

SILENCING INDIGENOUS COMMUNITIES: THE CASE OF A LIGNITE COAL MINE IN OMKOI DISTRICT, THAILAND



GOBIERNO TERRITORIAL AUTÓNOMO
DE LA NACIÓN WAMPÍS



FENAMAD
Federación Nativa del Río
Madre de Dios y Afluentes
Por la unidad, y defensa de los bosques y respeto a los pueblos indígenas



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FRONTLINES OF **CLIMATE** **JUSTICE**

“We, the youth, locals, and community members of **Omkoi are ready to stand up to fight** and say ‘no’ to the coal mine that will [contribute to] climate change, and [cause] the lands and lifestyles we’ve passed down from our ancestors to disappear.”¹

—Pornchita Fahpratanprai,
youth Omkoi climate activist

Acknowledgments

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EXECUTIVE SUMMARY

A coal mining company, 99 Thuwanon Co. Ltd., spent more than 20 years planning a lignite mining project near Kabeudin Village, a Karen community in the remote mountains of the Omkoi District of Chiang Mai Province, Thailand. The village has been secluded from the modern world, high up in the mountains, for 300 years. The Karen community is completely self-sustaining, practicing subsistence farming, sharing resources, and practicing their own cultural and spiritual life.

A proposed open-pit lignite mine threatens the village. Not only would the community lose farmland to the mine, but the mine would also contaminate local water sources, pollute the air, and threaten the health and traditional way of life for multiple area communities. The Kabeudin community only learned about the mining project in April of 2019, when the local government announced that it had nearly completed the process to grant the concession. Since then, the community has organized to lead a resistance process against the mine. Their efforts have been heavily repressed; some of the youth leaders have been criminalized.

The climate crisis requires a transition away from fossil fuels to achieve the goals articulated by the Paris Agreement. The latest report of the Intergovernmental Panel on Climate Change (IPCC), the United Nations body that assesses the science related to climate change, calls on countries to deeply reduce their emissions in the coming decades to prevent the worst effects of the climate crisis.² Coal is the fossil fuel that has contributed the most to global climate change. The burning of coal accounts for 46 percent of carbon dioxide emissions worldwide and 72 percent of total greenhouse gas (GHG) emissions from the electricity sector.³ The urgency of the climate crisis demands that countries such as Thailand commit to phasing out coal and not building any new coal plants. The Kabeudin community in the Omkoi district of Chiang Mai is on the frontlines of the climate crisis and is leading this call.

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INTRODUCTION TO THE COMMUNITY

The Karen People of Kabeudin Village



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The Indigenous population of Thailand is estimated to be around 5 million people or about 7.2 percent of the country's total population.⁴ Each Indigenous community has its language, culture, and belief system—all of which are different from those of the Thai people.⁵ Even though the Karen people constitute the biggest ethnic minority group in Thailand (about 500,000 people), the Thai state has never recognized their rights to their ancestral lands or their status as an Indigenous group.⁶ Since 1959, the Thai government has officially used the derogatory term “hill-tribe” to denote the Indigenous community as wild, uncivilized forest dwellers.⁷ According to a member of the Karen community, who is an activist with IPF and has worked on environmental

and Indigenous issues, the word “hill” in Thai has a double meaning, referring both to a “hill” and “other” (meaning outsider).⁸

Like other Indigenous communities, the Karen peoples’ “land is part of their identity, and most of their livelihood comes from the land they cultivate and from the surrounding forests.”⁹ Karen villages usually consist of bamboo houses, and most community members are subsistence farmers.¹⁰ Farmland in the Kabeudin village belongs to no one. The land is a collective space for the community to cultivate.¹¹ The Karen peoples’ council protects the forest area designated for general usage.¹² For example, before villagers cut down any trees to collect wood for new houses

from this land, they must inform the village council and allow them to consider the situation.¹³ The community has a separate living space where the main village and homes are located.¹⁴ Lastly, some land in the Kabeudin village is sacred, meaning no one is allowed to encroach or damage the natural environment.¹⁵

The environment is part of everyday life for the Karen people: they use natural resources, farmland, waterways, and forests not only for their survival but for spiritual and cultural purposes.¹⁶ Karen people believe in the spirits of the forest and

protect the land and water around them. Without their sacred land, they cannot perform ceremonies for life, death, or crops.¹⁷ One area of land that will be excavated for the coal mine is considered a spiritual forest that the community uses for sacred ceremonies to honor the spirits of the land.¹⁸ This specific area of the forest is located upstream from the village; the community forbids cutting trees and cultivating land there because it is their way of protecting the water that trickles down to the village.¹⁹ The Karen peoples believe that there will be spiritual consequences if the project goes forward.²⁰

The Omkoi Lignite Coal Mining Project

“[I]f the land is lost, their tradition is lost.”²¹

The coal mining company, 99 Thuwanon Co. Ltd.,²² applied for a concession to mine the land in the Omkoi district in the year 2000.²³ In 1987, the company attempted to buy land in Kabeudin from local villagers.²⁴ Although villagers do not have title to the land, they have lived there for generations. When some villagers refused to sell, the company threatened them, telling them to take the money and leave, or they would be prosecuted for living in a national preservation area.²⁵ Thirteen people were ultimately forced to sell their land.²⁶ The company used the fact that the villagers lack title to the land as a leverage point.²⁷

Between 2008 and 2011, the mining company surveyed the land for coal and in 2010 hired Top Class Consultant Co., Ltd. to produce an Environmental Impact Assessment (EIA) report.²⁸ In 2011, the Office of Policy and Planning accepted the report as presented to its expert committee.²⁹ Because the land was farmland, no villagers were evicted from their homes or forced to move. Since the company did not begin operations at that time, the villagers continued to

use this land without interruption or knowledge of the proposed project.³⁰ The Kabeudin community first became aware that their land was the target of this project in 2019.³¹ At that time, the company went to the village and told the members of the Kabeudin community to leave due to the start of the extractive activities.³²

Photo by: Chalefun Ditphudee



The information about the mining operation was shared on a Facebook page called Omkoi Watch in April of 2019.³³ Since the announcement, community and civil society groups have united against the coal mining company.³⁴ Civil society groups in particular have pushed to have access

to the EIA and share that information with the community. For example, according to the EIA, the coal-generated by this project will primarily be used to fuel a Lampang Province cement plant for Siam Cement Group, PCL.³⁵ The Lampang Province cement plan is projected to only operate for six years.³⁶ The EIA explicitly states that the mining operation will inevitably have a long-term geological impact at the project site but does not provide any information about those long-term consequences.³⁷

The Office of Natural Resources approved the EIA 10 years ago, but the local community was not made aware of this at the time. According to Thai law, the company is required to inform the community of what is in the EIA.³⁸ The company must hold two public consultations with the community before the EIA process can be complete.³⁹ During the first meeting within the EIA process, the company should address the potential consequences of the project. The second meeting must provide information relating to the company's actions to remediate the consequences identified in the first meeting. Only at this point after the developer and consultant have shared information about the project, can the developer seek input from the community.⁴⁰ However, in this case, the company appears to have only consulted with and obtained approval from the local village head - who in turn did not share this information with the community.⁴¹

After the EIA Report is approved, there are additional public hearing requirements concerning the project approval and permitting processes. In this case, the Department of Primary Industry and Mines is the agency responsible for issuing a mining permit to allow this project to move forward. Under this process, the DPIM scheduled

a public hearing to be held in September 2019.⁴² Due to community organizing, greater access to information about the project and the environmental impact of coal mining (provided by civil society), many community members are protesting the mining project. Two thousand people from Kabeudin and surrounding Omkoi villages protested this public hearing and impeded its continuation.⁴³

The flawed EIA the company is using to push the concession forward is now a decade old, contains misleading or incorrect information, and was completed without community input. The civil society coalition supporting the community is pushing for a new EIA to provide greater information about how the company will remediate the extractive project's environmental consequences.⁴⁴ According to an attorney with EnLAW, the coal company is insistent that the original EIA is adequate.⁴⁵

The locals consider the Omkoi coal mine to be a threat to the entire Karen community of Kabeudin.⁴⁶ The proposed mining area covers 284.3 rai, including a vast farming area of Kabeudin village (the community will lose at least 40 plots of farmland). Additionally, the mining operation will require the transport of coal through at least six communities.⁴⁷ The projected environmental effects of coal transportation include air pollution, water contamination, biodiversity loss, and destruction or severe limitation of livelihoods of people living in and nearby the mining area.⁴⁸ A youth leader of the Omkoi Anti-Coal Mine Network stated that the community is concerned with the pollution of water sources from extractive minerals, increase in dust from unpaved roads, and environmental impact in their agricultural production.⁴⁹

Photo by: Chalefun Dithphudee



If permitted to move forward, the Omkoi coal mine would have dire consequences for the community's water sources. The Pha Khao Creek and the Mae Ang Khang Creek join together in the middle of the projected mining site, both of which will have to be diverted for coal extraction.⁵⁰ It is estimated that up to 380,000 liters of water will be used per day to wash the coal minerals before they are transported away, which will likely cause a water shortage for local farmers and Indigenous communities currently relying on the creeks.⁵¹ Omkoi is "tomatoland," and growing tomatoes requires a significant amount of water. The Karen community is concerned that when the coal company diverts their water source, they will be unable to grow tomatoes, losing a key source of income.⁵² Area creeks are currently used by Karen people for drinking water and agriculture. It was not until after the EIA had been released that the community learned about the creek diversion.⁵³ The coal mine could result in the pollution of mountain water sources and would flow downstream to more communities relying on the creeks. The pollution from the coal mine is likely to affect a range of communities, not just Indigenous people located in higher altitudes of the mountain.⁵⁴

