



Letter to UN Special Rapporteur on Rights to Health: Impacts of Transboundary Investment

Dear your excellency **Tlaleng Mofokeng**

United Nation Special Rapporteur on Rights to Health,

We, *Extra-Territorial Obligation Watch Coalition (ETOs Watch Coalition)*¹, are writing this submission is presented to draw attention to relationship between Thailand Direct Investment (TDI) and the significant health as well as livelihood impacts that caused by transboundary investments and pollution in Thailand and the Mekong region. The Mekong River, a critical lifeline for millions of people in Southeast Asia, has become increasingly threatened by large-scale investments, particularly in hydropower dams and industrial projects. These developments have led to severe environmental degradation, disrupted ecosystems, and negatively affected the health and well-being of communities in the region, including in Mekong and its tributaries river bank communities in Thailand.

Key Issues and Impacts

Thai investors and developers have been expanding their investments and value chains, but their projects have caused significant transboundary environmental degradation, health risks, and disruptions to livelihoods in the Mekong region.

Hydropower dams on the Mekong River and its tributaries, along with industrial projects, have inflicted considerable ecological harm, including altered river flows, sediment depletion, and water

¹ We are a network of civil society organizations dedicated to monitoring the extraterritorial obligations of Thai investors, has documented the adverse impacts of these projects. Notable examples include hydropower dams along the Mekong mainstream, coal-fired power plant, and special economic zones in Mekong Region. These initiatives have caused widespread ecological harm and social upheaval, raising serious concerns about their compliance with international human rights, environmental and health standards.

pollution. These changes have disrupted aquatic ecosystems, leading to declines in fish stocks and biodiversity. Communities relying on the river for food and water now face heightened risks of malnutrition and waterborne diseases. Displacement caused by dam construction and land acquisition for industrial projects has worsened economic insecurity and social tensions within affected communities, pushing many families into deeper poverty and eroding their cultural identities as traditional ways of life are upended.

Toxic discharges from mining and industrial activities have polluted water sources with heavy metals and other hazardous substances. This contamination has led to increased cases of chronic health conditions, including cancers, neurological disorders, and developmental issues, particularly among vulnerable groups such as children and pregnant women.

Air pollution from coal-fired power plants further exemplifies the severe health and environmental impacts of such projects. The Hongsa Coal Power Plant and Mine in Laos PDR, operated by Thai developers, has been linked to respiratory illnesses in northern Thailand, particularly in Nan province. Additionally, emissions from the plant contribute to acid rain, which damages crops, contaminates water bodies, and disrupts aquatic ecosystems. These impacts have reduced agricultural yields, compromised food security, and harmed the livelihoods of local communities dependent on natural resources.

Human Rights Violation Investigation, Progress in Regulating Thailand Direct Investments, and Addressing Transboundary Impacts

Thailand has seen some institutional progress in regulating direct investments abroad, largely driven by advocacy from civil society. These advancements encompass several key aspects.

Firstly, human rights oversight has been bolstered by the work of the National Human Rights Commission of Thailand (NHRCT) and the Ombudsman, both of which have investigated transboundary human rights violations in various cases such as hydropower dams, special economic zone, large scale plantation or et cetera that submitted by CSOs. The NHRCT's recommendations played a pivotal role in Thailand becoming the first Asian country to adopt a National Action Plan on Business and Human Rights (NAP on BHR) following the Universal Periodic Review (UPR) in May 2016. This plan identified four priority issues, including the critical matter of International Investments and Multinational Enterprises.

In addition, corporate accountability has been addressed through measures implemented by the Securities and Exchange Commission (SEC). Companies listed on the Stock Exchange of Thailand are now required to prepare the 56-1 One Report, which integrates considerations of environmental, social, and

governance (ESG) and responsible banking criteria. This marks a significant step towards ensuring that corporate practices align with broader societal and environmental responsibilities.

Civil society advocacy has also played a crucial role in promoting accountability. CSOs groups have launched campaigns to hold financial institutions responsible for funding projects that harm the environment and cross-border communities. Notable examples include campaigns targeting dams on the Mekong River and coal-fired power plants in Laos. Furthermore, transboundary lawsuits—such as those against the Xayaburi Dam, sugar plantations in Oddar Meanchey, and transboundary air pollution in Northern Thailand—underscore the ongoing struggle to ensure that corporate entities are held accountable for their actions.

Despite these developments, significant gaps remain, particularly in the area of transboundary impact assessments. Thailand has yet to implement mandatory frameworks for assessing the cross-border impacts of its investments. This regulatory gap exposes communities to unforeseen health, environmental, and social risks associated with projects such as dams, mining operations, and industrial agriculture. The absence of these assessments undermines efforts to predict and mitigate adverse effects on downstream populations. State agencies and independent organizations under the Thai Constitution face limitations in supervising the operations of business entities and state enterprises, particularly in cases involving overseas investments. The authority and duty to oversee and inspect companies that violate human rights abroad or commit transboundary violations remain unclear, as does the coordination between various agencies. Mechanisms for prevention and for receiving complaints from affected individuals are similarly underdeveloped.

