

Regional Perspectives and Experiences on Transboundary Accountability: the case of Thai Outbound Investments in ASEAN



To seek justice and remedies for victims of human rights abuses via judicial and **non-judicial channel such as NHRCT**

**ETOs
Watch**

Monitor the implementation of the **Cabinet Resolution**- a regulation that demand extraterritorial obligations of Thai investors broad (based on UNGP)

**Extraterritorial
Obligation Watch
Coalition**

Monitor human rights due diligence of Thai investments abroad i.e. process of community consultation & inadequacy, documentation human rights abuses & evidences



In 'historic lawsuit,' Oddar Meanchey villagers take sugar giant Mitr Phol to court in Thailand



1 April

Displaced farmers from Cambodia filed a landmark class-action lawsuit in a Thai civil court against MitrPhol.

Violent forced evictions, burning of homes, looting of crops and livestock and the seizure of land



Such a ruling would also encourage **the Thai government to take its extraterritorial human rights obligations** seriously and sanction Thai companies that commit abuses overseas.

“We filed this lawsuit because MP took our land, our harvest, our access to the forest, and our children’s opportunities to go to school,” said one of the affected community members, who requested anonymity due to threats to her safety.



KohKong&Oddarmanchey sugar plantation in Cambodia, cases investigated

Heinda mine affected communities file a case in Myanmar

Mekong communities file lawsuit against EGAT on Xayaburi dam, Thai court

2010

2012

2014

2016

2018

Hongsa case investigated

Hatgyi dam case investigated in Thai side

Heinda&Dawei SEZ case investigated

Banchaung complaint submitted to NHRCT





PUSH

PULL



May 2016 Cabinet Resolution on ETO

- The May 2016 resolution provides guidelines for how Thai investors who operate international businesses should adopt and comply with the [UNGP](#) and the “[protect, respect and remedy](#)” framework for business and human rights.
- Ministries of Justice, Commerce, and Foreign Affairs
- Significant policy development for those who face human rights abuses by Thai investors and their mega projects in Myanmar and the Mekong Region (such as SEZs, dams, and coal projects).

Thai investments

Myanmar

Existing: Oil and Gas operation by PTT, Banchaung coal mine

Heinda mining, Mandalay cement factory&coal, Kengtung coal

Developing: Dawei road link, Dawei SEZ

Planned:

- Mongton dam 3500 MW*2 dams
- Hatgyi dam 1500 MW
- Ye Coal in Mon state

Lao PDR

Existing: Xayaburi, Nam Ngum 2, Nam Theun, Xepien Xenamnoy, Hongsa coal

Planned:

- Pakbeng dam 900 MW, Xenakam dam

Cambodia

Existing: Kohkong and Oddarmanchey sugar plantations

Planned: 1 dam StungNam, 1 coal in Kohkong



- Transboundary impacts
- Scale and scope of tb impacts needed to be fully considered and accounted for, in order to determine extraterritorial corporate

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NIKKEI ASIAN REVIEW

MYANMAR, CAMBODIA, LAOS

Laos dam collapse triggered by heavy rain, says Thai investor

At least several reported dead and hundreds missing near hydropower project

YUKAKO ONO, Nikkei staff writer
July 24, 2018 18:23 JST

Laos has been aggressively building hydropower dams on its rivers to sell electricity to neighboring countries (Getty)

Conclusion from field inquiry and investigations



- Led to extra-territorial obligations (ETOs) in Cabinet Resolution and NAP
- Law needs to be enacted to regulate Thai investments abroad
- Lack of enforcement & implementation

ETO Watch Coalition calls for:



- The Thai government to take concrete steps to monitor, prevent, investigate, and redress human rights abuses by Thai investors, and
- To enforce stronger regulations for activities of Thai investors abroad, including around projects with transboundary impacts.

Challenges to Transboundary Accountability & Recommendation



- Access to effective remedy is very limited
- Role of NHRI in cross border investigation
- Address potential transboundary impacts in impact assessment processes with inclusive participation from affected communities. Lack of law requirements.
- State's role to monitor Thai investors and establish an effective mechanism to enforce extraterritorial corporate responsibility.
- Ensure development financing and HR compliance of outbound investments