The villagers are also concerned about lead, arsenic, and mercury from the coal mine polluting their water sources and eventually their plants and crops while harming animals and people who rely on the water there.⁵⁵ Coal pollutants "can travel long distances before being deposited in soil or water."⁵⁶ Air pollution is not limited in scope; it travels with prevailing weather conditions and affects a much larger area.⁵⁷ The proposed mining area is on a high mountain, which will mean the air pollution — dust and exhaust — will have a

significantly greater reach.⁵⁸ Tanakrit Thongfa, the Mekong campaign assistant for EarthRights, has indicated that if the project moves forward, the community will lose access to clean water — and as a result, their farmland. He estimates that approximately 90 percent of the villagers that live in the community would be affected by the mining.⁵⁹ As a member of the Karen community, he knows that "if the land is lost, their tradition is lost."⁶⁰

If the coal mining project is approved, the village will have no land to plant crops, which is their greatest source of food and income. The lack of access to clean water will lead to negative health effects for the community.⁶¹ According to a member of Greenpeace Thailand, if the coal mining company takes over the land in Omkoi, at least 18 families will be affected, contradicting the EIA's statement that it will only directly affect nine families.⁶² Some of these families depend entirely on subsistence farming on their land. The pollution of their water and land will lead to food insecurity since many will lose their ability to grow their food and will have to start buying food at the market if the coal mine is approved.⁶³ Without this farmland, some families will lose their main food supply (rice) as well as their income source (selling leftover food at the market).⁶⁴

Omkoi activists are further concerned about the broader impacts of the mining project: the long-term effects on the environment and global climate change.⁶⁵ The EIA states that "none of the Project's activities can impose significant change on the concerned components and the climate itself."⁶⁶ However, this conclusion ignores the overall life-cycle impact this type of fossil fuel project has



on the climate.⁶⁷ The EIA fails to account for the additional carbon dioxide load from the mining operation, including the substantial vehicle traffic required to transport the coal. Finally, the EIA does not consider or include the effect of coal usage at the Siam cement plant.⁶⁸

The global climate crisis requires the immediate phase-out of coal. Because coal is the most carbon-intensive fossil fuel, phasing it out is a key step to achieve the emissions reductions needed to limit global warming. Coal needs to be effectively

phased out by 2040 for countries to limit global warming temperatures to 1.5°C, as enshrined in the Paris Agreement.⁶⁹ Non-OECD countries in Asia, such as Thailand, should phase out coal by 2037 to continue upholding their climate commitments.⁷⁰ In August 2021, COP26 President Alok Sharma called on countries to agree to the phase-out of coal.⁷¹ While the world is agreeing on a date for the end of the use of coal, Thailand should not be approving new coal projects such as Omkoi and delaying urgent climate action.

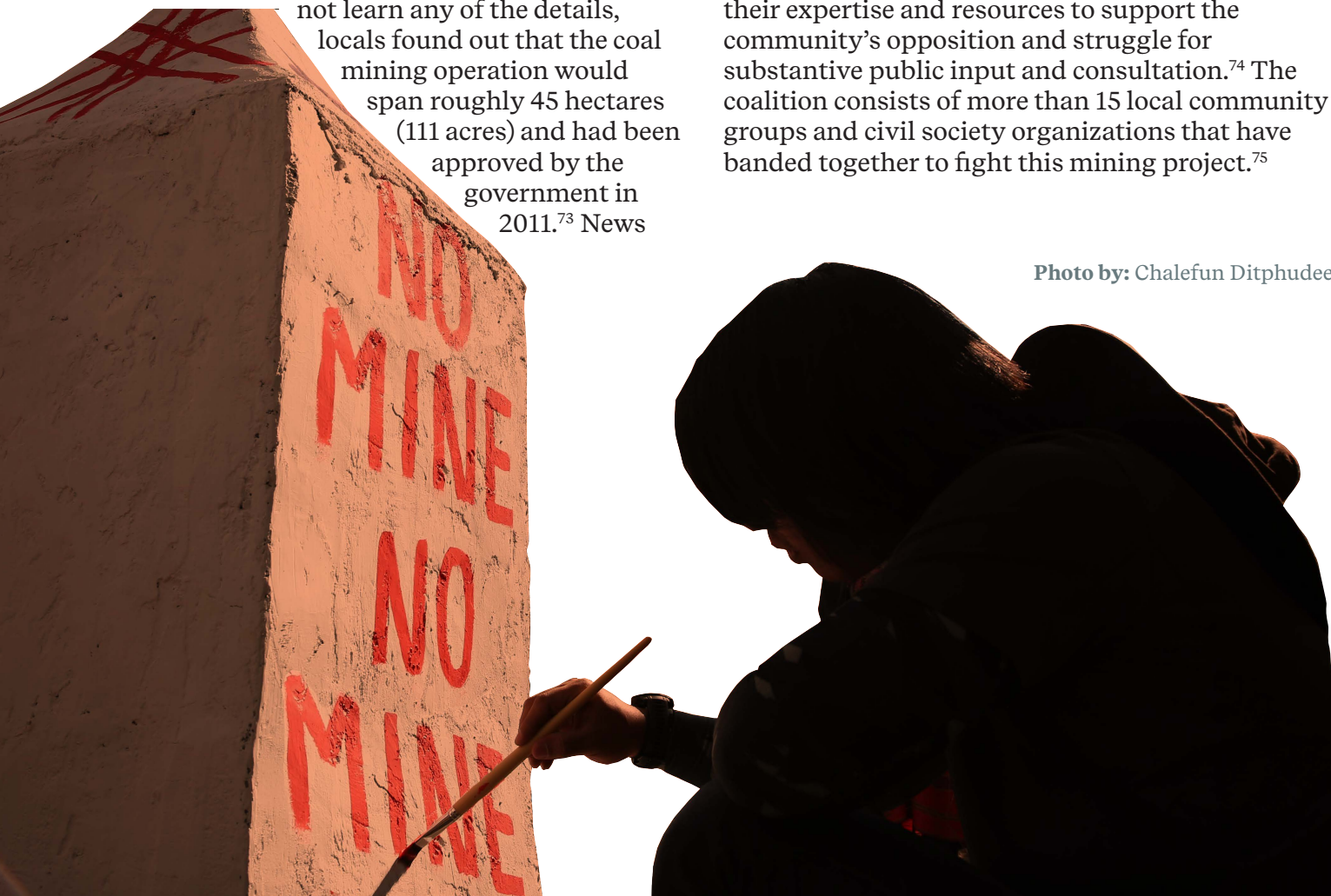
The Community Speaks Out: Protests and the Coalition

A youth leader in Kabeudin village stated that “during 2000 and 2001, a mysterious group of people had come in to buy property from [Kabeudin] locals without making any clear statements about what they intend to do with it. The story had quieted down until May 2019, until rumors about a coal mining project spread through word of mouth.”⁷² Although the community did

not learn any of the details, locals found out that the coal mining operation would span roughly 45 hectares (111 acres) and had been approved by the government in 2011.⁷³ News

of the project spread across Omkoi district and Chiang Mai province. The youth leader stated that the Omkoi Anti-Coal Mine Network began forming around two years ago. It comprises Kabeudin villagers and people from other cities working to gather and spread information about the coal mine. Today, the coalition has grown substantially, with numerous NGOs and civil societies bringing their expertise and resources to support the community’s opposition and struggle for substantive public input and consultation.⁷⁴ The coalition consists of more than 15 local community groups and civil society organizations that have banded together to fight this mining project.⁷⁵

Photo by: Chalefun Ditphudee



In May of 2019, the Omkoi Anti-Coal Mine Network submitted a letter to the Omkoi District Chief requesting suspension of the coal mine concession process.⁷⁶ In September 2019, about 2,000 Omkoi residents marched to the District Office and held a peaceful assembly to express their opposition to the coal mine.⁷⁷ The Omkoi Anti-Coal Mine Network opposes the mining project because of the defects in the EIA report, lack of a transparent consultation process with the community, and

profound environmental and human consequences if the mining operation continues.⁷⁸ The mining project will continue to face opposition from people who will be potentially affected by its consequences. The youth leader stated that “locals and community members of Omkoi are ready to stand up to fight and say no to the coal mine that will [contribute] to climate change, and [cause] the lands and lifestyles we’ve passed down from our ancestors to disappear.”⁷⁹

Community Organizers Get SLAPPed

The Omkoi residents who had organized against the mining project are facing intimidation and threats from government authorities.⁹⁹ Thuwanon Co., Ltd. has charged seven protesters with defamation. The police are currently investigating those charges.⁸⁰

The researcher who first posted information online on the Omkoi Watch Facebook page about the mining project was charged because he used the company name on social media.⁸¹ Two Indigenous human rights defenders from nearby villages were charged because they gathered and disseminated anti-coal mine information.⁸² Both men denied the accusations, explaining that their speech was an “expression of rights and freedoms as it is written in the Thai Constitution.”⁸³ On November 12, 2019, the Indigenous human rights defenders, their lawyers, and witnesses met with investigating officers. They denied the charges against them and offered additional information in writing.⁸⁴

The remaining defamation charges were brought against four university students from Chiang Mai after they went to the village and posted photos on Facebook in opposition to the mining project.⁸⁵

