After attending a Salween Peace Park consultation meeting in 2016, he became a staunch advocate for the Salween Peace Park at the local community level.



The map of Salween Peace Park. (Map provided by KESAN)



Villagers in the Salween River. (Photo by KESAN)

TYPE OF VIOLATION

Type of violation: Murder

Perpetrators: Burma army soldiers

Date and place of the incident: March 31, 2020, in Burmese military road at Saw Nweh Plaw

THE INCIDENT

In the early evening of March 31, 2020, Saw Thet Mee and his wife Naw Yu Mer returned from the Plaw Ghaw area after visiting their relatives and shopping for food and other tradable goods such as betel nuts. To get home, Saw Thet Mee had to cross the Burmese military road at Saw Nweh Plaw.

That day, Puh K'Hsaw and his assistant, who have been assigned as village security personnel by the Karen National Union (KNU), assisted villagers crossing the Burmese military road at Saw Nweh Plaw. As darkness fell and saw no threats, Puh K'Hsaw thought the villagers would be safe to cross the street. Villagers from both sides began crossing the Burmese military road at around 6:40 PM. Saw Thet Mee, Naw Yu Mer, three friends, and one KNU soldier crossed the street carrying rice, snacks, betel nuts, and farming tools.

The group had just crossed the road and had gone about 100 meters when, at about 6:50 PM, a group of 10 Burma Army soldiers opened fire at them. The group ran for their lives. Puh K'Hsaw and his assistant, who were armed, fired a few shots back at the Burma Army soldiers to protect the villagers. As they were fleeing, Saw Thet Mee's wife heard him cry out that they had shot him and that the rest should escape without him.

It is believed that Saw Thet Mee died during the shooting, but no one knows how many times they shot him or for how long he suffered. Perhaps because Saw Thet Mee was carrying betel nuts in a white sack, the Burmese soldiers could see him more clearly, and therefore could target him despite the darkness.

On April 4, 2020, once they were sure that the Burmese soldiers had left the area, some villagers returned to retrieve Saw Thet Mee's body, but there was no trace of his body or the things he had been carrying. According to Indigenous Karen traditions, the family must perform a cremation ceremony so that the person's spirit can find its path into the afterlife. Not finding Saw Thet Mee's body, the family had to go to the scene of his murder and call his spirit back to the village for the funeral ceremony.

REFERENCES

- Chandran, R. (2017, November 9). "Calls for action after Myanmar land rights activist beaten to death," Reuters. Retrieved from: <https://www.reuters.com/article/us-myanmar-landrights-crime-idUSKBN1D91TF>
- Ei Min, N. E. (2020). Climate emergency action in post-pandemic ASEAN. Powerpoint Presentation.
- EITI (2018). Myanmar Extractives Contribution Overview. Retrieved from: <https://eiti.org/myanmar>
- FIDH (2017). Burma/Myanmar: Murder of land rights defender Mr. Htay Aung. Retrieved from: <https://www.fidh.org/en/issues/human-rights-defenders/burma-myanmar-murder-of-land-rights-defender-mr-htay-aung>
- Human Rights Watch (2020, June 19). Myanmar: End World's Longest Internet Shutdown. Retrieved from: <https://www.hrw.org/news/2020/06/19/myanmar-end-worlds-longest-internet-shutdown>
- Milko, V. (2019, April 4). "Ethnic minorities across Myanmar protest against Aung San statues," Al Jazeera. Retrieved from: <https://www.aljazeera.com/news/2019/4/4/nowhere-to-go-myanmar-farmers-under-siege-from-land-law>
- ND-Burma (2020). An Overview of the Human Rights Situation in Burma January to June 2020. Retrieved from: <https://nd-burma.org/an-overview-of-the-human-rights-situation-in-burma-january-to-june-2020/>
- ND-Burma (2019). Human Rights Situation in Burma July to December 2019. Retrieved from: <https://nd-burma.org/human-rights-situation-in-burma-july-to-december-2019/>
- ND-Burma (2019). Human Rights Situation in Burma January-June 2019. Retrieved from: <https://nd-burma.org/human-rights-situation-in-burma2019-january-june/>
- ND-Burma (2018). Human Rights Situation in Burma 2018. Retrieved from: <https://nd-burma.org/human-rights-situation-in-burma-2018/>
- ND-Burma (2017). Human Rights Situation in Burma 2017. Retrieved from: <https://nd-burma.org/report-on-the-human-rights-situation-in-burma-january-december-2017/>
- ND-Burma (2016). Human Rights Situation in Burma 2016. Retrieved from: <https://nd-burma.org/nd-burma-2016-report-finds-dramatic-increase-human-rights-violations/>
- Paul K. Feyerabend Foundation, 2018. Salween Peace Park and its slain leader Saw O Moo – providing a grassroots' alternative to imposed destructive development in Burma/Myanmar. Retrieved from: <https://www.pkfeyerabend.org/en/2018/12/21/english-salween-peace-park-and-its-slain-leader-saw-o-moo-providing-a-grassroots-alternative-to-imposed-destructive-development-in-burma-myanmar/>
- OHCHR (2020). Statement of the UN Special Rapporteur on Myanmar. Retrieved from: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25698&LangID=E>

UN News (2020, March 11). "Democracy is sliding away in Myanmar, warns top rights investigator," United Nations. Retrieved from: <https://news.un.org/en/story/2020/03/1059181>

World Bank (2019). Myanmar Country Environmental Analysis. Retrieved from: <https://www.worldbank.org/en/country/myanmar/publication/myanmar-country-environmental-analysis>

RIGHTS VIOLATIONS UNDER THE “POST-JUNTA” DISPENSATION

By Ivan Pbell Enrile

Closing civic and democratic spaces threatens the lives and security of environmental and rights defenders in Thailand under Gen. Prayut Chan-o-cha who continues to lead as prime minister under the “post-junta” dispensation. By and large, the country has failed to meet its obligation to ensure that environmental and rights defenders can fulfill their work in a safe and enabling environment.

There are reports that the government or its agents commit arbitrary or extrajudicial killings (International Federation for Human Rights; Union for Civil Liberty; Internet Law Reform Dialogue, 2020). Previous cases of police brutality against activists and extrajudicial killings remain unsolved. Despite the government’s claim of having resolved several cases of enforced disappearances, according to the database of the UN Working Group on Enforced or Involuntary Disappearances, as of May 2019, there are still 79 unresolved cases (including nine women) of enforced disappearances in the country.

The government routinely employs censorship and stifles public debates on the state of human rights and democracy in the country. In 2019, the country’s media commission shut down Voice TV over accusations of sowing conflict and threatening national security for giving airtime to opposition candidates and broadcasting criticisms of the junta’s handling of the elections and the economy (Al Jazeera, 2020). The government has enacted the Emergency Decree on Public Administration nationwide to control the spread of Covid-19 but



Pro-democracy demonstrators protest in Bangkok to dissolve the Prayut regime, a new constitution, and an end to political repression; faced water cannons as police try to disperse them. (Photo by Khaosod English)

misused its power by clamping down on freedom of expression and assembly. Ongoing protests that began in February 2020 are being violently dispersed by the police, resulting in a running total of more than 70 injured (Masayuki, 2020), 170 arrested (Reuters, 2020), (Khaosod English, 2020), (Associated Press, 2020), and 230 charged (Thai PBS World, 2021).

Sunthorn Duangnarong, a transactivist and a farmer from Bamnejarong District, was out working in the fields when three police cars pulled up to her house and arrested her without a warrant for leading a protest action against the potash mining operations in their community (Chia, 2020).

“They came in such numbers, as if arresting me for murder, so I was very scared and went with them”, she recalls.

They confiscated her phone, took down the information of other local protestors and detained her at the police station for six hours before eventually letting her go with no charges.

“It felt like an intimidation tactic, to keep me there for so long.”

The arrest came on the heels of an anti-potash mining protest led by Sunthorn’s group Network of People Who Own Mineral Resources on April 28, 2020. They have been putting up a resistance to these projects – driven mainly by Chinese demand – because of their impacts on the people’s agricultural livelihood, health, and the sustainability of their environment.

Standing six feet apart and wearing facemasks, they carried banners and read their statements denouncing how mining operations have remained unabated under the government’s Covid-19 emergency measures while the people have been hobbled from challenging projects that endanger their lives and community (Network of People Who Own Mineral Resources, 2020). Soon after the photos of the protest were posted online, policemen started knocking on the doors of the protest organizers.

It was not the first time that the largely agricultural communities in northeast of Thailand have protested potash explorations. In 2018, protesters came out to block China Ming Ta from conducting its fourth potash exploration well. Two environmental defenders were charged with illegal assembly and slammed with a 1.5 million THB (USDS 50,000) fine. Despite the protests, potash exploration continued through 2019 and 2020.

Despite the adoption of the National Action Plan on Business and Human Rights in October 2019, authorities failed to protect human rights defenders from reprisals and end the abusive use of strategic lawsuits against public participation (SLAPP) (Human Rights Watch, 2021). SLAPPs masquerade as legal claims (e.g., libel/defamation) to target valid and protected speech or protest. (Business and Human Rights Resource Center, 2020). From 1997 to 2019, there were 212 cases that qualified as SLAPPs. The targets of lawsuits are political activists (27.06%); communities or people who mobilize to oppose development projects affecting those communities (22.93%); human rights defenders/NGO workers (in women’s rights, labour, anti-corruption, energy, the environment, and ethnic minorities (15.59%); people interested in politics representing groups interested in and participating in political activities but not at the level of leaders (11.92%); media (8.25%); others (temple spokesperson, lawyer, page admin) (5.50%); victims of violations or family members calling for justice (5.04%); academics/university teachers (3.66%) (Human Rights Lawyers Association, 2019).



Police officers started knocking on the doors of the members of The Network of People Who Own Mineral Resources after their protests were posted online, calling for the authorities to impose an emergency decree on all mining license processes and operations. (Photo by Prachatai)

DELEGITIMIZATION AND CRIMINALIZATION OF ENVIRONMENTAL AND COMMUNITY RIGHTS DEFENDERS

In its five years in power, the military junta has cultivated conditions and erected policies favorable for big business interests. Large companies have benefited, especially those connected to the monarchy and the military regime. The latter favors trade liberalization and free trade agreements, especially with China and Japan (Bertelsmann Stiftung, 2020).

Through the military, regulatory policies and procedures to secure mining and drilling, industrial estates or reforestation permits have been relaxed purportedly to lessen “bureaucratic procedures” (Calvet, 2016). However, this has only exacerbated the already severe problem of land grabbing in the country that began when the country, upon the World Bank’s prescription, systematically commodified huge swathes of land to attract foreign direct investments (Marks, Sirithet, Rakyuttitham, Wulandari, & Chomchan, 2015).

Following the coup in 2014, limits on foreign ownership in certain sectors have been removed. To expedite the construction of mega development projects and entice more investment from private companies supportive of the junta and its Special Economic Zones, the junta has cut the participatory processes or environmental impact assessments (EIA) by half (Bertelsmann Stiftung, 2020).

Thousands of villagers living in areas targeted for these development projects have been ordered to leave their homes in the process (Calvet, 2016).

The 2007 Constitution enshrines and guarantees the right of a community to participate with the state in the management, preservation, and exploitation of natural resources and the environment to ensure their sustainable livelihood. Community rights are especially important for Thai people living in the rural area because the government's exploitation of natural resources has usually created negative impacts on the way of life of the local people (National Human Rights Commission of Thailand, 2011).

