DEFENDING TERRITORIES, DEFENDING OUR LIVES

FOE APAC
ENVIRONMENTAL HUMAN RIGHTS DEFENDERS

NOVEMBER | 2019

PROTECTING HUMAN RIGHTS AND THE ENVIRONMENT IN ASIA PACIFIC THROUGH SYSTEM CHANGE



Mobilize. resist. transform.

DEFENDING TERRITORIES,
DEFENDING OUR LIVES

Friends of the Earth Asia Pacific
NOVEMBER | 2019

FRIENDS OF THE EARTH ASIA PACIFIC (FOE APAC) IS A REGIONAL BODY OF FRIENDS OF THE EARTH INTERNATIONAL (FOEI), A FEDERATION OF ENVIRONMENTAL JUSTICE ORGANISATIONS PRESENT IN 73 COUNTRIES WITH OVER 1.5 MILLION MEMBERS. FOE APAC IS A COLLECTIVE OF SOVEREIGN ORGANISATIONS WORKING WITH GRASSROOTS COMMUNITIES ON ENVIRONMENTAL AND RIGHTS-BASED CONCERNS IN THE ASIA PACIFIC REGION. FOE APAC IS COMPOSED OF DIVERSE ORGANISATIONS, WHICH RANGE FROM VERY SMALL VOLUNTEER-BASED GROUPS (OF 4 – 5 PEOPLE) TO BIG MEMBERSHIP GROUPS (OF 250 STAFF TO 90,000 MEMBERS). AT PRESENT, FOE APAC IS COMPRISED OF 13 MEMBER ORGANISATIONS BASED IN: AUSTRALIA, BANGLADESH, JAPAN, INDONESIA, MALAYSIA, NEPAL, PALESTINE, PAPUA NEW GUINEA, PHILIPPINES, RUSSIA, SOUTH KOREA, SRI LANKA AND TIMOR LESTE.

OUR VISION IS OF A PEACEFUL AND SUSTAINABLE WORLD BASED ON SOCIETIES LIVING IN HARMONY WITH NATURE. WE ENVISION A SOCIETY OF INTERDEPENDENT PEOPLE LIVING IN DIGNITY, WHOLENESS AND FULFILMENT IN WHICH EQUITY AND HUMAN AND PEOPLES' RIGHTS ARE REALISED. THIS WILL BE A SOCIETY BUILT UPON PEOPLES' SOVEREIGNTY AND PARTICIPATION.

Authors: Ronnie Hall, Romel de Vera, Theiva Lingam and Sam Cossar-Gilbert. **Case studies provided by:** BELA/Friends of the Earth Bangladesh; WALHI/Friends of the Earth Indonesia; Sahabat Alam Malaysia/Friends of the Earth Malaysia; PENGON/Friends of the Earth Palestine; LRC-KsK/Friends of the Earth Philippines; RSEU/Friends of the Earth Russia; and CEJ/Friends of the Earth Sri Lanka. **Acknowledgments:** Friends of the Earth Asia Pacific would like to sincerely thank all member groups within the Asia Pacific region, the strong communities they work with and their allies for being a part of this three year project and for contributing to this report. We also would like to acknowledge the tremendous amount of support provided by Loreto De Amunategui and Romel De Vera in the management of this project. **Design:** www.onehemisphere.se. **Cover image:** Ibu Rumsiah from Kalimantan, Indonesia resisting the Indrumayu coal fired power plant. © Luka Tomac/Friends of the Earth International. **French translation:** Chloé Dusaussoy. **Spanish translation:** Alberto Villarreal.

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Friends of the Earth Asia Pacific

SACRIFICING PEOPLE IN PURSUIT OF PLUNDER AND PROFITS

01



Uncertain futures: T'boli Manobo mother and child overlooking community farm.
© LRC-KsK/Friends of the Earth Philippines.