The community wants to stop the project or to have a new, more complete, and accurate EIA conducted before the project moves forward. However, they face significant obstacles in voicing their opposition and being heard without the fear of retaliation.⁸⁶ A youth leader of the Omkoi Anti-Coal Mine Network expressed the community’s concerns about the police attending events, armed with handguns on their belts while they provide security.⁸⁷ Additionally, government agents

and law enforcement have been presumably appearing in the village undercover, dressed in plain clothing.⁸⁸ The community has been able to manage the risks and plan for ways to ensure their security.⁸⁹ Coalition members provide security during protests to ensure there is no violence, providing around 20 guards per 100 protestors, trained by the coalition to ensure peaceful protests.⁹⁰

However, community members, particularly parents and guardians, are still concerned about the community’s youth being targeted if their name is known and associated with opposition to the mining project through online posts or articles, or on television.⁹¹ Tanakrit Thongfa notes that although the criminal cases brought against the youth activists will not result in jail time, they will face fines for their activism. The purpose of a Strategic Lawsuit Against Public Participation (SLAPP) is to scare, intimidate, and suppress public participation.⁹² In this regard, the retaliation has been successful: the Omkoi Watch group has been less active since the defamation charges were filed,⁹³ and all seven of those activists who were charged are no longer active in the protests.⁹⁴

A youth community leader claims that while the village is concerned with the effect of the cases, various organizations within the coalition helped ease their worries with support, education, and legal advice on ways to minimize legal risks.⁹⁵ Finally, she stated that regardless of retaliation, “the goal is still the same; the village wants to spread awareness of the project’s devastating consequences outside of Thailand to gain wider support against the coal mine.”⁹⁶

ANALYSIS: LEGAL AND STRUCTURAL CONTEXT

Overview

Precarious Status of Indigenous Peoples

“[T]he security of Indigenous people in Thailand is so tenuous because they have no legal rights and no recognition of their dependence on forests... the laws have made them encroachers.”⁹⁷

Indigenous peoples in Thailand, such as the Karen, occupy a precarious place within Thai society and law.⁹⁸ The lives and livelihood of Karen communities living in Kabeudin Village will be undermined if the mining project moves forward. Because Indigenous communities disproportionately lack citizenship and land rights, they are especially vulnerable to having their traditions, lives, and means of support disrupted by the state and private companies.⁹⁹ While the Nationality Act (1965) establishes the terms of how Thai citizenship is acquired,¹⁰⁰ the requirement that a parent has established citizenship to pass on citizenship at birth means that a significant percentage of the Indigenous population lacks Thai citizenship.¹⁰¹ The provision of non-Thai citizen ID cards affords some rights but not land tenure.¹⁰²

Indigenous communities' disproportionate lack of citizenship violates their rights to nationality and nondiscrimination. The right to nationality has been described as “the right to have rights.”¹⁰³ Without citizenship and legal and political recognition by the state, entire peoples are left vulnerable to the whims and interests of the state and other powerful actors. International law protects people's right to nationality, most especially the freedom from discrimination in the recognition of citizenship.¹⁰⁴

Thailand voted in support of the United Nations Declaration on the Rights of Indigenous Peoples, which mandates that governments “recognize, respect and protect the rights of Indigenous people,” yet Thailand does not officially recognize the existence of Indigenous people in the country.¹⁰⁵ Rather, the government labels them ethnic minorities.¹⁰⁶ The state claims them to be Chinese immigrants even though archaeological research and evidence have shown “these Indigenous peoples have lived in this region for hundreds of years.”¹⁰⁷ Even so, rights should not be contingent on citizenship, “and human rights treaties and other instruments intentionally do not limit rights protection to citizens.”¹⁰⁸ Furthermore, Thailand's constitution declares that “the State should promote and provide protection for different ethnic groups to have the right to live in the society according to the traditional culture, custom, and ways of life on a voluntary basis, peacefully and without interference.”¹⁰⁹

The Thai constitution also explicitly sets out the right of the people to information and public data.¹¹⁰ However, the Karen community's ability to access public information and data is inhibited by significant structural and legal barriers. For example, the physical distance of the community from the district office where the government posts public notices undermines access to information.



Photo by: Chalefun Ditphudee

The inability of many of the Karen people to speak Thai means the obligation to inform and consult can be nullified by a failure to make key information available in the local language.¹¹¹ Even knowing that Karen is an oral language and only the younger generations know Thai, the government does not provide translations.¹¹² For example, when the government declared protected areas where Karen communities have lived for generations, notice was posted at the administrative district office in Thai.¹¹³ The

announcement stated that villagers needed to self-report if they lived within the posted boundaries; however, the district office could be a two-hour car ride away, and the notice was in a language the villagers could not read.¹¹⁴ Villagers were never informed that the information existed and therefore did not know that their land had been folded into a protected area.¹¹⁵ This seriously restricts the Karen community's ability to enjoy their right to information and participate in government processes.¹¹⁶

Lack of Land Rights

Lack of recognized land title of villagers in Kabeudin village is another factor making villagers vulnerable to silencing and rights violations. Between the lack of land title due to lack of citizenship and the designation of their ancestral lands as conservation areas, less than 10 percent of people in Omkoi have a land title.¹¹⁷ One source working with the Karen Studies and Development Centre says that although Karen people have lived in the northern mountains of present-day Thailand for generations, “the right to their traditional land is not recognized.”¹¹⁸ The government has forced these local communities to relocate from their

ancestral land by creating policies to increase “the area of forest in the country.”¹¹⁹ The government is aware of the conflict between law and Indigenous community rights “but still intends to retain these laws and [restrict] the villagers’ use of natural resources under its control.”¹²⁰ The Centre for the Protection & Revival of Local Community Rights (CPCR) says that while Omkoi district has the largest Karen population in Thailand, most of the district has been turned into conservation areas by the government, meaning that the government can come in and evict villagers as it pleases.¹²¹ For example, in the northern region of Thailand,

approximately 70 million rai are conserved, equating to 4,000 villages or 3 million people.¹²² According to a youth leader of the Omkoi Anti-Coal Mine Network, the entire village – with all of its farmland – is protected land.¹²³

Various pieces of legislation affect the land ownership and use rights of Indigenous communities, with a cumulative effect of creating land insecurity and lack of legal recourse for preserving their livelihood and ways of life. Land with a slope greater than 35 degrees has been designated state-owned forest parkland,¹²⁴ which is governed by four forest preservation laws.¹²⁵ As a result, most mountainous areas are part of the forest, park, or conservation land where the government retains all rights and can grant concessions or licenses to industry for specific use (such as mining). The laws authorize the government to declare preservation areas without local people's input or consent.¹²⁶ If there is a private title, the Thai government has the authority to “exchange” land; the government can take privately owned plots of land in exchange for a different plot of land.¹²⁷ Private owners have no say in the exchange.

This leaves Indigenous communities, like the Karen people in Kabeudin village, in danger of being forced off their land at any moment. Elsewhere in the country, Karen people have been subjected to forced evictions and worse. Over the last 10 years, there have been “attacks and renewed harassment of the Indigenous Karen peoples in the Kaeng Krachan Forest Complex (KKFC) by officials of the National Park, Wildlife and Plant Conservation Department.”¹²⁸ In 2011, the Thai government nominated KKFC and the surrounding land to be declared a UNESCO World Heritage Site, but failed to mention in its submission “the Indigenous Karen peoples who have inhabited the forest for centuries, long before the Government started to declare the area as protected for conservation in the 1980s.”¹²⁹

In May 2011, a Karen community's belongings — including historical and spiritual artifacts and traditional dress — were confiscated. Their village, which consisted of 98 homes, multiple rice barns, and farmland, was burned down.¹³⁰ Shortly after, the then-chief of KKNP accused a Karen community of being “a group of minorities who committed encroachment” and “ordered the demolition and destruction of villagers’

Photo by: Chalefun Dithphudee



houses and properties.”¹³¹ As a result, in June of 2011, farmland and 21 homes were burned while knives, fishing nets, and musical instruments were seized.¹³² Additionally, since 2014, the situation for Indigenous communities throughout Thailand has gotten worse as the military vowed to “take back the forest.”¹³³ Evictions from their ancestral forest, now part of KKFC, is one of the biggest threats presently facing around 30 Karen communities.¹³⁴

The lack of legal recognition of land use rights makes Karen communities vulnerable to intimidation and forceful evictions. When the mining company first approached village leaders in 1987, they intimidated and threatened 13 villagers into selling their rice paddy land.¹³⁵ The villagers knew if they did not sell, the land could still be taken from them and they would have little to no recourse.¹³⁶ The villagers could not even expand to other nearby tracts of land because all the surrounding lands are conservation areas, and policies forbid it.¹³⁷

The Karen people in Thailand have been involuntarily removed from forest preserves and relocated to uncultivable land without a supportive plan from the state due to such forest conservation policies in concert with concessions for extractive industries.¹³⁸ This has led to many Indigenous peoples moving to urban areas in search of nonagricultural work, a reality that has led to young Indigenous girls ending up in sex work.¹³⁹

Karen villagers relocated from their ancestral lands cannot speak Thai; without money or agricultural lands, they arrive in the city and cannot find other jobs. If they return to their homes, they are at threat of having their homes and fields burned again.¹⁴⁰

All this has occurred even though community and group rights are recognized under the constitution and national laws.¹⁴¹ Ethnic communities’ rights to use natural resources are also recognized in the Thai constitution.¹⁴² While cabinet resolutions provide additional recognition of Indigenous communities’ rights, they fail to precisely define the scope of those rights.¹⁴³ As a result, forest and land laws are often upheld over community rights.¹⁴⁴