However, this right has been largely ignored under the new order. To increase forestry areas, the military has been empowered to arrest and evict local communities and destroy their crops without due notice or any compensation or relocation scheme in place (Pawakapan, 2015). An estimate of up to a million people were affected by this order according to the country's National Commission on Human Rights (Calvet, 2016).

In the main, there is a strong tendency from authorities to view opposition to policies and the defense of human rights and the environment as contrary to national interest and a threat to national security. Environmental and land rights defenders are delegitimized as hindrances to development, troublemakers, and destabilizers.

In the region of Loei in Northeastern Thailand, to protect the environment, the natural resources of their town, and to preserve their community's agricultural practices, villagers attempted to stop mining activities through organizing and mobilization. They put up their organization Khon Rak Ban Koed (People who love their homes) to create a mass movement to oppose the project. When they blockaded the mine entrance, they were violently dispersed and filed with SLAPPs. The Director General of the Department of Primary Industries and Mines stated publicly that the conflict between the population and the mining company was due to the excessive demands and unruliness of the inhabitants (Protection International, 2014).

Delegitimization of environmental and community rights defenders paves the way for more serious acts such as death threats and outright violence.

In Suwankhuha District in Nongbua Lamphu province, community leaders opposing a limestone mine for almost 26 years have been receiving death threats. Lertsak Kumkongsak, an activist who led the community to protest,

has been receiving several messages warning of his assassination. Lertsak said unidentified men carrying weapons had been following and surveilling him before and had warned him verbally of being shot if he did not stop protesting (The Isaan Record, 2020).

On 20 October 2020, land rights defender Dam Onmuang survived an attempt on his life. The defender was at his house in Surat Thani province when an individual believed to be affiliated with a multinational palm oil company broke in and pointed a gun at him. Dam Onmuang is a land rights defender and member of the Southern Peasant Federation of Thailand (SPFT). He is an advocate for community land and natural resources and leads land disputes negotiations with palm oil companies and the authorities to safeguard the community's guardianship of the land and natural resources (Frontline Defenders, 2020). A ray of hope for democracy, rights, and the environment

As the political crisis intensifies, new movements are emerging and joining forces to potentially tip the balance in favor of progressive change in Thailand. Students' protests on repressive school policies and obsolete curriculum have transformed into a broad pro-democracy movement. Defying tear gas, water cannon, and threats of criminalization and arrest by the authorities, thousands have marched and continue to march in Bangkok to advance three demands: dissolution of Prayut regime, a new constitution, and an end to political repression (Vejjongsra, 2020).

Through collective struggles, small, but nevertheless significant wins have been achieved for the environment and community. In the province of Songkhla, protesters succeeded in getting a public hearing on the creation of a special economic zone which aims to build a deep-sea port, a power plant and several factories postponed because of community concerns about its impact on the environment and local livelihoods (Thomson Reuters Foundation, 2020).

Defamation lawsuits filed by Thammakaset Co., Ltd against human rights defenders Nan Win and Sutharee Wannasiri were dismissed by the Criminal Court in Bangkok in June 2020. In 2018, the company filed a criminal and civil defamation complaint against human rights defenders Nan Win and Sutharee Wannasiri for posting on social media the cases of labor rights abuse at a Thammakaset-owned chicken farm; and the criminal defamation complaints against other human rights defenders (FIDH, 2020).

On September 3, 2020, in Suwankhuha district of Thailand's northeastern province of Nong Bua Lamphu, villagers occupied and blocked access to a



Lertsak Kumkongsak, one of the community leaders in Khon Kaen, received several death threats for almost 26 years as he opposes and protests the limestone mining operation. (Photo by International Federation for Human Rights)

community forest after the expiration of the 26-year mining concession of Thor Silasitthi Company. Over the last three decades, the community have fought hard to reclaim their forest from the company, during which four villagers, including a Tambon headman, were shot dead (World Rainforest Movement, 2020). International solidarity has played an important role in bringing to light the struggle of the community against a business interest that has exploited their resources, destroyed their livelihoods, and violated their rights.

While the Prayut regime attempts to maintain its authoritarian grip over the country, the Thai people are fighting back, teaching us valuable lessons on defending rights, democracy, and the environment even at the time of a pandemic.

FOLLOWING ARE CASES OF VIOLATIONS COMMITTED AGAINST ENVIRONMENTAL DEFENDERS IN THAILAND



Mr. Sumeth Rainpongnam is a farmer-leader who faced a 50-million-baht lawsuit from an industrial waste disposal company after the residents of three sub-districts complained of toxic smells. (Photo By Prem Jirapong)

SUMETH RAINPONGNAM

Prepared by: Amarin Saichan, EnLaw Foundation

Co-founder and representative of Khon Rak Krok Somboon Conservation Group

THE VICTIM

Mr. Sumeth Rainpongnam, 48, is co-founder and representative of Khon Rak Krok Somboon Conservation Group from Prachinburi, Thailand. For many years, Sumeth has been a part of the civil society sector in Prachinburi, especially in the area of the Krok Somboon in Si Maha Pho District. His work focuses on environmental problems that were affecting the community's livelihoods. He has worked at the local community, district, and provincial level for a long time to protect and advance the community's rights, particularly the right to participate in managing natural resources and the environment.

THE VIOLATION/S

Type of violation: attempted murder and defamation complaint

Date and place: September 2019

Perpetrator: unknown assailants

THE INCIDENT

In September 2019, Sumeth and his wife were attacked by unknown assailants in three different incidents. They were fired a total of 14 gunshots, as they were driving home at night. Fortunately, they were not harmed. In their community, at least two other W/HRDs have also faced life-threatening intimidation for campaigning to defend the environment.

However, Sumeth and other community leaders remain undaunted despite the terror being unleashed by corrupt interests that seek to benefit from nature’s devastation. Their efforts finally succeeded in bringing the problem to the Prachinburi Provincial Office. A tripartite working group was set up by the Prachinburi governor to solve the problem both at the provincial and district level.

The working group included an official representative, the factory operator, community members - including Sumeth - and members of the academe. After several monthly meetings and factory site visits, the tripartite chaired by Kabin Buri District has designed a solution and implementation timeframe.

The working group’s final session scheduled on April 22, 2020 was to monitor the progress of problem-solving at the factory. However, the meeting was postponed for a month to May 22, following the Covid-19 outbreak.



Top: we fight to protect our community, but we were sued for 50 million baht from the company. Bottom: the toxic waste is in the soul of the company who sued the people in the community (Photo by Protection International)

While everything went well, in April 2020, Sumeth received a defamation complaint (civil case no. 532/2563 of Prachinburi provincial court) filed by Waste 2 Energy company, with one of its board of directors as plaintiff. In the complaint submitted to the provincial governor, the company indicated Khon Rak Krok Somboon Group as inflicting damages to its reputation. They demanded that Sumeth, the only defendant, pay 50 million baht (around US\$1.6m) as compensation.

The company later filed another defamation case against Sumeth with the Bangkok Criminal Court. EnLaw Foundation (EnLAW) provided legal consultation and defense lawyers for Sumeth and Khon Rak Krok Somboon Conservation Group, with support from Protection International.



Mr. Sumeth Rainpongnam and his supporters from Khon Rak Kroksomboon celebrate after his lawsuits were withdrawn. (Photo by Luke Dugleby)



Loei villagers barricaded against Tungcum Ltd. gold mine for contaminating their soil and water. (Photo by ejatlas.org)

WOMEN LEADERS AND VILLAGERS UNITE AGAINST MINING

Prepared by Sor.Rattanamane Polkla, Community Resource Centre (CRC)

THE VICTIMS

Phattraporn Kaengjumba, Somboon Sriburin, Wiron Ruchichaiyawat Women leaders of Na Nong Bong Village, Members of Anti-Mining group, Khon Rak Ban Kerd Group (KRBKG)

Na Nong Bong Village, Wangsaphung District, Loei Province, is located in the north-eastern part of Thailand that thrives on agriculture. Phattraporn Kaengjumba, Somboon Sriburin, Wiron Ruchichaiyawat, together with the Khon Rak Ban Kerd Group (KRBKG), stood up against destructive operations of Tungcum Mining Limited (TKL), which has saddled their village for a long time.



The Khao Lao Yai-Pha Jun Dai Forest Conservation Group celebrates their victory against quarry mining last September 4, 2020. (Photo by Protection International)

THE VIOLATION/S:

Type of violation/s: Right to assembly, Freedom of expression, Right to live in a good and peaceful environment, Right to health, Right to public participation, Right to self-determination, and Community rights to participate in sustainable natural resources management.

Date and place of the incident: May 15, 2014, Khaolaung Sub-District, Wangsaphung District, Loei Province

The Perpetrators: Military personnel and some 150-armed men who stopped village protests

THE INCIDENT

Khon Ran Ban Kerd Group (KRBKG) in 2004 was formed by residents affected by a gold mining operation in Khaolaung Sub-District. The mining operation caused adverse health impacts to the six villages; the residents filed a petition to various state departments, but their pleas were ignored. Thus they took matters into their own hands and held road blockade to stop the mining operations.

On the evening of May 15, 2014, around 10:00 PM, villagers recount that 150-armed men surrounded Na Nong Bong village. They destroyed the roadblocks built by villagers at the mining area entrance and assaulted, intimidated, and detained the residents. While the attacks were happening, 11 trucks continued to transport the ore out of the mines. At around 4:00 AM of the next day, the armed men released the residents they had detained and left the village in four trucks.

Somboon Sriburin and Phattraporn, who were among the women detained, narrated that the assailants threatened to shoot them or bury them alive. They were also told that they would be put inside the hut and burned. Wiron Ruchichaiyawat, leader of KRBKG, and her husband were detained during the attacks. They tried to report the incident to the police but only saw one officer at the station who told them he was merely a low-ranking officer and could not help them.

Another resident also tried to contact government authorities when the attacks were happening but received no reply from the police or military until morning. Residents believed some assailants were from local security forces. One of the residents insisted that the shoes assailants wore were the same combat boots used by the police and military.

After a lengthy legal battle, village leaders and concerned citizens won the court's favor as it dismissed the charges of TKL against the environmental defenders. The court declared the company does not have substantial evidence and ordered it to pay 104,000 baht to each of the 149 families. And since the mining site also polluted the environment, the court ordered the company to clean the contaminated river and restore the environment to a livable condition as it directly affects the residents' livelihood.



Representatives from the Nam Pu Villagers submitted their petition to the Minister of Natural Resources and Environment and the Director-General of the Department of Industrial Works at the Ministry of Industry last July 13, 2020. (Photo by Earth Thailand, Facebook)

NAM PU RESIDENTS UNITE AGAINST ENVIRONMENTAL POLLUTION

Prepared by Penchom Saetang, Ecological Alert and Recovery - Thailand (EARTH)

THE VICTIMS

Residents of the Nam Pu Subdistrict Muang district, in Ratchaburi province

THE PERPETRATOR AND THE VIOLATION

Wax Garbage Recycle Center Company Ltd for chemical contamination and pollution of the environment (violation of the Environmental Quality and Promotion Act 1992)

BACKGROUND OF THE CASE

On April 11 2017, the Nam Pu subdistrict made headlines in many media outlets as three local representatives from Nam Pu subdistrict, Muang district, in Ratchaburi province, filed a lawsuit against Wax Garbage Recycle Center Company Ltd. They accused the company for violating the Environmental Quality and Promotion Act 1992. They asserted the company operated nine factories, along with a recycling shop called Pong Charoen, within a total area of approximately 300 rai (one rai is 0.16 hectares). These facilities were located next to Nam Pu creek, the primary water source for household consumption and agricultural livelihood of the local people in Nam Pu subdistrict.