"...Today we also honour the human rights defenders risking their lives to protect people in the face of rising hatred, racism, intolerance and repression. Indeed, human rights are under siege around the world. Universal values are being eroded. The rule of law is being undermined. Now more than ever, our shared duty is clear: Let us stand up for human rights – for everyone, everywhere." [1]

The UN Secretary General's message on the occasion of the 70th year of the Universal Declaration of Human Rights and the 20th anniversary of the United Nations Human Rights Defenders Declaration, 10 December 2018.

In an alarming trend, increasing numbers of Defenders of Territories[2] are now at risk for asserting and defending human rights. The 2018 report to the UN General Assembly by the UN Special Rapporteur for Human Rights Defenders states that in the twenty years since the adoption of the UN Human Rights Defenders Declaration an estimated 3,500 Defenders have been killed in the struggle for human rights.[3]

Some of the greatest threats are faced by the peasant and indigenous women and men who are defending land, the environment and indigenous peoples' rights, who have been found to be nearly three times more likely to be assaulted than Defenders in other sectors.[4] Their resistance has provoked a violent backlash by powerful state and non-state actors who are increasingly intimidating communities and Defenders and even arranging assassinations with impunity.

Global Witness reported that in 2018, an average of three Defenders of Territories were killed every week defending their homes, forests and rivers from encroachment by mining, logging and agribusiness. They documented 164 killings globally, with mining being the worst sector. State security forces were linked to 40 killings and private actors were suspected in another 40 cases. Global Witness underscored that these killings are perpetrated amidst the stigmatisation and criminalisation of Defenders, their families and communities, with a view to intimidating them and stifling their resistance to destructive government and business projects and those projects' impacts on land, livelihoods and the environment.[5]

SACRIFICING PEOPLE IN PURSUIT OF PLUNDER AND PROFITS CONTINUED

"THEY SPOKE TO POWER AND WERE MURDERED IN COLD BLOOD"[6]

Environmental Human Rights Defenders stand up for the right of everyone to a safe, healthy, balanced and sustainable environment and for all related human rights such as the rights to health, livelihood, culture and social services – rights that are enshrined in several legal human rights instruments, which states have obligations to respect, protect and fulfill. It is because of their defence of rights, communities, territories, resources and the environment that Defenders of Territories are confronted by violations perpetrated by governments and business, even before they themselves become targets of attacks.

In 2016, the UN Special Rapporteur for Human Rights Defenders, Michel Forst, raised the alarm about the rampant killings, threats, harassment and intimidation of Defenders in his report to the UN General Assembly, where he called on states to address the trend of increasing violence, intimidation, harassment and demonisation of those who defend and promote environmental and land rights. He recommended states give *"greater... recognition of the role of environmental human rights defenders, afford them better protection and empower them to continue their legitimate human rights activities."*[7]

The killings and attacks have only worsened since then. In presenting the result of the 2018 Global Survey undertaken by his office, Michel Forst highlighted the restrictions imposed upon and the attacks directed against Defenders. He said that states have not only failed to protect Defenders, but have actively frustrated their enjoyment of the rights set forth in the Human Rights Defenders Declaration. This led him to remark that in many places, shrinking civic spaces have become a war on the Defenders of human rights.[8] This is especially true in the case of Defenders of Territories who are constantly at risk and attacked as business, investors and governments seek to profit from investment in extractives, energy and infrastructure projects.

"This is a phenomenon seen around the world: land and environmental defenders, a significant number of whom are indigenous peoples, are declared terrorists, thugs or criminals for defending their rights, or for simply living on land coveted by others ... What begin as smear campaigns labeling defenders 'anti-development' lead to legal prosecution and arrests, and then often violence. The perpetrators usually act with impunity and are rarely brought to justice."[9]

UN Special Rapporteur on Indigenous Peoples Victoria Tauli-Corpuz, who was herself tagged as a terrorist by the Philippines government in March 2018.