In 2019, the Thai government passed and amended the nation’s forestry laws¹⁴⁵ to attempt “to resolve the long-standing land conflict between communities and the state in the protected areas by documenting and demarcating community land use and traditional livelihood practices outside the forest areas.”¹⁴⁶ However, the National Park Law “in particular will impose stricter penalties and further limit the rights of farmers and Indigenous Peoples.”¹⁴⁷ As of February 2019, “issues related to land distribution and access to land among the Karen communities who have been relocated remain unresolved.”¹⁴⁸

EIA and Extractive Industry Projects

This lack of land rights makes the laws governing EIA and the obligation to consult affected communities that much more important. These statutory obligations are key protections and entitlements for Karen communities, protecting their right to have a say in how their communal lands are developed and to push back against forest conservation policies and extractive industries that are forcing Indigenous people away from their ancestral land.¹⁴⁹ The failure of the mining company and EIA consultants to provide information and seek real input from Kabeudin villagers about the mining concession undermined one of the key legal mechanisms through which Indigenous communities can be heard. The UN

Working Group on Business and Human Rights, following a visit to Thailand, found that lack of consultation for large-scale industrial projects along with such projects’ adverse environmental and health effects and forced evictions were the most frequent complaints.¹⁵⁰

In Thailand, the Department of Primary Industries and Mines (DPIM) is responsible for supervising the mining industry and “providing safety and pollution-control requirements in compliance with the Minerals Act.”¹⁵¹ The act aims to “protect public safety and health” and to “mitigate impacts on ecosystems or preserve the quality of the environment” if the damage is caused by the

mining process.¹⁵² The Thai constitution requires the state to undertake environmental assessments and to involve and inform the public.¹⁵³ Mining companies such as 99 Thuwanon must prepare an EIA and consult with local communities like Kabeudin Village.¹⁵⁴ The EIA must comply with the rules and procedures imposed by the Office of Natural Resources and Environmental Policy and Planning.¹⁵⁵ It is now required for there to be at least two consultations for the EIA: the first one consulting with people in the village about potential consequences of the project in general, and to better capture how the land is used; the second on how the company is going to mitigate those consequences.¹⁵⁶

While the EIA process requires consultation with the affected community, in many cases the communities are still not consulted and are unaware of the full impact of the projects being proposed. This is exemplified by the EIA process in Kabeudin Village. The villagers were not informed, took no part in the consultation process to determine the consequences of the project, and had no input into ways to mitigate those consequences. When the EIA was produced by the consultation company sometime in 2010 or 2011, the Omkoi mining project was put forth to former Kabeudin Village leaders as a development project that would bring new roads, infrastructure, and electricity to the community.¹⁵⁷ Only when the EIA was released in 2019, and outside nongovernmental organizations (NGOs) came in, did community members learn that the project's consequences included the diversion of their main waterway — which would destroy their agricultural livelihood.¹⁵⁸

The EIA claims that the coal mine will create significant economic benefits for the local community, including “boosting employment, mining taxes, and other national interests.”¹⁵⁹ In reality, 90 percent of the villagers' land would be affected. Seventy percent would be directly affected (through loss of land, diversion of water resources, etc.) based on just the mining area alone, and the other 20 percent would be affected by secondary pollution such as water, air, dust, and noise pollution and impacts from transportation.¹⁶⁰ While the EIA failed to fully elucidate the potential environmental impacts of the proposed mining project, lignite mining has known environmental effects including deforestation, degradation of the



Photo by: Chalefun Ditphudee

environment, and heavy metal contamination,¹⁶¹ which can lead to health risks including various cancers, kidney, liver, lung, and bone disease.¹⁶²

Despite the cultural and spiritual significance of the forest and land itself to the Karen people, the EIA says the projected site does not have any historical or archeological value “which warrants preservation for study purposes.”¹⁶³ In actuality, the Karen villagers will lose the heart of their spirituality if they lose the forest. Their spiritual life is based on the spirits of the natural world, in the forest and the water. The Karen perform their ceremonies on their sacred land to connect life, death, and their crops.¹⁶⁴ The EIA fails to account for the actual consequences of the mining project because the company and consultants carrying out the EIA did not engage villagers or attempt to capture the full harm of the project.



Although 99 Thuwanon Company Ltd. provided documents to one or two prior community leaders, the community itself was not informed of the project, let alone consulted.¹⁶⁵ It is a known issue that public stakeholders are sometimes “paid to take part in the process and present a particular view.”¹⁶⁶ Many community members in Omkoi suspect the community leader that provided his support was bought off by the company.¹⁶⁷ That community leader no longer leads the community.¹⁶⁸ The Omkoi Anti-Coal Mine Network and other Karen community members are opposed to the mining project and are calling attention to the procedural and substantive deficiencies in the EIA report and the lack of a transparent consultation process with the community.¹⁶⁹ Procedurally, the EIA raises concerns because it is based on outdated data, was only performed with the consultation of a former village leader who did not reflect the desires of villagers, and

contained discrepancies in signatures (duplicates, minors, illiterate persons).¹⁷⁰ Furthermore, EIA public hearings are known to be one-way: Only the company talks, villagers are not given a chance to speak, and no translation is made available.¹⁷¹

Substantively, the EIA contained errors and vague conclusions, and it did not consider the full ramifications of the development project on the local community.¹⁷² The EIA, for example, was vague on the consequences of the waterway diversion required for the mine, only examined the possible land consequences for a three-kilometer radius from the mine location — without considering the effects on the seven villages downstream, or for homes and villages along the transportation routes, and the signatures it includes from their village consultations 20 years ago include signatures of people who were illiterate or as young as five years old, pointing to evidence of falsifying signatures.¹⁷³ EIAs are compiled by private consultants who are contracted by the corporation that is looking to do the project.¹⁷⁴ While the use of independent consulting firms is required by regulation to foster independence, because they are paid by the project developer, the degree to which the consultant company is truly independent is debated.¹⁷⁵ Private consulting companies are reportedly only paid if the EIA gets approved, encouraging the skewing of data, promotion of misinformation, and lack of transparency and in-depth reporting of all potential consequences of development projects.¹⁷⁶

A coalition of Omkoi community members and civil society is pushing back on the legality and validity of the EIA.¹⁷⁷ The state considers the company to have completed the first consultation during the scoping process of the EIA conducted between 2010 and 2011.¹⁷⁸ The second required consultation that was to be held in the village by the DPIM was postponed due to unprecedented community opposition.¹⁷⁹ The company has now sued the government in administrative court due to the delay in rescheduling the public hearing.¹⁸⁰ In other instances, communities with the backing of NGOs have been successful in challenging the EIAs and shutting down fossil fuel projects.¹⁸¹ The Kabeudin Village community in Omkoi and their coalition members are working and hoping for a similar outcome from their challenges to the EIA.

Threats to Freedom of Expression, Freedom of Assembly, and Public Participation

When Kabeudin community members took to the streets to speak out against being silenced and ignored, they were met with another set of legal tools aimed at silencing their voices and steamrolling over their concerns. In Thailand, these legal tools include laws against defamation, which industry and the government use to silence protesters. Despite a constitutional provision protecting the freedom of expression,¹⁸² the Criminal Code makes insulting or defaming a person, an official, a court, or a judge punishable by imprisonment and monetary fines.¹⁸³

Laws can be enforced by the state — the prosecutor's office — or by private individuals or entities.¹⁸⁴ Criminal defamation is defined very broadly by these laws and has been widely used to prosecute Indigenous community members, activists, and human rights defenders, by both the state and private companies.¹⁸⁵

Freedom of expression, association, and assembly may be guaranteed by the constitution,¹⁸⁶ but private companies, as well as government officials, have used civil and criminal laws, as well as emergency decrees to use the legal process to silence opposition.¹⁸⁷ The Computer Crime Act of 2017 has been used to prosecute individuals for online speech criticizing the government.¹⁸⁸ Additionally, SLAPP lawsuits are often filed by the government or companies in Thailand against members of the public to discourage them from speaking out against projects that are being implemented.¹⁸⁹ “Thai authorities have also frequently retaliated against reporting of alleged rights abuses by filing lawsuits accusing critics of making false statements with the intent of damaging their reputation.”¹⁹⁰

Since the announcement in Omkoi of the mining license, local communities and Kabeudin community leaders have voiced opposition to the

project.¹⁹¹ An Omkoi researcher was the first to break the news about the mining project in April 2019 on a Facebook site called Omkoi Watch.¹⁹² He faces criminal defamation charges filed by 99 Thuwanon Co., Ltd. Two Indigenous human rights defenders have also been charged for criminal defamation by 99 Thuwanon Co., Ltd., for gathering and disseminating anti-coal mine information.¹⁹³ Both men denied the accusations.¹⁹⁴ In addition, four university students from Chiang Mai are also facing criminal defamation

charges for posting about the mining project and protests on social media, including Facebook and YouTube.¹⁹⁵ The students attended the protests and posted images and videos from them on Facebook and YouTube; the company charged them for defaming

their name by referring to the company on social media — the company also claims to have lost money because of these posts.¹⁹⁶ These cases are currently ongoing and the accused face jail time for these charges.¹⁹⁷ The students' families in particular are quite concerned for their physical well-being and all of the accused have stopped participating in any protests. The defamation cases have had the intended chilling effect, scaring the individuals into silence and intimidating the entire community.

The silencing of opposition is, of course, what these SLAPP cases mean to accomplish. In this way, industry retaliates against local communities that dare to say no to their development projects, and those projects move forward without addressing the full environmental and human consequences. Because most of these extractive industry projects are in Indigenous lands, the pattern of lack of consultation, silencing, and retaliation continues and endangers the lives and livelihoods of an already vulnerable population.