Moreover, even in cases where inspections reveal human rights violations or negative impacts on the environment and health, the recommendations resulting from these investigations are often non-binding and lack enforceability. This shortcoming persists despite Thailand's status as a party to eight human rights conventions especially ICCPR and ICESCR, underscoring the need for more robust and legally binding mechanisms to address these challenges, Thailand's extra-territorial obligation in particular.

Concerns

ETOs Watch Coalition and other civil society organizations (CSOs) in the Mekong region have expressed grave concerns about the lack of transparency, accountability, and meaningful participation in decision-making processes, as well as inadequate regulation related to transboundary investments. Key issues raised by CSOs include the following:

Firstly, there are inadequate environmental and social safeguards. Projects are often approved without meaningful and strict environmental impact assessments (EIAs) or comprehensive health impact assessments (HIAs). More importantly, there is a lack of transboundary environmental and health impact assessments (Tb-EHIA) for cross-border investments. This regulatory shortfall has led to insufficient measures to mitigate adverse effects on ecosystems and communities, exposing them to significant environmental and health risks.

The health rights of affected communities along the Mekong River are particularly under threat. Fishermen and farmers who rely on the river for their livelihoods face growing challenges due to the irregular and unpredictable water levels caused by dam operations. These fluctuations disrupt fishing patterns, damage crops, and render riverside agriculture increasingly unsustainable. The uncertainty surrounding water levels not only undermines the physical well-being of these communities by reducing their food security and income but also takes a significant toll on their mental health. Many residents report heightened anxiety and stress as they struggle to adapt to the unpredictable conditions and fear for the future of their way of life and especially health.

Secondly, affected communities are frequently excluded from consultation processes. Many of these communities report inadequate consultation and limited access to critical information. They often feel excluded from decision-making processes that directly impact their health, livelihoods, and rights. This exclusion exacerbates feelings of disempowerment and mental distress, particularly as they witness the degradation of their environment and resources without having their voices heard.

Thirdly, there is insufficient compensation and support for displaced communities. Those displaced by such investments frequently receive inadequate compensation and are left without access to alternative livelihoods, thereby exacerbating their social and economic vulnerabilities. Farmers and fishermen, in particular, find themselves unable to rebuild their lives as they lose access to arable land and reliable water sources, driving them deeper into cycles of poverty and instability.

Moreover, affected people, human rights defenders, activists, as well as CSOs advocating for environmental and human rights protections often face harassment, intimidation, and violence. These threats create a chilling effect on public participation, undermining the capacity of communities and organizations to hold investors accountable for their actions.

In addition to these concerns, Thailand lacks legal mechanisms to hold parent companies and shareholders accountable for the adverse impacts caused by their subsidiaries' operations. This gap in legislation leaves affected communities without recourse to justice or compensation when projects cause harm to health, livelihoods, or the environment. The absence of enforceable legal frameworks that ensure corporate responsibility perpetuates the cycle of impunity and diminishes trust in regulatory institutions.

Recommendations

To address these pressing issues, we urge the UN Special Rapporteur to consider the following recommendations and pushing relevant Thai government and business sector:

- Call on Thailand to amend the rights to healthy environment to the Thai Constitution
- Call on Thailand to enact laws requiring project developers or the business sector to conduct a transboundary environmental and health impact assessment (Tb-EHIA) for investment projects that are likely to have cross-border impacts back into Thailand and affect the country in which the project is located and internationally.
- Call on Thailand to enact laws requiring large businesses to conduct mandatory Human Rights Due Diligence in accordance with international standards on an ongoing basis, including ensuring stakeholder participation when making business decisions that may impact human rights and the environment throughout the supply chain.
- Call on Thailand to enforce the piercing corporate veil principle, requiring parent companies to monitor and control their subsidiaries, and requiring shareholders/parent companies to be liable for actions or damages resulting from the company's operations if a link between the parent company, subsidiaries, and the illegal actions and damages can be proven.
- Call on Thai government to require businesses to have an Operational Grievance (OGM) mechanism, a mechanism where affected parties can directly communicate with the business sector to resolve issues. By accessing the mechanisms anonymously and with personal data
- Call on Thai government to push for the drafting of the Convention on the Regulation of the Activities of Transnational Corporations and Other Business Establishments at the United Nations forum
- Call on Thai government to establish a National Contact Point (NCP) in accordance with the OECD guidelines to receive complaints from people affected in various aspects by Thailand's overseas investment to investigate human rights violations and act as a mediator between Thai companies and those affected.

We stand ready to provide any additional information your office may require and look forward to your response on this urgent matter.

Best regard,

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