The 40th Session of the UN Human Rights Council in March 2019 adopted a resolution specifically on Defenders of Territories in which it expressed *"...grave concern at the situation of environmental human rights defenders around the world, and strongly condemns the killing of and all other human rights violations or abuses against environmental human rights defenders, including women and indigenous human rights defenders, by State and non-State actors."*[10] The resolution condemned the reprisals, violence, criminalisation, intimidation, arbitrary detention, torture, disappearance and killing of Defenders of Territories; and brought attention to the issue of impunity, sexual and gender-based violence, and the systemic and structural discrimination faced by women and indigenous human rights Defenders and migrants. Observers hope that this sends a clear message to states that Defenders of Territories be seen not as threats but as partners in human rights who need to be protected.[11]

RIGHTS FOR COMPANIES AND INVESTORS, ABUSE FOR PEOPLE[12]

There is spatial correlation between the sites of killings and areas of natural resource extraction by companies in countries with weak rule of law. Natural resource sectors that are driving killings are agriculture, logging, mining, water and dams. Weak rule of law in countries not only facilitates the displacement of communities and the appropriation of land and water resources but also leads to widespread impunity for the killings.[13]

The global neoliberal economic model that is based on unsustainable production and consumption of heavily resource-based commodities is resulting in landgrabs and resource conflicts in indigenous territories and rural communities. Lack of regulation and weak rule of law enable strong corporate actors to act with impunity. These two drivers are tragically resulting in death, with 1,558 reported murders of Defenders of Territories from 50 countries from 2002 to 2017.[14] The current dominant economic system exploits inequalities amongst people and nations initiated under old colonial systems and preserved by the current global trade and investment regime that commodifies both natural and human resources. It is locked in place through bilateral and multilateral agreements by governments, funded by international finance institutions, and imposed inside states, often through corruption and authoritarianism. Overall, the system is highly biased in favour of the interests of influential profit-making economic actors, at the expense of people, including future generations, and our environment, resulting in conflict.

There is currently a gross imbalance between the strength and application of international investor protection rules as compared with human rights protections. International law and institutions are failing to address the lack of access to justice for affected people and those who defend human rights. While rights for investors are guaranteed and enforceable globally, citizens and affected communities have to rely on businesses abiding by voluntary guidelines when struggling to defend their rights from big corporations' interests. Grievance mechanisms do not function because they lack effective sanctions and enforcement. In complete contrast, international free trade and investment agreements provide corporations with internationally binding rights and protection.[15]

ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS

In 2019 the ASEAN Intergovernmental Commission on Human Rights (AICHR) celebrates its tenth year of existence as a consultative body for ASEAN on all human rights matters. However, despite its decade-long existence, it does little more than promote human rights protection and has not evolved into an implementation and enforcement human rights regime.

This is due to the fact that AICHR's design is based on ASEAN's fundamental principles of non-intervention, respect for sovereignty and consensus in decision-making,[16] and limiting terms of reference. It cannot in any way blame, name or shame member countries who violate human rights[17] and it does not function as a judicial body. The terms of reference also state that the AICHR must recognise that it is the responsibility of each member state to promote and protect fundamental freedoms and human rights.[18]

The Asia Pacific region currently lacks any sort of mechanism to implement and enforce actions against human rights violations, despite the numerous violations being reported by civil society organisations in the region. The AICHR is definitely weaker than other regional human rights bodies such as the Inter-American Commission on Human Rights (IACHR). With the number of cases against EHRDs in the South East Asian region escalating, especially in Indonesia and the Philippines, it is time for AICHR to be transformed into a judicial body. Leaders within AICHR should push for changes and seek the cooperation of member states to do more to address human rights abuses.

Governments within ASEAN should modify their core principles and allow for interventions against member states which systematically abuse human rights principles, violating people's fundamental rights to life, liberty, livelihood and a clean and healthy environment.