CONCLUSION

The Karen people living in the Omkoi district have been treated as an obstacle to the proposed coal project. Their voices have been ignored and silenced. A set of legal and sociopolitical factors facilitate this marginalization and disempowerment. The Karen people have been the stewards of the land for generations and have the right to protect their territory and effectively participate in any decisions about it. Instead, their voices have been silenced and their rights have been violated. The development of the Omkoi mine threatens their livelihoods and their survival.

The current climate crisis requires countries to immediately phase out coal. Following COP26, the world is looking to policymakers and heads of state to adopt policies to avert the worst effects of the climate crisis. Scientists have warned that action must be taken immediately to meet the Paris agreement's goal to keep the warming of the earth to 1.5 Celsius. Coal, the dirtiest of fossil fuels, should be immediately phased out. By continuing plans to develop the Omkoi mine, Thailand is delaying climate action and perpetuating a legacy of environmental injustice against Indigenous communities. As part of its Frontlines of Climate Justice campaign, EarthRights International calls for the following actions:

**Governments and corporations should respect
Indigenous peoples' right to free, prior, and
informed consent.**

No projects should go forward on Indigenous lands without consent. In Thailand, the Kabeudin community was not consulted during the adoption of the Environmental Impact Assessment (EIA). This is a common trend around the world where companies and governments prevent communities from exercising their right to participate in environmental decisions. Communities then must live with development-related harms to which they never consented. In the case of the Omkoi coal mine, the flawed EIA that has been used by the company is now a decade old, contains misleading and incorrect information and fraudulent signatures, and was completed without community input. The community is pushing for a new EIA. The new EIA should include a comprehensive and effective consultation with the affected communities, giving them an adequate opportunity to raise their concerns about how the project will impact the people, their livelihood, and their way of life.

Governments should respect the rights to freedom of assembly and association.

This includes refraining from bringing spurious charges against community members who oppose fossil fuels projects. Vague and oppressive defamation laws, national security legislation, and other similar laws that are being used to repress communities should be repealed or significantly amended. Because of their opposition to this climate-damaging project the Kabeudin community is facing increasing repression and violations of their rights to freedom of assembly and association. The leaders of the anti-mine protests have experienced harassment, surveillance, and even criminalization. Government authorities and the company have used civil and criminal laws to silence opposition to the mine and discourage community members from engaging in resistance. However, the community remains active in denouncing the impacts that the mine will have on their rights and territory. Thailand should adopt measures to protect individuals and organizations defending the environment, as in the case of the Kabeudin community, from SLAPP lawsuits from climate-damaging industries that aim to silence those on the frontlines of climate justice.

Photo by: Chalefun Ditphudee



ENDNOTES

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3. Towards Climate Catastrophe: The Contribution of Coal to Climate Change. 2015. See: <https://endcoal.org/wp-content/uploads/2015/01/EndCoalClimateFactsheet2014.WEB-2.pdf>
4. *Ibid.* Indigenous peoples of Thailand include Hmong, Karen, Lisu, Mien, Akha, Lahu, Lua, Thin, and Khmau, spread out among 3, 429 villages.
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8. In Thai language, "hill tribe" can be interpreted in two ways – people living in the mountains, or "the others" i.e. not Thai. Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF) 31 March 2021.
9. See e.g., UN Doc. OL OTH 7/2019, Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the rights of Indigenous peoples, 28 February 2019. See: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24379>.
10. *Ibid.*
11. Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021. The IPF is an organization founded by Indigenous leaders with support from local academia. Its main aim is to promote Indigenous peoples' rights on various issues which include, but are not limited to, Indigenous peoples' education, self-determined development and customary land use and natural resource management. See: http://ipf.or.th/?page_id=580&lang=en (last visited 7 September 2021).
12. *Ibid.*
13. *Ibid.*
14. *Ibid.*
15. *Ibid.*
16. Zoom Interview with EnLAW, 14 April 2021. EnLAW is an environmental law organization established to provide legal aid in support of environmental activism and to identify flaws in the Thai legal system and propose solutions. See: <https://enlawfoundation.org/> (last visited 7 September 2021).
17. Zoom Interview with Tanakrit Thongfa, EarthRights International (EarthRights), 30 March 2021.
18. Zoom Interview with Greenpeace Thailand, 7 April 2021.
19. *Ibid*
20. *Ibid*

21. Zoom Interview with Tanakrit Thongfa, EarthRights International (EarthRights), 30 March 2021.
22. Australia's Enhanced Oil & Gas Recovery Limited (formerly Artist & Entertainment Group, Ltd.) has a 49.9 percent interest in 99 Thuwanon Co. Ltd. as of September 11, 2009. Artist & Entertainment Group Limited and Controlled Entities Directors' Report, ABN: 67097771581, 30 September 2009. See: <https://hotcopper.com.au/documentdownload?id=tuE7JrfFgm%2FOGezsZX2OHW%2F3TRVZsli7mw3z1o8Kkqt2TevSEYBBXQo2OE2n-wARLjmp7ON9MfI2%2FodjGBo43yeEjZA%3D%3D>.
23. Annex B, Omkoi Coal Mining Project Timeline.
24. Annex B, Omkoi Coal Mining Project Timeline; Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021.
25. Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021. The company approached the village in 1998 and reportedly bribed some of the key persons – the former village councilman, former leaders. The villagers did not have knowledge about laws or human rights and took the money and left the village. *Ibid*.
26. Zoom Interview with Tanakrit Thongfa, EarthRights International (EarthRights), 30 March 2021. *See also* Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021.
27. Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021.
28. Annex B, Omkoi Coal Mining Project Timeline.
29. *Ibid*.
30. Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021.
31. *Ibid*.
32. *Ibid*.
33. Zoom Interview with a youth leader of Omkoi Anti-Coal Mine Network, 22 April 2021).
34. Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021.
35. Siam Cement Group (SCG) in 2016 was the second-largest company in Thailand, the 604th largest company worldwide (as ranked by Forbes), has been in operation since 1913, and employees over 55,000 people. Siam Cement Group, Wikipedia. See: https://en.wikipedia.org/wiki/Siam_Cement_Group (last accessed 22 April 2021).
36. Omkoi Coal Mine Translated EIA, Sections 1.12 & 4.1.7. An EnLaw attorney said the corporate interest identified does not outweigh the negative impact the people of Omkoi will experience. Zoom Interview with EnLAW (14 April 2021).
37. Omkoi Coal Mine Translated EIA, Section 4.1.7.
38. The Enhancement and Conservation of National Environmental Quality Act B.E. 2535 (http://thailaws.com/law/t_laws/tlaw0280.pdf) as amended by the Enhancement and Conservation of National Environmental Quality Act (No. 2) B.E. 2561 (<http://www.onep.go.th/eia/wp-content/uploads/2019/04/ACT2561-2.pdf>) and declared in the Notification of the Ministry of Natural Resources and Environment on Projects, Undertakings, or Operations Which May Seriously Impact Natural Resources, Environmental Quality, Health, Sanitation, Life Quality of People in a Community that are Required to Provide an Environmental Impact Assessment Report and Rules, Procedure and Conditions in Providing an Environmental Impact Assessment Report Dated 19 November B.E. 2561 (<http://newweb.mnre.go.th/th/view/?file=oJMaMUEjnF54AUN3oGq-3ZRj4oGMAbKD2nGE4ZaNjoGM3ZHjjoGSaZaDknGO4ZaNjoGW3YHj5oGMAaD5nGE4AaN5oGM3ARjloGOaAaDknGO4ZKNloGS3ZRjloGOaZaDgnJI4oUOcoJM3Y0kyoJkanKEznF94q3OxoF93MRkuoJ9aoUEjnKI-4Yjweweb3Qweweb3Q&n=10&t=GTMgq2qxqS9cMUug>). See also Minerals Act, B.E. 2560 (2017), https://www.dpim.go.th/en/media/002_2560.pdf.
39. Issarapun Karnjanareka, Environmental Impact Assessment (EIA), Training Course on “Environmental Goods Service and Services Negotiation,” UN Conference Center 50, 10 August 2016. See: http://www.onep.go.th/eia/wp-content/uploads/2018/08/KM_18.pdf.
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41. Zoom Interview with Greenpeace Thailand, 7 April 2021.
42. See Annex B, Omkoi Coal Mining Project Timeline.
43. Zoom Interview with EnLAW, 14 April 2021.
44. Zoom Interview with EnLAW, 14 April 2021.
45. *Ibid*.
46. Din Deng, Solidarity with Kaboedin, Halt the Om Koi Coal Mine! 23 July 2020. See: <http://www.dindeng.com/>

kaboedin.