On December 24, 2020, in the Civil Court, Environmental Division, Ratchadapisek Road, a ruling was made in a class-action environmental lawsuit (case number black-sor-wor-4/2560) between plaintiff one—Mr. Thanu Ngamyinyuad—plus three associates and defendant one and two – Wax Garbage Recycling Centre and co-conspiring board members. The court case is the first class-action lawsuit in Thailand which culminated the community’s efforts for twenty years, lodging numerous reports and complaints to various agencies versus Wax Garbage Recycling.

Disastrous impacts of the company’s harmful practices to local livelihoods were summed up in the class suit. Evidence gathered by plaintiffs, experts, and government agencies resulted in the court ascertaining the first defendant as responsible for causing chemical contamination and pollution of the environment in the Moo 1 area, Nam Pu Subdistrict. Two other defendants were found guilty as co-conspirators and benefactors of the company’s polluting activities.

The court ordered the three defendants to pay as compensation a total of THB 666,425.00 (USD 21,528.00) THB 508,500.00 (USD 16,426.00) and THB 135,000 (USD 4,360.00) respectively. These amounts will compound at an interest rate of 7.5% per year until the completion of payment.



At the Civil Court for the Environmental Case on December 24, 2020, the Nam Pu subdistrict villagers in Ratchaburi province win a crucial court case against the industrial waste treatment plant, Wax Garbage Recycle Center Compan, who alleged of polluting water resources and damaging the environment and villagers’ health. (Photo and caption by Earth Thailand, Facebook)

REFERENCES:

- Al Jazeera. (2020, October 21). Thailand shuts down online TV channel, as protests continue. Retrieved from Al Jazeera: <https://www.aljazeera.com/news/2020/10/21/thailand-shuts-down-online-tv-channel-as-protests-continue>
- Associated Press. (2020, October 16). Prayut Refuses to Resign, Police Crackdown on Protesters. Retrieved from Khaosod English: <https://www.khaosodenglish.com/politics/2020/10/16/prayut-refuses-to-resign-police-crack-down-on-protesters/>
- Bertelsmann Stiftung. (2020). Thailand Country Report 2020. Retrieved from BTI Transformation Index: <https://www.bti-project.org/en/reports/country-report-THA-2020.html>
- Business and Human Rights Resource Center. (2020). Defending Defenders: Challenging Malicious Lawsuits in Southeast Asia. Business and Human Rights Resource Center.
- Calvet, J. (2016, May 25). Thai military government puts its power at the service of big business. Retrieved from Heinrich Boell Stiftung Southeast Asia: <https://th.boell.org/en/2016/05/25/thai-military-government-puts-its-power-service-big-business>
- Chia, J. (2020, May 12). The cost of opposing mines in Thailand's rural heartland. Retrieved from Thai Enquirer: <https://www.thaienquirer.com/12907/the-cost-of-opposing-mines-in-thailands-rural-heartland/>
- FIDH. (2020, October 6). Thailand: Defamation cases against human rights defenders Nan Win and Sutharee Wannasiri dismissed. Retrieved from FIDH Web site: <https://www.fidh.org/en/impacts/thailand-defamation-cases-against-human-rights-defenders-nan-win-and>
- Freedom House. (2017, May 16). Freedom in the World 2017 - Thailand. Retrieved from Freedom House: <https://www.refworld.org/docid/591ab817f.html>
- Frontline Defenders. (2020, October 21). Attempted killing of land rights defender Dam Onmuang. Retrieved from Frontline Defenders: <https://www.frontlinedefenders.org/en/case/attempted-killing-land-rights-defender-dam-onmuang>
- Human Rights Lawyers Association. (2019). Recommendations on the Protection of Those Who Exercise Their Rights and Freedoms from Strategic Lawsuits Against Public Participations. Bangkok: Human Rights Lawyers Association & Heinrich Boell Stiftung Southeast Asia.
- Human Rights Watch. (2021). World Report 2021. New York City: Human Rights Watch.
- International Commission of Jurists. (2019). Dictating the Internet: Curtailing Free Expression, Opinion, and Information Online in Southeast Asia. Geneva: International Commission of Jurists.
- International Federation for Human Rights; Union for Civil Liberty; Internet Law Reform Dialogue. (2020, April 27). Assessment of Thailand's follow-up actions for implementation of the UN Human Rights Committee's recommendations. Retrieved from FIDH: https://www.fidh.org/IMG/pdf/20200423_thailand_iccrp_follow-up_bp_en.pdf
- Khaosod English. (2020, August 10). Anti-govt protesters detained, given attitude adjustment in jungle. Retrieved from Khaosod English: <https://www.khaosodenglish.com/politics/2020/08/10/anti-govt-protesters-detained-given-attitude-adjustment-in-jungle/>

- Maida, A. (2019, October 24). To Speak Out is Dangerous. Retrieved from Human Rights Watch: <https://www.hrw.org/report/2019/10/24/speak-out-dangerous/criminalization-peaceful-expression-thailand>
- Marks, D., Sirithet, A., Rakyuttitham, A., Wulandari, S., & Chomchan, S. (2015, October 2). Land Grabbing and Impacts to Small Scale Farmers in Southeast Asia Sub-region. Retrieved from Farmlandgrab.org: https://www.iss.nl/sites/corporate/files/CMCP_60-Samranjit.pdf
- Masayuki, Y. (2020, November 18). Thailand parliament discards most constitutional reform ideas. Retrieved from Nikkei Asia: <https://asia.nikkei.com/Politics/Turbulent-Thailand/Thailand-parliament-discards-most-constitutional-reform-ideas>
- National Human Rights Commission of Thailand. (2011). Human Rights Situation in Thailand: Paper by the National Human Rights Commission of Thailand. Geneva: Universal Peer Review .
- Network of People Who Own Mineral Resources . (2020, April 28). Lock Down Mining, Stop Exploiting Opportunity to Give Mining Concession. Retrieved from Prachatai English: <https://prachatai.com/english/node/8489>
- Pawakapan, P. (2015, September 3). Thai Junta Militarizes the Management of Natural Resources. Singapore.
- Pookaman, P. (2019, July 19). Thailand’s Government a Junta by Any Other Name. Retrieved from Asia Sentinel: <https://www.asiasentinel.com/p/thailand-government-junta-by-any-other-name>
- Protection International. (2014). On the situation of community based human rights defenders and on recent political developments in Thailand. Bangkok: Protection International.
- Reuters. (2020, August 14). Thai police arrest another leader of student protests. Retrieved from Reuters: <https://www.reuters.com/article/us-thailand-protests/thai-police-arrest-another-leader-of-student-protests-rights-group-says-idUSKCN25A1HQ?il=0>
- Thai PBS World. (2021, January 14). Law and the virus fail to halt Thailand’s ‘guerrilla’ protest movement. Retrieved from Thai PBS World: <https://www.thaipbsworld.com/law-and-the-virus-fail-to-halt-thailands-guerrilla-protest-movement/>
- The Isaan Record. (2020, September 23). Despite death threats, anti-mining group vows to reclaim mine in Nong Bua Lamphu. Retrieved from The Isaan Record: <https://theisaanrecord.co/2020/09/23/death-threats-against-nong-bua-lamphu-anti-mining-group/>
- Thomson Reuters Foundation. (2020, May 19). Protesters under lockdown delay hearing on Songkhla mega project. Retrieved from Bangkok Post Web site: <https://www.bangkokpost.com/business/1920792/protesters-under-lockdown-delay-hearing-on-songkhla-mega-project>
- Veipongsa, T. (2020, November 21). Thai students rally for educational and political reforms. Retrieved from Associated Press: <https://apnews.com/article/bangkok-thailand-education-asia-pacific-657289fe6ff19db2fbb167f99a4d53ab>
- Veipongsa, T. (2020, September 20). Thai protesters’ rally pushes demands for democratic reforms. Retrieved from Associated Press: <https://apnews.com/article/virus-outbreak-prayuth-chan-ocha-elections-bangkok-thailand-af5aab8c665c5abb531d40d6a0a624cd>

Wongcha-um, P., & Johnson, K. (2019, March 25). Charges of cheating amid confusion over Thailand's election result. Retrieved from Reuters: <https://www.reuters.com/article/us-thailand-election-idUSKCN1R50Q1>

World Rainforest Movement. (2020, December 2). International support to a struggle against mining in Thailand. Retrieved from World Rainforest Movement: <https://wrm.org.uy/actions-and-campaigns/international-support-to-a-struggle-against-mining-in-thailand/>

GRIM REGIME: UNCEASING KILLINGS DESPITE THE PANDEMIC

By Weng Cabiles

Twenty twenty is a deadly and disastrous year, with the COVID-19 pandemic killing millions of people worldwide and leaving the global economy to a halt. The Philippines had the worst outbreak in Southeast Asia and one of the longest lockdowns in the world. As of writing, over 500,000 cases with 12,000 deaths have been recorded in the country. (JHU CSSE COVID-19 Data) Millions of Filipinos are left to fend for themselves due to the lack of a clear and coordinated response to this medical emergency.

Instead of crafting a plan to alleviate the rising cases and address its economic implications, the Duterte administration was relentless in its brutal attacks on human rights and environmental defenders. The threat of the virus continues, and so is the man-made threat of deadly, excessive, and unwarranted state force that targets environmental defenders. Philippine National Environmental Group, KALIKASAN People's Network for the Environment (KPNE) has documented 260 cases of human rights abuse committed against environmental defenders, including two killings, 173 arrests detentions, and 25 physical assaults as of July 2020 in the Philippines. (Benar News, 2020)

The continuous state-sanctioned violence has legitimized the worsening situation by enacting a counterterrorism law that strips organizations of legal protection. Both local and international oppositions have decried the Anti-Terrorism Act of 2020, signed by President Duterte, as a way for the highly criticized administration to go after its critics and opponents. The broad



Several civil rights groups protest along University Avenue of the University of the Philippines-Diliman to oppose the Anti-Terrorism bill. (Photo by CNN Philippines)

definition of terrorism can subject suspects to be arrested without a warrant and two-week detention before an appearance before a judge. According to Human Rights Watch, "the law will open the door to arbitrary arrests and long prison sentences for people or representatives of organizations that have displeased the president."

GRUESOME YEAR-ENDER

A brutal bookend to 2020 was the bloodbath in Capiz last December 30, 2020, now tagged as the Tumandok massacre. It was a chilling indicator of the state of environmental defenders in the Philippines, where police forces are given the rein to carry out violent operations despite isolation measures. Police and soldiers operating under the Synchronized Enhanced Management of Police Operations (SEMPO), designed by the Philippine National Police (PNP) Chief Debold Sinas, raided seven villages in Tapaz town. In their wake, they left nine leaders and members of Tumandok dead, the largest ethnic group in Panay.

The victims were known to oppose the Jalaur Mega Dam construction in Iloilo, a project of the Philippine and Korean Government and the Korean Export-Import Bank (Exim), which will flood farmlands and ancestral lands if allowed

to continue. Among those killed was Roy Giganto, the former village chief and chair of Tumanduk nga Mangunguma nga Nagapangapin sang Duta kag Kabuhi (Tumanduk) and incumbent village councilor of Lahug, was raided by the police around 4 AM the day of the massacre. (Rappler, 2020)

In an online press conference, his wife Analyn painfully recounted how police and military forces came to their house while they were sleeping. They were told that Roy had a case filed against him, and they were forcibly separated from each other. Two men grabbed Roy while she was taken outside the house. She tried to break free to reach Roy, yet her husband was shot in front of her despite continuous pleas. Analyn's account disproves the Criminal Investigation and Detection Group (CIDG) statement, who claimed that the victims of the Tumandok Massacre were rebels who were killed because they resisted search warrants. She also pressed that firearms and explosives found in their house were planted. Aside from Roy, eight other residents were also killed while 17 others were arrested in what was a coordinated operation that swept Capiz. (Indigenous Peoples Rights International, 2020)

BLEAK START TO 2021

Continued harassment of environmental defenders spilled over to January, marking a gruesome start to 2021.

Environmental lawyer Atty. Robert Chan, chief of Palawan NGO Network (PNNI) since 2010 and known to staunchly oppose illegal logging, mining, and fishing activities in the biodiverse province of Palawan, has been declared persona non grata after the resolution filed by Palawan Provincial Board Member Al Rama received unanimous approval. Chan has been vocal against the upcoming plebiscite voting, which will divide Palawan into three smaller provinces. Many local environmentalists fear that this will lead to more bureaucratic obstacles, leaving more opportunities for those in power to plunder natural resources and neglect the rights of indigenous groups.

In the Cordilleras, Windel Bolinget, Chairperson of the Cordillera Peoples Alliance (CPA) and leader of local organizations against large-scale mining and mega-dams that threaten the mountainous province, is the target of judicial harassment. The Cordillera Police Director gave out a shoot-to-kill order for Bolinget if he resists apprehension following a fabricated murder case filed against him in August 2020. Before this, the Kalinga provincial police placed a P100,000 bounty on Bolinget for his arrest. He has been under constant

surveillance, and his family and friends were also pressed for information on his whereabouts. CPA has been actively opposing large dams in the region and other infrastructure projects such as the Chico River Pump Irrigation Project financed by the Chinese Government.

Before 2020, though, the Philippines has already been setting records in terms of the number of killings of environmental defenders. According to Global Witness, the Philippines has consistently ranked among the countries with the highest number of killings. Year after year, the numbers reflect what seems to be a perilous situation for people who dedicated their lives to protecting the environment.

In its 2016 report, Global Witness tallied 28 deaths in the Philippines. This number rose to 48 in 2017, the bloodiest year for environmentalists in the Philippines and the highest number ever in any country in Asia. The following year, the 30 deaths recorded were the highest globally, officially making it the worst country in the world for environmental defenders. In 2019, 48 deaths placed the Philippines as the second most dangerous in the world.

BIODIVERSITY POWERHOUSE AND HOTSPOT

The Philippines is one of the few 17 mega-diverse countries globally, as identified by the World Conservation Monitoring Centre (WCMC) of the United Nations Environment Program and ranked as 25th among countries with the highest numbers of bird, mammal, reptile, amphibian, and vascular plant species. A total of 52,177 species—more than half of which are found nowhere else in the world—is in the Philippines. It boasts 5% of the world's flora with very high species endemism, covering at least 25 genera of plants and 49% of terrestrial wildlife. It is also within the Coral Triangle, considered the center of the center marine biodiversity globally. Philippine waters have a higher concentration of species per unit area in the country than anywhere on the planet (Convention on Biological Diversity).

According to Conservation International, "the country is one of the few nations that is, in its entirety, both a hotspot and a mega-diversity country, placing it among the top priority hotspots for global conservation." Severe deforestation has decimated Philippine forests to just 5.5 million hectares from 21 million hectares. Rampant illegal logging, expansion of mining areas, and conversion of forests and grasslands to agricultural and economic sites are the main culprit behind this alarming rate of decline.

A study in the Philippine Journal of Science highlights the damage to marine habitats citing that coral reefs are no longer in excellent condition, 90% of which are classified as either poor or fair (Licuanan A.M., 2017). Fisheries management problems in the country, including overfishing, coastal and habitat degradation, post-harvest losses, pollution, and inconsistent policies and programs, have contributed to declining fish stocks. Rapid biodiversity loss has placed 1,437 terrestrial mammals, birds, reptiles, and amphibians as "threatened" under the Department of Environment and Natural Resources (DENR) Administrative Order (AO) 2004-15 and the Convention on International Trade in Endangered Species of Wild Fauna and Flora as of 2015. This overexploitation is brought by over-harvesting, illegal wildlife trade, and habitat loss due to deforestation and mining.

This unique biodiversity condensed in a small land area has blessed the country with various ecosystems, landscapes, and habitats rarely found anywhere else in the world. However, this has also become a curse to its people who continuously strive to protect and conserve its natural world, diminishing quickly because of the climate crisis and human intervention.

A REGIME OF TERROR

Being consistently named one of the worst countries for environmental defenders can be attributed to criminalizing legitimate concerns. Red-tagging, or accusing individuals or organizations as rebels or communist sympathizers, has become a weapon of the Duterte regime to silence its critics.

Red-tagging victims include a wide swath of opposition lawmakers, lawyers, human rights workers, Indigenous peoples, community organizers, journalists, union leaders, farmers, celebrities, and environmental activists. Red-tagging is more than just a label. It has been proven to be a death sentence in several instances where activists were killed after being labeled as terrorists by the military. Randal Echanis, a long-time peasant leader, was tortured and stabbed to death inside his rented house. He has been red-tagged on several occasions and other progressive leaders in the Philippines before his death. Since Duterte took office in 2016, the killings of defenders had risen dramatically—119 in the first three years of his term, which is almost twice the number three years before he was elected. Nearly half of the cases of murders under Duterte's Government were linked to armed forces or paramilitary groups.

A fascist rule has been used to perpetuate the plunder of national patrimony of local elites, cronies, and foreign corporations. The much-needed natural resources are exploited for profit instead of being sustainably utilized for national industrialization and genuine development.

INTERNATIONAL REMEDY

News of rampant killing and impunity continues to headline international press, putting a spotlight on the high-risk nature of those who continue to work for the benefit of the planet selflessly and bravely. According to a report released by the United Nations Human Rights office, "more than 60,000 registered NGOs, human rights defenders have been subject to verbal and physical attacks, threats and legal harassment for nearly 20 years."

"It is vital that the Government's responses be grounded in human-rights approaches and guided by meaningful dialogue. Accountability and full transparency for alleged violations are essential for building public trust. Unfortunately, the report has documented deep-seated impunity for serious human rights violations, and victims have been deprived of justice for the killings of their loved ones. Their testimonies are heartbreaking," the report also stated.

Key international organizations have expressed support to halt the widespread human rights violations in the country and stop its regular occurrence. The United Nations (UN) Human Rights Council adopted a resolution mandating the Office of the High Commissioner for Human Rights (OHCHR) to produce a comprehensive report on the Philippines' human rights situation. Laws should comply with international human rights standards and create an environment that allows environmentalists to carry out their work without fearing their safety.

LEGISLATION FOR PROTECTION OF ENVIRONMENTAL DEFENDERS

Progressive lawmakers filed the Environmental Defense Bill on December 9, 2020. It aims to recognize and protect the rights of environmental defenders and advance and consequently safeguard the rights of the Filipinos to a balanced and healthful ecology and protect the environment for future generations.



Human rights advocates held a protest in Bantayog ng Bayani as killings of defenders have risen dramatically. (Photo by Kodao Productions)

Environmental defenders' rights are put into peril by the intensifying and were still a constant target of all the alarming rise in the killings, illegal arrests, online threats, red-tagging, detention, harassments, attacks, and human rights violations. Amid the pandemic and strict community lockdown, there have been 555 total victims recorded since March 15, 2020. Fifty-five killings, 53 threats and intimidation, 142 illegal arrests and detention, 58 strategic lawsuits against public participation (SLAPP), 51 political prisoners, three extrajudicial killings, 12 surveillance, and 295 forced evacuations reported.

Civil society organizations (CSOs) urged policymakers to approve the said bill. The bill aims to protect the rights, including but not limited to the Bill of Rights, thus "Strengthening and instituting mechanisms for the defense of the environment and the Filipino people's right to a balanced and healthful ecology" as stated in the bill's explanatory note.

GROWING ENVIRONMENTAL MOVEMENT

With the Government's neglect to perform its mandate to uphold environmental and human rights and are perpetuating the violations, its citizens continue to take action.



Kalikasan People's Network for the Environment protest the continued harassment of environmental defenders under the Duterte Administration. (Photo by Rappler)

In the province of Nueva Vizcaya, indigenous people and farmers set up a barricade in 2019 to stop the entrance of OceanaGold Philippines Inc. (OGPI) in their community. OGPI asserts its right to operate despite having an expired permit. Despite attempted dispersals, death threats, and other forms of harassment, the residents have maintained the barricade up to the present.

The lumad indigenous people from Salugpungan Ta' Tanu Igkanogon (Unity in Defense of the Ancestral Domain) alliance have continued the operations of their community schools based on scientific and traditional knowledge in sustainable agriculture and utilization of natural resources. Despite raids, militarization, and red-tagging, they have maintained many schools in the province and even set up *bakwit* (evacuees) schools in Metro Manila to continue their education as a sign of protest and assertion of rights.

Meanwhile, the Environmental Defenders Congress was launched in 2018, the first national alliance of environmental defenders composed of rural sectors, indigenous people, women, youth, religious groups, environmental advocates, scientists, and other professionals.

Despite the important work of environmental defenders, they are branded as enemies of the state and anti-development. These are used as a justification of the Government for their continuing attacks. However, environmental defenders continue to bravely struggle to implement policies, legislate policies for more protection and hold accountable violators of our rights.

FOLLOWING ARE CASES OF VIOLATIONS COMMITTED AGAINST ENVIRONMENTAL DEFENDERS IN THE PHILIPPINES

Prepared by Justine Siriban, Center for Environmental Concerns



Betty Belen in a protest action against human rights violations in front of a military camp in Quezon City in 2015. (Photo by nordis.net)

BETTY BELEN

Member of the Advisory Council of indigenous women's organization, Innabuyog-Gabriela

2018 Gawad Bayani ng Kalikasan (Environmental Hero Award) awardee

THE VICTIM

Betty is a member of the Advisory Council of Innabuyog-Gabriela and is long known for her courage in fighting for indigenous peoples' rights and human rights. Innabuyog-Gabriela, the regional women's alliance affiliated with the CPA, has been championing indigenous women's rights and protecting our environment. As a woman leader, Betty has long championed the cause of protecting the land lest there will be no future to speak of for the coming generations. For if the ancestral lands vanish, she says, so will its people.

In 2018, Betty was awarded the Gawad Bayani ng Kalikasan (Environmental Hero Award) for defending their ancestral land from destruction by private



Betty Belen with a human rights worker during her time in jail. (Photo by Ro Gyn, Facebook)



Betty Belen thanked her legal counsel after being freed from jail. (Photo by Luchie Marananan, Facebook)

companies. For decades, she has shown strong leadership in her community against ruinous projects.