47. *Human Rights Situation of Indigenous Peoples Open Coal Mine at Kabeudin Village, Omkoi District, Chiang Mai Province*, Enhancing Indigenous Peoples' Human Rights Defenders Network in Asia for advancement of the rights of Indigenous Peoples (EIHRD), 3 December 2020. See: <http://www.eihrdthailand.net/blog/news/coalmineatomkoi>. See also: Kittisak Rattanakrangsri, *Indigenous World 2020: Thailand, The Indigenous World* (34th ed.), 11 May 2020. See: <https://www.iwgia.org/en/thailand/3610-iw-2020-thailand.html>.
48. *Ibid.*
49. Zoom Interview with a youth leader of Omkoi Anti-Coal Mine Network, 22 April 2021.
50. Omkoi Coal Mine Translated EIA, Sections 2.4.8 & 4.1.4.
51. *Human Rights Situation of Indigenous Peoples Open Coal Mine at Kabeudin Village, Omkoi District, Chiang Mai Province*, Enhancing Indigenous Peoples' Human Rights Defenders Network in Asia for advancement of the rights of Indigenous Peoples (EIHRD), 3 December 2020. See: <http://www.eihrdthailand.net/blog/news/coalmineatomkoi>.
52. Zoom Interview with Greenpeace Thailand, 7 April 2021.
53. Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (EarthRights), 15 March 2021.
54. *Ibid.*
55. Zoom Interview with Greenpeace Thailand, 7 April 2021.
56. *Coal: Why Is It Dirty?* Green America. <https://www.greenamerica.org/fight-dirty-energy/amazon-build-cleaner-cloud/coal-why-it-dirty#>.
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60. *Ibid.*
61. *Ibid.*
62. Zoom Interview with Greenpeace Thailand, 7 April 2021.
63. *Ibid.*
64. *Ibid.*
65. *E.g.*, Zoom Interview with Tanakrit Thongfa, EarthRights International (EarthRights), 30 March 2021.
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73. *Ibid.*
74. Zoom Interview with youth leader of Omkoi Anti-Coal Mine Network, 22 April 2021.
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88. *E.g.*, Zoom Interview with youth leader of Omkoi Anti-Coal Mine Network, 22 April 2021; Zoom Interview with Tanakrit Thongfa, EarthRights International (EarthRights), 30 March 2021.
89. Zoom Interview with youth leader of Omkoi Anti-Coal Mine Network, 22 April 2021.
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104. G.A. Res. 217A, Universal Declaration on Human Rights Art. 15, 10 December 1948. See: <https://www.un.org/en/universal-declaration-human-rights>. The Convention on the Elimination of All Forms of Racial Discrimination also states that "everyone, without distinction as to race, colour, or national or ethnic origin" has the right to nationality. CERD, art. 5. Those persons who are considered "stateless" are covered under the Convention Relating to the Status of Stateless Persons which provides that "[t]he Contracting States shall as far as possible facilitate the assimilation and naturalization of stateless persons." Office of the United Nations High Commis-

- sioner for Refugees, Convention Relating to the Status of Stateless Persons, art. 32, 1954. See: <https://www.unhcr.org/uk/protection/statelessness/3bbb25729/convention-relating-status-stateless-persons.html>. Meanwhile the Convention on the Reduction of Statelessness provides that “[a] Contracting State may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds.” Office of the United Nations High Commissioner for Refugees, Convention on the Reduction of Statelessness, art. 9 (1961), available at: <https://www.unhcr.org/uk/protection/statelessness/3bbb286d8/convention-reduction-statelessness.html>.
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 106. Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (EarthRights), 15 March 2021.
 107. Dr. Prasert Trakansuphakon, Statement on Indigenous People; Thailand, Asia, International Day of the World’s Indigenous Peoples, 9 August 2018. See: <https://www.un.org/development/desa/Indigenouspeoples/wp-content/uploads/sites/19/2018/08/2018-Indigenous-Peoples-Day-Statement-by-Dr.-Prasert-final-3.pdf>.
 108. International Commission of Jurists, *The Human Rights Consequences of the Eastern Economic Corridor and Special Economic Zones in Thailand* 21 n.56, July 2020 (citing CESCR, ‘General Comment 3, The Nature of States Parties’ Obligations (Art. 2.1)’, contained in UN Doc. E/1991/23, para 1). See: <https://www.refworld.org/pdfid/4538838e10.pdf>.
 109. Section 70, The Constitution of Thailand. See: https://www.constituteproject.org/constitution/Thailand_2017.pdf?lang=en (an unofficial English translation).
 110. Section 41, The Constitution of Thailand. See: https://www.constituteproject.org/constitution/Thailand_2017.pdf?lang=en (an unofficial English translation).
 111. While the elder generation (grandparents) know no Thai, the middle-aged (parent) and younger generations are able to speak Thai, having picked it up from outsiders to the village, television, etc., rather than from any formal education. Zoom Interview with a youth leader of Omkoi Anti-Coal Mine Network, 22 April 2021.
 112. Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (EarthRights), 15 March 2021.
 113. Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021.
 114. *Ibid.*
 115. *Ibid.*
 116. Kabeudin villagers’ participation is further inhibited due to their fear of Thai government and military authorities because the officials do not speak Karen and they come into the village with guns. The Karen villagers also fear officials because they must pass armed Thai checkpoints when they travel. *Ibid.*
 117. Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (EarthRights), 15 March 2021.
 118. Rina Chandran, Thai campaigners urge change to forest law after Indigenous verdict, Reuters, 28 June 2018. See: <https://www.reuters.com/article/us-thailand-landrights-court/thai-campaigners-urge-change-to-forest-law-after-Indigenous-verdict-idUSKBN1JO1SQ>.
 119. Laofang Bundidterdsakul, Local Context, National Law: The Rights of Karen People on the Salween River in Thailand, in *Knowing the Salween River: Resource Politics of a Contested Transboundary River*, 141-158, 2019. See: https://doi.org/10.1007/978-3-319-77440-4_9.
 120. *Ibid.*
 121. Zoom Interview with the Centre for the Protection & Revival of Local Community Rights (CPCR), 8 April 2021.
 122. *Ibid.*
 123. Zoom Interview with a youth leader of Omkoi Anti-Coal Mine Network, 22 April 2021.
 124. National Forest Policy (1992) Instituted by the Natural Resource and Environment Ministry. Laofang Bundidterdsakul, Local Context, National Law: The Rights of Karen People on the Salween River in Thailand, in *Knowing the Salween River: Resource Politics of a Contested Transboundary River*, 141-158, 2019. See: https://doi.org/10.1007/978-3-319-77440-4_9; Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (EarthRights), Mar. 15, 2021.
 125. Laofang Bundidterdsakul, Local Context, National Law: The Rights of Karen People on the Salween River in Thailand, in *Knowing the Salween River: Resource Politics of a Contested Transboundary River*, 141-158, 2019. See: https://doi.org/10.1007/978-3-319-77440-4_9. The Forest Act (1941), the National Park Act (1961), the National Forest Conservation Act (1964), and the Wildlife Sanctuary Act (1992). *Ibid.*
 126. *Ibid.* The park lines were drawn from Bangkok by using a map, even knowing people inhabited those lands. Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (Earth-

- Rights), 15 March 2021. In June 1998 there was a cabinet resolution to solve the problem and try and prove who lived there before park designation, using satellite map to compare with the land usage; other park criteria used besides slope is whether it is a sensitive biodiversity area and existence of endangered species. Zoom Interview with Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021.
127. *Orders of the Head of the National Council for Peace and Order, Volume 132, Special Section 122N, Government Gazette*, 15 May 2015. The Land Act (1954) grants Thai citizens the right to own private property and to use, sell or pass on title. Agricultural land is governed by Agricultural Land Reform Act (1975) and does not allow sale of land but does allow for title inheritance. Laofang Bunditdetsakul, Local Context, National Law: The Rights of Karen People on the Salween River in Thailand, in *Knowing the Salween River: Resource Politics of a Contested Transboundary River*, 141-158, 2019. See: https://doi.org/10.1007/978-3-319-77440-4_9.
128. UNDoc.OLOTH7/2019, Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the rights of Indigenous Peoples, 28 Feb. 2019. See: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24379>. According to the Thai Ministry of Social Development and Human Security, there are at least four Karen villages located in the KKFC. *Ibid.* In September 2011, Mr. Tatkamol Ob-om, “a human rights defender who was helping Karen villagers to report allegations of abuses, violence, and illegal loggings” occurring within the KKNP, was shot and killed by “an unidentified assassin.” Three people were indicted for premeditated murder but were all subsequently acquitted. Similarly, on April 17, 2014, Mr. Porajee Rakchongcharoen, called Billy, a Karen human rights defender from Bang Kloy in Kaeng Krachan National Park went missing after being detained by park officers. Sadly, on September 3, 2019, the Department of Special Investigation (DSI) announced that a barrel found under a Kaeng Krachan suspension bridge contained Billy’s bone fragments. DSI arrested the former chief of KKNP and three members of his staff for Billy’s murder, but they have all been released on bail and the case is ongoing. Dr. Prasert Trakansuphakon, Statement on Indigenous People; Thailand, Asia, International Day of the World’s Indigenous Peoples (9 August 2018), <https://www.un.org/development/desa/Indigenouspeoples/wp-content/uploads/sites/19/2018/08/2018-Indigenous-Peoples-Day-Statement-by-Dr.-Prasert-final-3.pdf>.
129. UN Doc. OL OTH 7/2019, Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the rights of Indigenous peoples, 28 February 2019. See: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24379>.
130. *Ibid.*
131. *Ibid.*
132. *Ibid.*
133. Heritage Site or Home? Indigenous Thais Fight for Right to Forest, VOA News, 15 April 2019. See: <https://www.voanews.com/east-asia/heritage-site-or-home-Indigenous-thais-fight-right-forest>. Instituted Military Order 64 to increase the size of the forest. See also: Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (EarthRights), 15 March 2021.
134. *Ibid.*
135. Zoom Interview with Tanakrit Thongfa, EarthRights International (EarthRights), 30 March 2021.
136. *Ibid.*
137. Zoom Interview with Greenpeace Thailand (7 April 2021).
138. Dr. Prasert Trakansuphakon, *Statement on Indigenous People; Thailand, Asia* International Day of the World’s Indigenous Peoples, 9 August 2018. See: <https://www.un.org/development/desa/Indigenouspeoples/wp-content/uploads/sites/19/2018/08/2018-Indigenous-Peoples-Day-Statement-by-Dr.-Prasert-final-3.pdf>. When a member of the Indigenous Peoples Foundation for Education and Environment (IPF) was growing up a forest officer claimed this family had burned a protected area, and said he would not report it, but that they would have to stop encroaching on land that had been their traditional area for generations. Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021. Additionally, when Tanakrit Thongfa was young, he saw the environmental degradation from mining projects firsthand, including chemicals being released from the mines into the water and impacting the community, the climate, and the people. Zoom Interview with Tanakrit Thongfa, EarthRights International (EarthRights), 30 March 2021.
139. Dr. Prasert Trakansuphakon, *Statement on Indigenous People; Thailand, Asia*, International Day of the World’s Indigenous Peoples, 9 August 2018. See: <https://www.un.org/development/desa/Indigenouspeoples/wp-content/uploads/sites/19/2018/08/2018-Indigenous-Peoples-Day-Statement-by-Dr.-Prasert-final-3.pdf>.
140. Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (EarthRights), 15 March 2021. Some villagers have sued for their loss of land and homes in Administrative Court