THE VIOLATIONS

Type of violation: Illegal search, arrest and detention based on trumped-up charges

Place and date: October 25, 2020, in Tabuk City, Kalinga, Northern Philippines

Perpetrators: Criminal Investigation and Detection Group (CIDG), Philippine National Police, and the 503rd Infantry Brigade of the Philippine Army

THE INCIDENT

In the wee hours of October 25, 2020, the combined forces of the Criminal Investigation and Detection Group (CIDG), Philippine National Police (PNP), and 503rd Infantry Brigade of the Philippine Army bearing warrants started to search the houses of Betty and ten other households in Western Uma and Lower Uma in Kalinga, Northern Philippines. She and her family were led outside the house when the search was being conducted.

The search team allegedly seized three firearms which prompted them to arrest Betty. She was brought to the Kalinga Police Provincial Office (Cordillera People's Alliance, 2020).

Her arrest earned global condemnation from different human rights organizations, women's organizations, fellow indigenous leaders and environmental defenders. Several months after, she walked free after the Bureau of Jail Management released her from detention on February 12, 2021. Judge Randy Bulwayan of Branch 39 of the Regional Trial Court in Lubuagan, Kalinga, ordered the release of Belen following dismissal of the charge of illegal possession of explosives the police filed against her on February 11 (Northern Dispatch, 2021).



Betty Belen urging the Duterte administration to keep its promise to provide free irrigation to farmers. (Photo by APIT-TAKO)



Villagers confront military personnel upon the latter's entry into their community in 2013. (Photo by KAMP)

A SMALL COMMUNITY AGAINST LARGE-SCALE MINING

THE VICTIM

Didipio Community

The mining operations are located in Barangay Didipio, Nueva Vizcaya in Cagayan Valley Region. Sitting at a high biodiversity in Adalam River Watershed that provides sources of water for agriculture, hydropower and other domestic needs.

In 2017 data, it is home to 3,902 individuals and 833 households where most of the residents are indigenous people such as the Bugkalot or Ilongots and Tuwali groups. Before the mining started, residents used to have enough food and other necessities as Didipio is envisioned to be the regional center of fruit and vegetable production, and spice-based industries. The village is covered with about 30% of old and secondary forests that provide wild game and timber and majority of its fruit trees are citrus. While Didipio River is used as a community's source of aquatic organisms and irrigation for crop production.

Residents used to be close-knit and peaceful communities together with the elders for actively participating in settling their disputes.

An estimated that hundreds of hectares of lands used for agriculture were lost due to the conversion of mining facilities and mining operations of an Australian-Canadian owned Oceanagold Philippines Inc. (OGPI). An entire hill was turned into an open pit mine. The mining project operates 24 hours a day and 7 days a week causing massive earth movements every day. Locals are concerned about the impacts of their operations since it results in air pollutants that are primarily dust which causes a high incidence of respiratory illness for the residents, particularly the children and elders.

THE VIOLATIONS

Illegal Demolition in June 2008 and on October 2, 2009

Bribery, Intimidation and Harassment beginning 2002 up to present

Violent dispersal of protest and arrest on April 6, 2020

THE INCIDENT

For decades, the operations of OGPI have adversely impacted the environment and affected gross human rights abuses in violation of its contract. In June 2008, OGPI forcefully evicted the local communities by bulldozing and burning 187 houses assisted by security forces without legal order, payment of just compensation, and without providing an option for resettlement. On October 2, 2009, more than 165 PNP violently dispersed the residents, including the Mayor of Kasibu and Barangay Chairperson of Didipio, by protesting the demolition.

In 2000, OGPI started its project implementation, they deceptively created a “council of elders” whose members do not belong to the affected communities just to circumvent the Free, Prior, and Informed Consent requirements, crucial to its permit. Residents started opposing the mine in 2002 and experienced harassment and intimidation in 2008 as they were beaten during demolition, only trying to save their homes. OGPI also placed checkpoints around the village that caused the residents to do their social and economic activities difficult by the presence of PNP.



Indigenous Peoples in Didipio rejects Oceanagold drilling exploration. (Photo by Campaign for Human Rights Philippines)

OGPI's renewal process was slowed down due to the pandemic and was expired in June 2019. However, OGPI contested and stated that according to the Mines and Geosciences Bureau, they could continue their operations despite the pending renewal permit.

Provincial governor Carlos Padilla encouraged the people of Didipio to restrain any mine's operations. The people of Didipio held its second blockade by turning police checkpoints into barricades to stop any trucks that will be entering or exiting the mine site on July 1, 2019.

In January 2020, President Rodrigo Duterte issued a letter allowing OGPI to bring in trucks carrying 63,000 liters of fuel for generators to run water pumps in the underground mine. Governor Padilla explained that the president's letter allowing fuel delivery does not mean the mine can resume its operation. The governor wrote a letter to Interior and Local Government secretary, Eduardo Año, stating that while they respect the authority given by the president, they still have reservations on the number of fuel tankers coming in. Padilla said each fuel tanker carries 60,000 liters even though 20,000 liters can already run generators for 50 hours during a power outage.



A photo from the National Solidarity Mission to the People'sPeople's Barricade against Oceanagold Mining in July 2019. (Photo by People's Coalition on Food Sovereignty)

Villagers worked on shifts to maintain the blockade following the expiration of OGPI's permit in the previous year. During lockdown on April 6, 2020, OGPI assisted by 100 police forces violently dispersed the human barricade of 29 community leaders and members of peasant groups. Villagers were tackled to the ground and handcuffed. Tuwali leader, Myra Duyan, was struck by police shields and a young woman stepped on her shoulder. PNP detained DESAMA chairperson, Rolando Pulido who sustained injuries due to the police batons, police officers stripped off his clothes, handcuffed and took him to a police precinct for disobeying the police order in dismantling the barricade even though the OGPI's operation was illegal and a clear violation of the work-stoppage, physical distancing and quarantine procedures imposed in the whole Island of Luzon.



Residents flee their village in Lahug, Tapaz, Capiz after the massacre because of the military's threats. (Photo by Kodao Productions)

GRUESOME YEAR-ENDER: TUMANDUK MASSACRE

THE VIOLATIONS

Type of violations: Murder, red-tagging, militarization

The Perpetrators: Philippine National Police-Criminal Investigation and Detection Group (PNP-CIDG) and Police Regional Office-Western Visayas (PRO-6)

Place and date: December 30, 2020, in the villages of Tapaz, Capiz, and Calinog

THE INCIDENT

Militarization has become the shield for brazen land grabs of Tumandok ancestral land to give way to destructive 'development' projects like mega-dams, large-scale mining, and eco-tourism projects that ironically reverse their avowed benefits. For instance, The Tumandok opposed the Jalaur Mega-Dam Project since 2011 funded by the Koren Export-Import Bank. They feared



Roy Giganto is one of the nine farmers killed in the Tumanduk Massacre; he was the chairperson of Tumanduk and a prominent local leader. (Photo by Pamanggas, Facebook)

the dislocation of 17,000 indigenous peoples and decimation of their habitat.

Fast forward to December 30, 2020, nine indigenous leaders of the Tumandok were killed in simultaneous police operations in Tapaz, Capiz, and Calinog, Iloilo. Officers from the Philippine National Police-Criminal Investigation and Detection Group (PNP-CIDG) and Police Regional

Office-Western Visayas (PRO-6) claimed the search warrants positively yielded firearms and explosives in the victims' possession. State forces alleged the victims were communist rebels who fought back and were all killed in the gunfight.

After the massacre, the 78 households of barangay Lahug or around 300 people left their homes on January 1, 2021. Residents feared they would suffer the same fate from the military. They evacuated to the town's Civic Center and were assisted by local officials and cause-oriented groups. After getting assurance from Tapaz Mayor Roberto Palomar for their safety, the beleaguered residents returned to their homes on January 7.



One of the village houses was spattered with blood from one victim of the massacre. (Photo by Kodao Productions)

REFERENCES

- JHU CSSE COVID-19 Data. Accessed from: <https://systems.jhu.edu/research/public-health/ncov/>
- Benar News. (2020). Watchdog: Philippines Proves Deadly for Environmental Defenders. Accessed from: <https://www.benarnews.org/english/news/philippine/global-witness-07292020143708.html>
- Rappler. (2020). 9 red-tagged IPs killed, 17 others nabbed in police ops on Panay Island. Accessed from: <https://www.rappler.com/nation/tumandok-killed-nabbed-police-panay-island>
- Indigenous Peoples Rights International. (2020). 9 Indigenous Tumandok killed, 17 others arrested in police ops in Panay. Accessed from: <https://indigenousrightsinternational.org/news-and-events/news-and-features/philippines-9-indigenous-tumandok-killed-17-others-arrested-in-police-ops-in-panay>
- Licuanan, A.M (2017). Initial Findings of the Nationwide Assessment of Philippine Coral Reefs. *Philippine Journal of Science* 146(2):177-185)
- Cordillera People's Alliance. (2020). Free Betty Belen! Stop the attacks against human rights defenders! Accessed from: <https://www.cpaphils.org/urgent-alert-free-betty-belen-stop-the-attacks-against-human-rights-defenders-2020.html>
- Northern Dispatch. (2021). Kalinga woman leader now free as court dismisses charges. Accessed from: <https://nordis.net/2021/02/12/article/news/kalinga-woman-leader-now-free-as-court-dismisses-charges/>

RESURGING PEOPLES' STRUGGLES AGAINST RIGHTS ABUSES AND MEGA-DEVELOPMENT MEGALOMANIA IN INDONESIA

By Jodel Dacara

Egedius Pius Siam, leader of the Auyu tribe of indigenous peoples in Indonesia's easternmost Papua province, recalls the time before PT Indo Asiana Lestari (IAL) gained a foothold in their community.

"Before the company came, we lived a peaceful life," says Egedius.

IAL is poised to raze their ancestral forest for a plantation megaproject, with heavy equipment already being seen on the site. Egedius and his group are opposing the plan, saying that the company failed to obtain the community's consent and that it is not clear whether permits have been obtained for the operation.

The Malaysian-owned oil palm company's 39,190-hectare (96,840-acre) concession forms one chunk of the larger Tanah Merah project, a vast stretch of land in the Papua region earmarked to become the world's biggest oil palm plantation. Many plantation companies are eyeing the region as the next frontier for oil palm production and logging after much of the rainforests of Sumatra and Borneo had been cleared to make way for plantation.

But observers argue that the project will only benefit a few wealthy individuals and corporations but will not bring the promised development to the indigenous Papuans living in its shadows.

Local activists, including Egedius, have reported receiving death reports over their resistance to IAL's plans. The company's presence has also divided the tribe, with some members opposing the company and others supporting it.

"...we have become enemies with our own brothers and sisters", Egedius laments (Jong, 2021).

Egedius' predicament is reflective of what is happening now in the larger context of Indonesian society, where the government's growth and development obsession is engendering massive rights violations, violence, and social division.

DECLINING STATE OF RIGHTS AND REPRESSION

Human rights have been formally recognized in the country, both by law and in the constitution. Indonesia is a State Party to eight core international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). At the national level, laws on issues of human rights have been enacted, the basic one being Law No. 39/1999 on Human Rights (Human Rights in Asean, 2013).

There are major gaps, however, in how these commitments and broad frameworks are translated to actual implementation on the ground. Significant human rights violations continue to be reported such as arbitrary or unlawful killings by government security forces, torture by police, arbitrary detention by the government, political prisoners, censorship, including laws addressing treason, blasphemy, defamation, decency, digital attacks, and gender-based violence (Human Rights Watch, 2021).

Human rights groups and media allege that the government security forces use excessive force that result in deaths during arrests, investigations, crowd control, and other operations (Human Rights Watch, 2021). In May 2020, electoral violence killed 10 people while in September, police dispersal of student protests versus government attempts to restore draconian laws resulted in the loss of at least five lives with hundreds more wounded (Hamid, 2020).



As Indonesia's counterterrorism law revised, they allow authorities to arrests and detain suspected terrorists. (Photo by Asia News-Southeast Asia)

In these and other cases of alleged misconduct, police and the military frequently do not disclose the findings of internal investigations to the public or confirm whether such investigations occur. Official statements related to these allegations sometimes contradict civil society accounts, and the inaccessibility of areas where violence takes place makes fact checking difficult. Nongovernmental organizations (NGOs) and media report that police abused suspects during detention and interrogation.

Democratic and civic spaces are closing. In 2019, the Indonesian Legal Aid Institute (YLBHI) recorded that there were 6,128 people prosecuted for expressing their opinions in public (53% of those cases as violations of freedom of expression and 32 % as violations of the freedom to assemble). Papua and West Papua topped the list of provinces with the greatest number of civil rights violations with 18 cases, followed by Jakarta (11), Central Java (9) and South Sulawesi (7). (Yasmin, 2020).

In May 2018, Indonesia's parliament revised the country's counterterrorism law in ways that open the door to the prosecution of peaceful political activism. Amnesty International reported that the definition of terrorism was expanded along broad lines that could be used against activists and grants extra powers to

the authorities, including the ability to hold suspects in custody for up to 221 days without trial (2018)

Across the country, at least 202 social justice leaders and activists were under threat, including around 61 indigenous rights leaders who have been subjected to detention, physical attacks and intimidation (Hamid, 2020).

Civil society bemoans the government's failure to allow the full and meaningful participation of the public in policy-making processes, such as the failure to consult the public on the potential socio-cultural, economic and environmental impact of relocating the capital city from Java to Kalimantan and for ignoring workers and environmental groups serious concerns over the Omnibus Law on Job Creation which seeks to promote business interests to the detriment of workers' rights and the environment.

Press freedom has been compromised with attacks against journalists and media outfits. Notable cases involved those reporting on environmental and rights impacts of mega development projects.

On January 31, 2020 American editor Philip Jacobson of the environmental news site Mongabay was deported from Indonesia after spending 45 days in detention in Palangkaraya, Central Kalimantan, over an alleged visa violation. Similarly, journalist Diananta Sumedi served three months in jail in Kotabaru, South Kalimantan, until August after writing stories about a land dispute between Dayak Indigenous people and the Jhonlin palm oil company (Human Rights Watch, 2021).

In 2018, PT Multi Sarana Agro Mandiri (MSAM) filed a lawsuit against journalist Muhammad Yusuf for reporting on a dispute between the company and the villagers displaced after their lands were bulldozed by the company for the development of a massive palm oil plantation. Yusuf was arrested on charges of hate speech and defamation. He died of a heart attack while awaiting trial for five weeks in police custody (Zorob, 2020).

The lack of transparent investigations continued to hamper accountability in human rights abuses involving security forces.

MEGA-DEVELOPMENT PROJECTS AS A SOURCE OF VIOLENCE

Mega-development projects have been one of the significant features of Indonesian president Jokowi Widodo's administration. While some herald mega-development projects as the key to the country's economic growth, critical voices, however, point out their costly impacts on peoples' livelihoods, environment, and human rights.

Land grabs have been particularly chronic in the case of mega palm oil plantations. Security forces sometimes evicted those involved in land disputes without due process, often siding with business claimants over poorer residents. Konsorsium Pembaruan Agraria (Consortium for Agrarian Reform, KPA), an Indonesian NGO, documented more than 650 land-related conflicts affecting over 650,000 households in 2017. It estimated that, on average, there were nearly two land-related conflicts every day that year (Human Rights Watch, 2019). The latest data from the National Ombudsman Commission reported it received 1,014 land- and property-related complaints between December 2018 and March 2019 (2019).

Land and other resource grabs for megaprojects disproportionately impact indigenous peoples. Indonesia is home to about 50 to 70 million Indigenous people and over 2,330 Indigenous communities, about a quarter of the country's population (Human Rights Watch, 2019).

Resistance is met with repercussions such as judicial harassments, arbitrary arrest, physical attacks, and killings.

A court in North Sumatra sentenced two indigenous farmers to nine months in jail over charges of assault against an employee of PT Toba Pulp Lestari (TPL), an affiliate of pulp and paper giant Royal Golden Eagle. The indigenous community have likewise filed cases of assault against the company. The indigenous Sihaporas community and the company have been locked in a battle for over two decades over a land to which both parties lay claim. As in most such cases in Indonesia, the authorities have sided with corporate interests and pursued criminal charges against the community (Karakoro, 2020).

Disputes at times escalate to killings. Global Witness estimates that three environmental defenders were killed in Indonesia in 2019 (2020).

Conflict between residents of Pagar Batu village and oil palm plantation company PT Artha Prigel in Lahat regency, South Sumatra, reached a dark



Moi Indigenous Peoples block the roads to stop the oil palm plantation in Sorong District. (Photo by Australia West Papua Association Adelaide)

end as company security guards allegedly killed two farmers in April 2020. The conflict between the company and the villagers has been ongoing since 1993, when the company forced the residents to give up their land in exchange for what they considered paltry compensation (Savitri, 2020). Activists denouncing that the company used the lull in oversight during the COVID-19 outbreak to strengthen its claims (Business and Human Rights Resource Centre, 2020).

Journalists Maratua Siregar and Maraden Sianipar were stabbed to death on October 30, 2019. They had been involved in a land dispute between residents of Panai Hilir, North Sumatra, and the Amelia palm oil company. The palm oil concession where the two men's bodies were found was closed by the government in 2018 for illegally clearing areas of forest.

Some of the suspects arrested admitted on record that the killing was an act of revenge "linked to palm oil plantation land". Police also arrested the alleged owner of the palm oil plantation operator for allegedly paying US\$3,000 to have Siregar and Sianipar killed. No trial has taken place yet in relation to the deaths of the two journalists (Global Witness, 2020).

These are the contexts in which President Jokowi is pushing for new policy measures to accelerate megaprojects to rescue Southeast Asia's largest economy

from the fallout of the coronavirus pandemic. Having won a second term mandate, President Jokowi has added 56 new projects including five industrial estates, 13 dams and five airports amounting to 97 USD billion (Aris Aditya; Harry Suhartono, 2020).

The government passed several legislations to facilitate Jokowi's vision. It moved to enact the Omnibus Law on Job Creation with the purported aim of creating jobs and increasing foreign and domestic investment by streamlining regulatory requirements for business permits and land acquisition. The parliament in September 2020 passed revisions to a 2009 mining law to ease restrictions on the size of mining operations and allow automatic permit extensions for operators of up to 20 years (Jong, 2020).

RISING TIDE OF PEOPLES' RESISTANCE

Amid the pandemic lockdown, in the islands of Java, Sumatra, Kalimantan, Sulawesi, Nusa Tenggara and Bali, Maluku, and Papua, hundreds of thousands of people led by workers' unions, farmers, indigenous peoples, women, youth and environmentalists, have poured into the streets of Jakarta, Surabaya, Bandung, and Yogyakarta to protest the Omnibus Law. They have shown tremendous courage in their struggle amid state brutality and violence.

"Whether or not we succeed should be an afterthought. What's important is that we fight," says one union leader (Fachriansyah, 2020).

Indigenous peoples of West Papua are also staking their claims in the struggle. They demanded for the bill not to be eligible in Papua as it would hurt the workers and farmers, exploit natural resources, and devastate the cultural heritage of the indigenous Papuans.

Activists are also engaging government authorities and companies in legal arenas. Indigenous activists in Indonesian Borneo won a lawsuit against a coal mining firm that sought to operate on their land.

After a two-year court battle, the Supreme Court ruled in favor of the residents that claimed that the PT Mantimin Coal Mining and the minister of energy and mineral resources bypassed a critical step for obtaining a permit: the environmental impact assessment, which requires local approval (Jong, 2020).



Thousands of people protest at the House of Representatives in Jakarta on July 16, 2020, to stop lawmakers from deliberating in the Omnibus Law on the Job Creation. (Photo by The Jakarta Post)

Members of Seruni, a national women's organization in Indonesia, are organizing women workers and farmers in palm plantations. They are also promoting agroecology in some of the rural communities they organize to challenge the dominant monocrop, export-oriented, import-dependent agricultural practice in mega-plantations.

The Indonesian peoples' example is indeed a source of inspiration for the people in the region and all over the world to rise to the challenge of the times by organizing and mobilizing for our rights and against the further corporate capture of the environment.

FOLLOWING ARE CASES OF VIOLATIONS COMMITTED AGAINST ENVIRONMENTAL DEFENDERS IN INDONESIA

Prepared by: Ayu Kusuma Pertiwi, Walhi Kalimantan Tengah



The police took Mr. Wardian from the community. (Photo by WALHI Central Kalimantan)

WARDIAN

Farmer and community leader

THE VICTIM

Wardian is a 66 year-old farmer and a community leader from Sembuluh I Village, Danau Sembuluh District, Seruyan Regency, Kalimantan Tengah Province

THE VIOLATION

Type of violation/s: Intimidation & criminalization attempt

Date and place of incident: March - May 2019, Danau Sembuluh District, Seruyan Regency, Kalimantan Tengah Province

Perpetrator: PT Salonok Ladang Mas and Sembuluh District Police officers

THE INCIDENT

In 2019, PT Salonok Ladang Mas (SLM) cleared a new land area in Batu Gadur hill, Sembuluh 1 Village. The location was considered the last protected area managed by the local community.

Mr. Wardian, a farmer and community leader, found out that the company also excavated laterite soil at the area his family managed on March 20, 2019. The land that was claimed to be inside the company's cultivation permit area currently in dispute with the local community. Then, he placed a warning sign at the location to prohibit any further exploitation. However, on March 26, 2019, he found out that the sign was gone, and some company workers continued excavating the laterite soil. There were also several Danau Sembuluh District police officers guarding the company's operation. Mr. Wardian asked them to stop and wait until the dispute was resolved, but they insisted on keeping the operation going. The police officers also threatened Mr. Wardian by saying he could get in trouble since he still has an incomplete case based on the company's report.

On May 2, 2019, Wardian paid another visit to his land and stopped the company's operation. Later that afternoon, he was visited at his residence by four men who identified themselves as the Chief of Danau Sembuluh District police, PT SLM's security head and officer, and the company's contractor. They gave a warning to Mr. Wardian not to interfere with the company's business at Batu Gadur in which Mr. Wardian refused. He stated that the land was still in dispute and offered a mediation facilitated by the Village Head of Sembuluh 1. The Police Chief accepted the proposal and scheduled a mediation on May 4, 2019. They agreed that before the mediation, no activities are allowed at the location. However, the company was found out still operating there on May 3, 2019.

On the next day, May 4, 2019, Mr. Wardian went to the dispute location for the mediation schedule, where he saw the ongoing company's operation. He asked the workers to stop since there would be mediation. They waited for the Police Chief and company's



Mr. Wardian showed the polluted Lake Sembuluh with the pathway built in the middle. (Photo by WALHI Central Kalimantan)



The community stopped the company's activity for taking the Laterite soil. (Photo by WALHI Central Kalimantan)

representatives to come. At around eleven a.m., police officers arrived. They were ordered to bring Mr. Wardian to the police office. Mr. Wardian, accompanied by his family, rejected it since there was no official document as the basis of the order or arrest warrant. All of the people were threatened to get arrested. Some people who were recording the incident were told to stop. Mr. Wardian was brought to escape by his family, an officer shouted to shoot, but no bullet was fired. After that, Mr. Wardian, accompanied by his son, son-in-law, and nephew, left the village to avoid the chase.