- and even set up camp in front of Parliament in Bangkok to protest. *Ibid.*
141. *1st National Action Plan on Business and Human Rights*, Rights and Liberties Protections Department, Ministry of Justice, Thailand, 2020. Collective rights mean the rights of a person as a member of a group under Section 42 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017). This section recognizes the right and freedom of individuals to join associations, cooperatives, unions, organizations, and community or other groups. The community has the ability to submit a joint petition to government agencies to take action that is beneficial to the people or the community. *Ibid.*
 142. *Mae Omki: The life of the forest and ideals of the justice process*. 2015. Bangkok, Thailand: Human Right Lawyer Association (HRLA). Article 43 concerns community rights to natural resources. Sections 43 & 70, The Constitution of Thailand. See: https://www.constituteproject.org/constitution/Thailand_2017.pdf?lang=en (an unofficial English translation).
 143. Laofang Bundidterdsakul, Local Context, National Law: The Rights of Karen People on the Salween River in Thailand, in *Knowing the Salween River: Resource Politics of a Contested Transboundary River*, 141-158, 2019. See: https://doi.org/10.1007/978-3-319-77440-4_9.
 144. According to Laofang Bundidterdsakul, Director of the Legal Advocacy Center for Indigenous Communities, courts are more likely to recognize 'community rights' when the communities claim those rights in order to protect the environment and fight pollution rather than to recognize the communities' traditional use or rights alone. Additionally, Administrative Courts are more likely to uphold community rights than Civil or Criminal Courts. For example, in a 2013 Administrative Court case (278/2556), the court recognized community rights challenging the license granted to a biomass power plant because it would cause water and air pollution. *Ibid.*
 145. Kittisak Rattanakrajangsri, Indigenous World 2020: Thailand, *The Indigenous World* (34th ed.), 11 May 2020. See: <https://www.iwgia.org/en/thailand/3610-iw-2020-thailand.html>.
 146. *Ibid.* In some areas this demarcating the land between farming area and park area began as early as 2016 in order to resolve the issues between local communities who have been using the land for shifting agriculture for generations, and authorities who want to see land title. Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021).
 147. Kittisak Rattanakrajangsri, Indigenous World 2020: Thailand, *The Indigenous World* (34th ed.), May 11, 2020), <https://www.iwgia.org/en/thailand/3610-iw-2020-thailand.html>.
 148. See e.g., Communication to the Thai Government by the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of safe, clean, healthy and sustainable environment, the Special Rapporteur on the rights of Indigenous people, OL OTH 7/2019, 28 February 2019. See: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24379>.
 149. Dr. Prasert Trakansuphakon, *Statement on Indigenous People; Thailand*, Asia International Day of the World's Indigenous Peoples, 9 August 2018. See: <https://www.un.org/development/desa/Indigenouspeoples/wp-content/uploads/sites/19/2018/08/2018-Indigenous-Peoples-Day-Statement-by-Dr.-Prasert-final-3.pdf>.
 150. *Statement at the end of visit to Thailand by the United Nations Working Group on Business and Human Right*, OHCHR, 4 April 2018. The group found that the three most frequent complaints received concerning business-related human rights impacts related to: (1) adverse effects of environmental pollution on human health, (2) forced evictions of communities with no or inadequate compensation, and (3) lack of or inadequate public consultations with communities affected by large-scale development projects.
 151. *Mining in Thailand: An Investment Guide*, Department of Primary Industries and Mines, Ministry of Industry, 3, 2009. See: http://www.dpim.go.th/en/media/003_mine.pdf.
 152. *Ibid.* at 19. Minerals Act, B.E. 2560 (2017).
 153. Section 58, The Constitution of Thailand. See: https://www.constituteproject.org/constitution/Thailand_2017.pdf?lang=en (an unofficial English translation). The Enhancement and Conservation of National Environmental Quality Act 1992 and Mineral Act 2017 establish specific requirements for Environmental Impact Assessments and how they are to be carried out, including requirements on community participation. Enhancement and Conservation of National Environmental Quality Act, B.E. 2535 (1992), http://thailaws.com/law/t_laws/tlaw0280.pdf; Minerals Act, B.E. 2560 (2017). See also Supat Wangwongwatana, Daisuke Sano, and Peter Noel King, Assessing Environmental Impact Assessment (EIA) in Thailand: Implementation Challenges and Opportunities for Sustainable Development Planning (Working Paper). Asian Environmental Compliance and Enforcement Network (AECEN) Working Paper, 2015, Hayama, Japan: Institute for Global Environmental Strategies. See: https://www.iges.or.jp/en/publication_documents/pub/workingpaper/en/5601/EIA+Thai+-study_10Mar15-Final.pdf.
 154. *Mining in Thailand: An Investment Guide*, Department of Primary Industries and Mines, Ministry of Industry, 3, 2009. See: http://www.dpim.go.th/en/media/003_mine.pdf.
 155. *Ibid.*
 156. Issarapun Karnjanareka, *Environmental Impact Assessment (EIA)*, Training Course on "Environmental

- Goods Service and Services Negotiation,” UN Conference Center 51, 10 August 2016. See: http://www.onep.go.th/eia/wp-content/uploads/2018/08/KM_18.pdf. See also, Kultip Suwanteep, Takehiko Murayama, & Shigeo Nishikizawa, *Environmental impact assessment system in Thailand and its comparison with those in China and Japan*, 58 *Environmental Impact Assessment Review* 12, 16, 2016 (explaining that “the first meeting is scheduled at the beginning of the project to gather opinions on the draft proposal and scope of study” while the “second meeting occurs during preparation of the draft EIA and mitigation measures.”).
157. Zoom Interview with EnLAW, 14 April 2021 (explaining that company representatives only claimed benefits from the project and did not discuss any potential consequences when they first approached the community during EIA consultations). See also, See Annex B, Omkoi Coal Mining Project Timeline.
 158. Zoom Interview with EnLAW, 14 April 2021.
 159. Omkoi Coal Mine Translated EIA, Section 4.1.7. The EIA at Omkoi claims that there will be no overall impact on climate because the mining activity will be “strictly confined within the boundary of the project site.” *Id.* at Section 4.1.7. *E.g.*, Section 2.1 of the EIA states that dust fallout will be emitted during the mining process but claims it will stay within the mining area. *Ibid.* See also Pratch Rujivanarom, Concerns Over Chiang Mai Coal Project Are ‘Logically Sound,’ Says Engineering Academic, *Nation Thailand*, 23 May 2019. See: <https://www.nationthailand.com/news/30369911> (explaining that mountain top mining means the air pollution – dust and exhaust – will have a significant reach).
 160. Zoom Interview with Tanakrit Thongfa, EarthRights International (EarthRights), 30 March 2021.
 161. See, e.g., I.L. Oltean, T. Goldan, & C.M. Nistor, Prevention and Monitoring Environmental Impact of Open Pit Coal Mining Activities, 50 *Research Journal of Agricultural Science* 259, 2018. See: https://rjas.ro/download/paper_version.paper_file.a65a70d196749794.6f6c7465616e322e706466.pdf. Pratch Rujivanarom, Concerns Over Chiang Mai Coal Project Are ‘Logically Sound,’ Says Engineering Academic, *Nation Thailand*, 23 May 2019. See: <https://www.nationthailand.com/news/30369911>. Wongyai, K., Garivait, S. & Donald, O. A geochemistry study of arsenic speciation in overburden from Mae Moh Lignite Mine, Lampang, Thailand. *Environ Earth Sci* 70, 2047–2053, 2013. See: <https://doi-org.proxy.cc.uic.edu/10.1007/s12665-009-0423-8>.
 162. R.E. Martinez, J.E. Marquez, & H.T.B. Hòa, et al., Open-pit coal-mining effects on rice paddy soil composition and metal bioavailability to *Oryza sativa* L. plants in Cam Pha, northeastern Vietnam, 20 *Environ Sci Pollut. Res.* 7686, 2013. See: <https://doi-org.proxy.cc.uic.edu/10.1007/s11356-013-2030-1>.
 163. Omkoi Coal Mine Translated EIA, Section 4.1.7.
 164. Zoom Interview with Tanakrit Thongfa, EarthRights International (EarthRights) (Mar. 30, 2021).
 165. *Human Rights Situation of Indigenous Peoples Open Coal Mine at Kabeudin Village, Omkoi District, Chiang Mai Province*, Enhancing Indigenous Peoples’ Human Rights Defenders Network in Asia for advancement of the rights of Indigenous Peoples (EIHRD), 3 December 2020. See: <http://www.eihrdthailand.net/blog/news/coalmineatomkoi>.
 166. Chaunjit Chanchitpricha & Alan Bond, Investigating the Effectiveness of Mandatory Integration of Health Impact Assessment Within Environmental Impact Assessment (EIA): A Case study of Thailand, 36 *Impact Assessment and Project Appraisal* 16, 27, 2018 (noting that two of the four practitioners in the study reported this practice).
 167. Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021.
 168. *Ibid.* The current village leaders, however, also do not support the anti-mine campaign. There is some speculation that they signed the original EIA and are worried about legal fallout from the company if they change positions. Zoom Interview with youth leader of Omkoi Anti-Coal Mine Network, 22 April 2021.
 169. *Human Rights Situation of Indigenous Peoples Open Coal Mine at Kabeudin Village, Omkoi District, Chiang Mai Province*, Enhancing Indigenous Peoples’ Human Rights Defenders Network in Asia for advancement of the rights of Indigenous Peoples (EIHRD), 3 December 2020. See: <http://www.eihrdthailand.net/blog/news/coalmineatomkoi>.
 170. Zoom Interview with a member of Greenpeace Thailand, 7 April, 2021 (stating that the EIA was created 12 years ago, and the former village head wanted the mine, but the information is outdated because families have expanded, and new people have moved into the village in the intervening years). Zoom Interview with a member of the Indigenous Peoples Foundation for Education and Environment (IPF), 31 March 2021 (noting there was evidence to show some corruption, and people were offered gifts and the company pretended those were real agreement to concessions). The company first approached the village in 1998 and bribed key persons, including the former village councilman and other leaders to accept money for the land or to risk prosecution because it was a preservation area, resulting in the displacement of some 13 persons being forced to “sell” their land. *Id.* See also: Zoom Interview with Tanakrit Thongfa, EarthRights International (EarthRights), 30 March 2021.
 171. Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (EarthRights), 15 March 2021.