Mr. Wardian went to Jakarta and reported his case to some agencies, such as the National Commission on Human Rights of Indonesia (Komnas HAM), Executive Office of the President of the Republic of Indonesia (KSP), National Police Headquarters of the Republic of Indonesia (Mabes Polri), Directorate General of Law Enforcement (Gakkum) on environment and forestry (LHK).



The company taking the Laterite soil. (Photo by WALHI Central Kalimantan)

Mr. Wardian returned to his residence without seeing justice. The company continued its operation and planted palm oil seedlings on the location.



Some members of the Laman Kinipan community. (Photo by WALHI Central Kalimantan)

EFFENDI BUHING

Dayak Tomun leader from Laman Kinipan Indigenous Community

THE VICTIM

Effendi Buhing is a 51-year-old Dayak Tomun community leader from Batang Kawa Sub-District, Lamandau Regency, Kalimantan Tengah Province. He is a leader of the organization Laman Kinipan Indigenous Community. The indigenous Dayak Tomun community has inhabited their territory since 1870. They have lived up and practiced their culture and tradition on utilizing natural resources. The customary forest of 16,232 hectares has become the support for the life of 198 households, not only because of their biological function but also for the wealth stored in them. Their lives were threatened by the invasion of Citra Borneo Indah Group's subsidiary PT Sawit Mandiri Lestari, which later cleared their customary forest for palm oil plantation.

THE VIOLATION

Type of violation: Criminalization attempt

Date and place of the incident: August 2020, Kinipan Village, Batang Kawa Sub-District, Lamandau Regency, Kalimantan Tengah Province

Perpetrators: PT Sawit Mandiri Lestari and Kalimantan Tengah Regional Police officers



The Police forcibly took effendi Buhing. (Photo by WALHI Central Kalimantan)

THE INCIDENT

PT Sawit Mandiri Lestari (SML), a subsidiary of the Citra Borneo Indah (CBI) Group, has evicted an area of 1,242 hectares of the Laman Kinipan customary forest since February 2018. The company's presence was something the community did not expect because previously, the community had expressed its rejection of PT SML's palm oil plantation development plan in the Kinipan Village area during a village meeting in 2012. The community also sought a preventive effort by declaring their customary forest in 2016 after obtaining a certificate by Badan Registrasi Wilayah Adat (BRWA) or the Ancestral Domain Registration Agency attended by Assistant III of Lamandau Regency Government, members of Lamandau Regency Parliament, and several neighboring village chiefs and customary leaders. Furthermore, according to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), the area of PT SML's Hak Guna-Usaha (HGU, the right to cultivate) does not cover the Laman Kinipan forest. Still, the company kept clearing the forest and even reached the areas in the community that used to be cultivated and where fruits were planted.

On August 26, 2020, Effendi Buhing, a Laman Kinipan indigenous community leader, was arrested by the Directorate of General Criminal Investigation of Kalimantan Tengah Regional Police officers. The armed police officers forcibly took him to his home in Kinipan Village, Batang Kawa Sub-district, Lamandau Regency. Buhing was arrested based on a police report Number LP/L/173/VII/Res.18/2020/SPKT on an alleged criminal act of theft with violence made

by PT SML on August 9, 2020. Earlier, on August 16, 2020, four community members were also arrested.

He and the four community members were accused of violently seizing a company's chainsaw on June 21, 2020, from two company workers who were on a break after cutting wood at the community's forest. The community stated that they ordered the workers to leave the forest, but they did not steal the chainsaw.

From the arrest's video recording, Buhing expressed his refusal to the suspicious arrest. He had no idea about the allegation against him. He suspected the arrest was an effort to criminalize him and interfere with the community's efforts. He was taken by force by the armed police. The video went viral on the internet and raised strong public criticism against the Police and PT SML from the local and national levels. Getting so much pressure, Kalimantan Tengah Regional Police Office eventually released Buhing and the four other community members on August 27, 2020. The release came with a condition, and they are still holding the suspect status because there is still no official letter issued from the investigator that dismisses the investigation. After the release, Buhing received a summon as a witness on November 2, 2020, based on a new case note. He has made several appointments, but the investigation process has yet to be carried out until now. While Buhing and the other four Laman Kinipan community members can carry out their daily activities at Kinipan Village, they remain vulnerable to criminalization since their legal status is still unclear.



Effendi Buhing forcibly put inside in a police car by armed personnel. (Photo by WALHI Central Kalimantan)



The community reaping their third harvest last 22-23 January 2020. (Photo by WALHI Central Kalimantan)

JAMES WATT

Dayak Tamuan farmer and human rights defender

THE VI CTIM

James Watt is a 49 years old Dayak Tamuan farmer from Seruyan Raya Sub-district, Seruyan Regency, Kalimantan Tengah Province. He is the paralegal of Masyarakat Adat Nusantara (AMAN) Kalimantan Tengah.

Penyang Village's community has been facing a long-running land dispute against PT Hampan Masawit Bangun Persada (HMBP). It all started when PT HMBP, a Best Group International subsidiary, cleared a vast land area for palm oil plantations in 2005. Among the areas are those that used to be farmlands managed by the community of Penyang. This operation was considered an illegal act because it had not been preceded by the FPIC (Free, Prior, and Informed Consent) process, allowing the indigenous people to give or withhold consent on a project that may affect their territories.

The struggle of the community of Penyang went on until 2019. The community members assigned James Watt to assist the community in resolving the dispute against PT HMBP. On October 15, 2019, M. Wahyu Bima Dhakta as the

company's Legal Manager, and M. Arif Hidayat NST as the Legal Supervisor on behalf of PT HMBP made a statement that the company will return or build a partnership over the land of area 117 hectares. The land areas are outside the company's HGU to the community. After the 'return' of the community's land, the community members of Penyang began harvesting the palm oil fruits at the location.

THE VIOLATION

Type of violation: Criminalization

Perpetrator: PT Hampan Masawit Bangun Persada and Kalimantan Tengah Regional Police

Date and place of the incident: March 7, 2020, Jakarta

THE INCIDENT

The community carried out mass harvesting three times: in November and December 2019 and January 2020.

On March 7, 2020, James Watt was arrested at Walhi National's office safe house in Jakarta in the middle of the night. He was arrested for allegedly ordering the harvesting. In fact, Watt was in Jakarta trying to seek justice



Brimob officers and company's security guards arrested James Watt's colleagues, Hermanus and Dilik. (Photo by WALHI Central Kalimantan)



From left to right, James Watt, Hermanus, Dilik, and one of their lawyer in the middle of a teleconference trial. (Photo by WALHI Central Kalimantan)

for two other environmental defenders and Penyang community members, Hermanus and Dilik. On February 17, 2020, they were arrested earlier for carrying out the harvesting of palm oil based on a report made by the company's representative, Rio Sandra M, earlier that day.

On March 8, 2020, the Regional Police of Kalimantan Tengah Province clarified the Head of Public Relation of Kalimantan Tengah Regional Police's Facebook account regarding James Watt's arrest. They stated that this case is merely a stealing case or criminal case, and it had nothing to do with the land dispute case between the community and PT HMBP.

The legal processes of the three were full of peculiarities. Watt was arrested by Kalimantan Tengah Regional Police officers, although the case was then handled by Sampit, Kotawaringin Timur, District Court. Watt, Hermanus, and Dilik were charged as suspects and detained after being arrested. The investigators interrogated them without the company of lawyers. Their pre-trial attempt was cut off because the case dossier was submitted in a rush to the Public Prosecutors and the first trial session began on April 6, 2020. Since the beginning, the trial had to be carried out through teleconference. It was claimed as an effort to avoid the spread of the coronavirus Covid-19 outbreak.



Villagers and supporters held a protest action in front of the Sampit District Cour against the harassment of James Watt and his colleague, Dilik. (Photo by WALHI Central Kalimantan)

The Panel of Judges stated that Watt had been legally and convincingly proven to commit the alleged criminal acts. Watt was subjected to Article 107 letter d of the Plantation Act in conjunction with article 55, paragraphs 1 to 1 of the Criminal Codes, namely ordering illegal actions to harvest plantation products on case number 112/Pid.Sus/2020/PN Spt. He was sentenced to 10-month imprisonment reduced by a detention period.

On the other hand, Dilik was subjected to article 107 letter d of the Plantation Act in conjunction with article 55 paragraph 1 to 1 of the Criminal Codes, participating in illegal acts of harvesting plantation products on case number 113/Pid.Sus/2020/PN Spt. He was sentenced to imprisonment for eight months, reduced by detention period.

Tragically, Hermanus, who became ill while in custody, passed away. His condition got worse, and he was not given utmost medical attention amid a petition by his lawyers.

REFERENCES

- Aris Aditya; Harry Suhartono. (2020, May 29). Indonesia Picks \$97 Billion of Projects, Including 5 Airports, to Propel Recovery. Retrieved from Bloomberg: <https://www.bloomberg.com/news/articles/2020-05-29/indonesia-picks-97-billion-projects-to-propel-economic-recovery>
- Business and Human Rights Resource Centre. (2020, May 11). Indonesia: Attacks on land defenders are intensifying while govt. is trying to increase executive power & simplify investment. Retrieved from Business and Human Rights Resource Centre: <https://www.business-humanrights.org/en/latest-news/indonesia-attacks-on-land-defenders-are-intensifying-while-govt-is-trying-to-increase-executive-power-simplify-investment/>
- Fachriansyah, R. (2020, October 4). Labor unions plan mass protests, strikes as jobs bill nears completion. Retrieved from The Jakarta Post: <https://www.thejakartapost.com/news/2020/10/04/labor-unions-plan-mass-protests-strikes-as-jobs-bill-nears-completion.html>
- Forest Peoples Programme. (2018, October 12). Urgent action needed to halt takeover of indigenous lands for megaprojects in Indonesia. Retrieved from Forest Peoples Programme: <https://www.forestpeoples.org/en/lands-forests-territories-global-finance-trade-agribusiness-palm-oil-rspo/news-article/2018/urgent>
- Global Witness. (2020). *Defending Tomorrow*. London and Washington DC: Global Witness.
- Hamid, U. (2020, December 20). In 2020, Indonesia's leaders abandon human rights. Retrieved from The Jakarta Post: <https://www.thejakartapost.com/academia/2020/12/20/insight-in-2020-indonesias-leaders-abandon-human-rights.html>
- Human Rights in Asean. (2013, September 23). Status of ratification of core human rights treaties by ASEAN member states. Retrieved from Human Rights in Asean: <https://humanrightsinasean.info/library/status-of-ratification-of-core-human-rights-treaties-by-asean-member-states/>
- Human Rights Watch. (2019, September 22). When We Lost the Forest, We Lost Everything: Oil Palm Plantations and Rights Violations in Indonesia. Retrieved from Human Rights Watch: <https://www.hrw.org/report/2019/09/23/when-we-lost-forest-we-lost-everything/oil-palm-plantations-and-rights-violations>
- Human Rights Watch. (2021). *World Report 2021*. New York: Human Rights Watch. Retrieved from Human Rights Watch.
- Indonesia. (2001, April 24). Law N26 Establishing the Ad Hoc Human Rights Court. Retrieved from Relief Web: <https://reliefweb.int/report/indonesia/indonesia-establishes-ad-hoc-human-rights-court-try-past-human-rights-cases-east>
- Jong, H. N. (2020, February 3). Borneo activists win a court battle to bar a coal miner from their land. Retrieved from Mongabay: <https://www.eco-business.com/news/borneo-activists-win-a-court-battle-to-bar-a-coal-miner-from-their-land/>
- Jong, H. N. (2020, May 13). With new law, Indonesia gives miners more power and fewer obligations. Retrieved from Mongabay: <https://news.mongabay.com/2020/05/indonesia-mining-law-minerba-environment-pollution-coal/>

- Jong, H. N. (2021, January 21). Papua tribe moves to block clearing of its ancestral forest for palm oil. Retrieved from Mongabay: <https://news.mongabay.com/2021/01/papua-tribe-moves-to-block-clearing-of-its-ancestral-forest-for-palm-oil/>
- Karokaro, A. (2020, March 9). Indonesian indigenous land defenders jailed in fight with pulpwood giant. Retrieved from Mongabay: <https://news.mongabay.com/2020/03/indonesia-indigenous-land-sumatra-toba-pulp-lestari-rge/>
- Savitri, Y. (2020, April 5). Tensions high after two farmers killed in South Sumatra land conflict. Retrieved from The Jakarta Post: <https://www.thejakartapost.com/news/2020/04/04/tensions-high-after-two-farmers-killed-in-south-sumatra-land-conflict.html>
- Yasmin, N. (2020, February 11). Civil Rights Violations On the Up in Indonesia. Retrieved from Jakarta Globe: <https://jakartaglobe.id/news/civil-rights-violations-on-the-up-in-indonesia/>
- Zorob, M. (2020). *Defending Defenders: Challenging Malicious Lawsuits in Southeast Asia*. Bangkok: Business and Human Rights Center.

THE CALL TO ACTION

The intensifying resource conflict has resulted in the worsening attacks on environmental defenders. While they claim to protect, rehabilitate and conserve ecosystems for sustainable natural resource utilization and ecological balance, corporations and governments have strived for the dominant development paradigm. Profit is equated with development even though the drive for profit has intensified unsustainable industrial production and resource exploitation. This free-market economy or neoliberalism have breached the planet's threshold thus the climate crisis.

The environmentally destructive projects and activities, such as mining and extractive industries, agribusiness plantations, large dams, coal-fired power plants, land reclamation, logging, wildlife poaching, land use conversion among others, disrupt ecological balance affecting local communities which are often poor and marginalized. These have also affected the development of countries, losing vital natural resources and increasing their vulnerability to climate change.

The context of the state of the environment is important to note to emphasize the vital role of environmental defenders. They seek to uphold our right to a safe, clean, healthy and sustainable environment which is integral in the enjoyment of a wide range of human rights.

However, environmental defenders are often projected to be anti-development, terrorists or enemies of the state. This demonization is used as justification for the attacks and as a way to isolate them from the support of broader population. They have experienced physical abuse, arbitrary arrests, criminalization, intimidation, killings, rape, torture, forced disappearances, SLAPPS and dispersals of protests and other forms of mobilization. The main enabling factors for these are lack of policies for protection, use of policies for the abuses, legislation of policies that legitimizes abuses and lack of implementation of

policies. The main perpetrators aside from private security forces of corporations are state agents such as the police and military. The government which was supposed to protect its citizens has become a tool to protect profit-making interests. Therefore, impunity persists and the attacks continue.

In addition, the attacks on environmental defenders have worsened the destruction and degradation of ecosystems and existing poverty especially of more vulnerable sectors such as women and indigenous people. This is problematic especially since it is the natural resource rich but poor countries that are affected.

Therefore, there is a need to challenge and change the narrative and perception of environmental defenders towards underscoring their roles as protectors of the environment and human rights and drivers of genuine development. Urgent action must be made to increase their protection to prevent further attacks so that they can continue with their advocacy work.

From the situation of environmental defenders that was gathered in this publication, we present the following recommendations:

For governments to

1. Uphold and implement legally binding tools such as the 1998 UN Declaration on Human Rights defenders and the Human Rights Council resolution 40/11 on environmental human rights defenders
2. Formulate stronger laws and policies to protect environmental defenders, grant them greater access to justice, and establish emergency measures and support.
3. Facilitate in-depth and independent investigation on human rights abuses on environmental defenders both by responsible government agencies and independent parties and hold violators accountable while taking specific action on the situation of indigenous people, women, farmers, and fisherfolk.
4. Abolish laws and other policies that either legitimize or enable human rights abuses on environmental defenders.

5. Address the structural problems at the root of the attacks on violations, the exploitation of natural resources for profit and not for genuine sustainable development.
6. Ensure the active participation of environmental defenders and civil society in monitoring human rights abuses, legislation, and implementation of laws; promote their freedom of expression in different media, physical mobilizations, and other forms of solidarity.
7. To have widespread information and education drive, recognizing the role of environmental defenders, presenting their situation, and calling for urgent action.
8. Provide support for environmental defenders and their initiatives through capacity building, financial, material, and technical assistance, among others.
9. Encourage the movement building of environmental defenders, thus creating more unity to strengthen and expand their initiatives to protect their communities and the environment.

For the business sector to

1. Uphold the highest standards of environmental protection, sustainable development, and overall human rights
2. Uphold freedom of information and transparency in their operations and take immediate action on community concerns and grievances.

We hope that environmental defenders continue to unite and expand their ranks to pressure governments as duty-bearers to improve the situation of the environment and its defenders and to seek accountability for the violations of human rights. Different forms of action have been done and can still be amplified. Indigenous people have used traditional ceremonies, farmers have rehabilitated degraded areas for agricultural production, the youth have taken to social media for visibility campaigns and protests abound despite repression and with health measures during the pandemic.

Legal cases have been fought and won. Metalegal actions such as barricades against mining companies are still ongoing. Many projects have been denied of permits and have been stopped. In addition, international solidarity is also strengthening, not only with international institutions but among organizations of environmental defenders themselves. With the continued action of grassroots communities, national movements and international solidarity comes hope and sources of inspiration.

Furthermore, let us honor our fallen environmental defenders by continuing their fight. Now more than ever, we must resound the call for environmental defenders to unite to uphold our rights. We rage and we fight back!

COLLABORATING GROUPS

ASIA PACIFIC NETWORK OF ENVIRONMENT DEFENDERS (APNED)

APNED is composed of individuals, civil society groups, non-government organizations, grassroots and people's organizations who advocate and work on the issue of human rights, environmental protection and natural resource conservation.

It is a solidarity campaign network that aims to coordinate campaign initiatives of regional members and encourage solidarity among grassroots and frontline defenders across the region. The network will help to strengthen the coordination and solidarity, as well as raising of national and local concerns of environment defenders in different international policy spaces.

Facebook.com/APNED.DefendEnviDefenders

Twitter: @apned_

Website: apned.net

E-mail: info@apned.net | defendersasiapacific@protonmail.com

CAMBODIA

Not1More (N1M) is a group of activists who work directly with local communities to seek justice through advocacy for natural resources, the environment and human rights, in part online and directly to the related ministry by producing videos and filing technical documentation as an evidence to support the advocacy activities.

Like: facebook.com/N1Mnot1more

Website: <https://not1more.org/>

INDONESIA

Walhi Kalimantan Tengah (Central Kalimantan), an office of Walhi (Friends of the Earth Indonesia) in Central Kalimantan, is a networking forum of NGOs and environmentalists groups/communities in Central Kalimantan. Walhi Kalimantan Tengah works involving community training and organizing, advocacy, and campaign. Walhi believes in justice and sustainability for both humans and the environment. The vision of Walhi Kalimantan Tengah is the realization of people's sovereignty in fair and sustainable management of natural resources by respecting the principles of people's safety and human rights

Website: <http://walhikalteng.org/>

E-mail: walhi.kalteng@gmail.com

MYANMAR

Karen Environmental and Social Action Network (KESAN) is a community-based, non-governmental, non-profit organization that works to improve livelihood security and to gain respect for indigenous people's knowledge and rights in Karen State of Burma, where the violence and inequities of more than 60 years of civil war have created one of the most impoverished regions in the world.

Website: www.kesan.asia

E-mail: info@kesan.asia

PHILIPPINES

The **Center for Environmental Concerns–Philippines (CEC)** is a non-government organization founded through the initiatives of organizations representing fisherfolk, farmers, indigenous peoples, women, urban poor, and professional sectors.

Website: <http://www.cecphils.org/>

E-mail: info@cecphils.org

THAILAND

ENLAWTHAI Foundation (EnLAW) is a non-governmental organization founded with a mission to provide legal support for local communities suffering from industrial development and environmental pollution, in exercising their rights and accessing to justice; to monitor the current environmental legal system and advocate for better protection to environment and health. EnLAW works to protect and promote human rights and environmental democracy under the concept “Environmental justice in Thailand is made possible by human rights and legal mechanisms”.

Website: <http://www.enlawfoundation.org>

E-mail: enlawthai@gmail.com

Ecological Alert and Recovery - Thailand (EARTH) is an independent non-governmental organization striving for social and environmental sustainability and justice in Thai society. EARTH serves as a watchdog monitoring the Thai government’s industrialization policy, industrial pollution and unsustainable consumption patterns. We promote climate justice, good governance and accountability of governmental and international agencies. EARTH focuses on the impacts of hazardous substances on ecosystems, local communities and workers’ health.

Website: <https://www.earththailand.org/>

E-mail: earth@EarthThailand.org

The **Community Resources Centre (CRC)** is a non-government organisation which is committed to protect and promote the Human Rights, Community Rights and the Environment. CRC is a watchdog on the implementation of ICCPR, ICESCR and UNGP on Business and Human Rights.

E-mail: crcthai@gmail.com

Facebook Page: <https://www.facebook.com/CommunityresourcecentreThailand/>

ABOUT THE PUBLISHERS

The **Asia Pacific Network of Environmental Defenders (APNED)** was formed in 2018. APNED is composed of individuals, civil society organizations, non-government organizations, grassroots and people's organizations that seeks to uphold human rights related to the environment. This includes ensuring an enabling environment for environmental defenders to do their work and protecting their civil and political rights. It is a solidarity campaign network that aims to launch coordinated campaigns, encourage greater solidarity, and raise the local and national concerns of environmental defenders in different international policy spaces, and to increase the capacity of environmental defenders in the region.

The **Center for Environmental Concerns – Philippines Inc. (CEC)** is a non-government organization founded through the initiatives of organizations representing fisherfolk, farmers, indigenous peoples, women, urban poor, and professional sectors. Its area of operation and networking covers the entire Philippines and different ecological contexts. At the grassroots level, CEC closely works with communities and organizations nationwide, supporting their initiatives to nurture their ecosystems, defend their common access to natural resources, and eventually improve their living and working conditions in the context of a balanced and healthy environment. At the national level, CEC advocates for people-oriented, patriotic, sustainable, and scientific policies and programs for the protection of the Philippine environment. At the global level, CEC engages in information sharing, international networking, cross-cultural exchanges, and solidarity initiatives on common environmental issues and concerns.



Asia Pacific Network of Environment Defenders (APNED)
Center for Environmental Concerns – Philippines Inc. (CEC)

April 2021