172. Zoom Interview with a member of Greenpeace Thailand, 7 April 2021 (detailing EIA deficiencies including: 1) how the EIA only listed nine families as being directly affected whereas about 18 families will actually be affected, including one or two families whose entire land plots will be taken; 2) downplays the effect of water diversion; 3) does not explain the environmental consequences; 4) is unclear regarding the transportation route to the mine; 5) includes errors including listing the date of the second meeting prior to the date of the first meeting);
173. Zoom Interview with EnLAW, 14 April 2021 (emphasizing that the EIA is outdated and no longer relevant because it was completed so long ago).
174. There are 72 consulting firms approved to perform EIAs in Thailand. Kultip Suwanteep, Takehiko Murayama, & Shigeo Nishikizawa, Environmental impact assessment system in Thailand and its comparison with those in China and Japan, 58 *Environmental Impact Assessment Review* 12, 22, 2016.
175. Chaunjit Chanchitpricha & Alan Bond, Investigating the Effectiveness of Mandatory Integration of Health Impact Assessment Within Environmental Impact Assessment (EIA): A Case Study of Thailand, 36 *Impact Assessment and Project Appraisal* 16, 27, 2018. Zoom Interview with EnLAW, 14 April 2021.
176. Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (EarthRights), 15 March 2021.
177. Zoom Interview with EnLAW attorney, 14 April 2021 (describing EnLAW's assistance to the community in preparing legal paperwork to submit to policy and decision-makers). The Centre for Protection & Revival of Local Community Rights (CPCR) along with Greenpeace has reached out to the cement company for confirmation that they will be receiving the coal from the mine as stated in the EIA; they have asked the company if they are willing to take coal produced by compromising human rights. Zoom Interview with Centre for the Protection & Revival of Local Community Rights (CPCR), 8 April 2021.
178. See Annex B, Omkoi Coal Mining Project Timeline.
179. Zoom Interview with EnLAW, 14 April 2021. This is the last step in securing the commission/license to operate. *Ibid.*
180. Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (EarthRights) 15 March 2021.
181. Zoom Interview with EnLAW 14 April 2021 (describing a case in Lampang province where the company got the permit for the project, but the villagers were so persistent in their protesting and legal strategies that the company has not been able to proceed with the mining project).
182. Section 34, The Constitution of Thailand. See: https://www.constituteproject.org/constitution/Thailand_2017.pdf?lang=en (an unofficial English translation).
183. Penal Code. See: <https://www.thailandlawonline.com/table-of-contents/criminal-law-translation-thailand-penal-code>. See also ILaw, Reform to Defamation Laws, 15 February 2021. See: <https://www.ilaw.or.th/node/5820>. For example, Section 116 of the Criminal Code states: "Whoever makes an appearance to the public by words, writings or any other means which is not an act within the purpose of the Constitution or for expressing an honest opinion or criticism in order: (1) To bring about a change in the Laws of the Country or the Government by the use of force or violence; (2) To raise unrest and disaffection amongst the people in a manner likely to cause disturbance in the country; or (3) To cause the people to transgress the laws of the Country, shall be punished with imprisonment not exceeding seven years." *Ibid.*
184. SiamLegal, Criminal Procedure See: https://www.siam-legal.com/thailand-law-library/legal_library/thai_criminal_procedure.php. See Criminal Procedure Act (last visited Mar. 4, 2021).
185. See U.S. Department of States, Thailand 2019 Human Rights Report 18. See: <https://www.state.gov/wp-content/uploads/2020/02/THAILAND-2019-HUMAN-RIGHTS-REPORT.pdf>.
186. Sections 34, 42, & 44, The Constitution of Thailand. See: https://www.constituteproject.org/constitution/Thailand_2017.pdf?lang=en (an unofficial English translation) (guaranteeing freedom of expression, freedom of association, and freedom of assembly, respectively).
187. The Emergency Decree on Public Administration in Emergency Situations (2005) has been used to prohibit protest and assemblies, authorizing the prosecution of individuals for violating the Decree's issued during the pandemic. Emergency Decree on Public Administration in Emergency Situations, B.E. 2548 (2005). See also Article 19 and Thai Lawyers for Human Rights, #WhatsHappeningInThailand: Government Crackdown on the Right To Protest 13 (Oct. 25, 2020), <https://www.article19.org/wp-content/uploads/2020/10/2020.10.25-Thailand-Protest-Briefing-final.pdf>.
188. Commission of Computer-Related Offenses Act, (No.2) B.E. 2560 (2017), http://ict.rid.go.th/_data/docs/Ex_ICTRID_docs/EN/809777_0001.pdf. Section 161/1 of the Criminal Procedure Code does provide courts with procedures for dismissing criminal cases when they determine that "ill intention (1) to harass (2) to take advantage over a person (3) to gain any unlawful benefits or (4) to achieve any corrupt underlying objectives." This provision took effect on March 20, 2019. Business & Human Rights Resource Center, *Strategic Lawsuits Against Public Participation: Southeast Asia cases & Recommendations for Government, Businesses and Civil Society*

- (March 2020) 6, https://media.business-humanrights.org/media/documents/files/documents/SLAPPs_in_SEA_2020_Final_for_website.pdf.
189. *What is a SLAPP?*, Public Participation Project: Fighting for Free Speech. anti-slapp.org/what-is-a-slapp
 190. Thailand: Drop Case Against Rights Defenders, Military Criminal Complaint in Retaliation for Torture Report, *Human Rights Watch*, 8 June 2016. See: <https://www.hrw.org/news/2016/06/08/thailand-drop-case-against-rights-defenders#>
 191. Interestingly, it has been reported that the companies target outsiders that come to the community to protest rather than the locals themselves. Zoom Interview with Greenpeace Thailand, 7 April 2021.
 192. Zoom Interview with a youth leader of Omkoi Anti-Coal Mine Network, 22 April 2021. Posts on this page, however, are generally anonymous. *Ibid.*
 193. *SLAPP Against IPHRDs at Omkoi District*, Enhancing Indigenous Peoples' Human Rights Defenders Network in Asia for advancement of the rights of Indigenous Peoples (EIHRD), 8 April 2020. See: <http://www.eihrdthailand.net/blog/news/%E0%B8%A3%E0%B8%B2%E0%B8%A2%E0%B8%87%E0%B8%B2%E0%B8%99%E0%B8%AA%E0%B8%96%E0%B8%B2%E0%B8%99%E0%B8%81%E0%B8%B2%E0%B8%A3%E0%B8%93%E0%B9%8C%E0%B8%A5%E0%B8%B0%E0%B9%80%E0%B8%A1%E0%B8%B4%E0%B8%94%E0%B8%AA>.
 194. *Ibid.* On 12 October 2019, both leaders acknowledged the defamation allegations by Omkoi police and scheduled an interrogation for November. On 12 November 2019, the two Indigenous human rights defenders, along with their lawyers and witnesses, met with investigating officers to deny the charges against them and offer additional information in writing. *Ibid.*
 195. Zoom Interview with the Centre for the Protection & Revival of Local Community Rights (CPCR), 8 April 2021.
 196. The company has been unwilling to discuss the case with coalition NGOs. Zoom Interview with Thornthan Kanmangmee, Mekong Legal Coordinator, EarthRights International (EarthRights), 15 March 2021.
 197. Zoom Interview with the Centre for the Protection & Revival of Local Community Rights (CPCR), 8 April 2021 (estimating the accused's odds at going to jail at 50 percent despite the constitutional arguments in their favor). Currently there is a democracy movement in Thailand which has started a shift in turning defamation cases to civil instead of criminal, if this movement is successful, it will be helpful for these cases. *Ibid.*

FRONTLINES OF
CLIMATE
JUSTICE