In the Asia Pacific region, regional and bilateral free trade agreements that came after the establishment of the World Trade Organization – such as the Trans-Pacific Partnership (TPP), now known as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) – have included investment agreements which deal with the production of commodities. There are also dedicated regional investment agreements such as the ASEAN Comprehensive Investment Agreement (ACIA). Transnational corporations use Investor-State Dispute Settlement mechanisms in these agreements to sue governments that dare to introduce measures that impede their planned economic activities.

Threats to Defenders of Territories are often linked with major infrastructure and investment projects. Infrastructure and dirty energy investments are financed through loans from institutions such as the Asian Development Bank (ADB) or the Asia Infrastructure Investment Bank (AIIB), including as part of China's Belt and Road Initiative (BRI). The re-election speech of Indonesian President Widodo best illustrates how governments open up their countries to investments and resource extraction at all costs:

"... we must also invite as much investment as possible in order to create jobs. No one should be allergic to investment. This is how we create as many jobs as possible. Therefore, anything that obstructs investment must be trimmed, such as slow or complicated permit processes, especially illegal levies. Be careful, going forward I guarantee that I will chase, I will control, I will check and I will beat [them] up if necessary! There should no longer be any obstructions to investment because this is the key to creating more jobs."[19]

President Joko Widodo, Indonesia.

SACRIFICING PEOPLE IN PURSUIT OF PLUNDER AND PROFITS CONTINUED

Russian state nuclear corporation Rosatom has entered into nuclear deals and 'cooperation' with countries like Bangladesh and the Philippines, as described in one of the case studies in this report. It is these agreements on loans and investments that result in the privatisation and appropriation of social services, resources and the commons, leading to widespread and systematic exploitation of labour and the plunder of water, mineral and forest resources that communities and Defenders of Territories are resisting. For example, the debt trap that forced Sri Lanka to hand over control of the Hambontota Port to China for 99 years has also led to environmental issues including rising flood waters, intrusion into elephant corridors, landslides, coastal erosion, air pollution and dwindling fish catch.[20] Activists from Malaysia, Indonesia and the Philippines have also raised environmental concerns related to China-backed reclamation, railway and dam projects in their countries.

CHINA BELT AND ROAD INITIATIVE

The China Belt and Road Initiative (BRI) is a Chinese-backed megaproject intended to finance infrastructure connecting China with some 65 countries, from the Western Pacific to the Baltic Sea. Creating a vast liberalised economic cooperation area,[21] it will enable China to access new markets and extend its economic and political influence across Asia. The BRI initiative is a major concern, particularly because of the land and resources required, the fact that China lacks environmental standards and is not responsive to public campaigning, and because Chinese loans are associated with an increased risk of debt distress across the region, especially in countries such as Kyrgyzstan, Laos, the Maldives, Mongolia, Pakistan, Sri Lanka and Tajikistan.[22,23,24] Chinese companies now dominate Forbes' top ten largest companies globally, taking five of the top ten places, including first (Industrial and Commercial Bank of China) and second (China Construction Bank).[25]

Another related driver of these tensions is growing inequality. Income inequality is now at its highest level in fifty years[26] – the poorest half of humanity saw their wealth reduced by 11% in 2018, while the wealth of billionaires increased by 12%.[27] This shifting power dynamic further endangers those who seek to protect their territories and resources – their needs become ever greater, while increasingly wealthy and powerful economic agents are more able to respond with violence that is effectively condoned by the system.

ENEMIES OF THE STATE

In the Asia Pacific region, the rise of right wing and authoritarian governments has further facilitated the incursion of transnational corporations, mainly grabbing land and resources for the extractive industry, for dams and to exploit the oceans. Those who try to defend their traditional territories and resources suffer harassment both physically and online, and defenders are increasingly likely to be stigmatised or criminalised.

The Philippines is the most dangerous country in the region (and the third most dangerous in the world): 39 Human Rights Defenders were assassinated in 2018.[28] Global Witness assesses that 30 of these were Defenders of Territories. President Duterte openly threatens human rights activists in the Philippines.[29]

'National security' measures, often in the name of counter-terrorism, are being used to tighten territorial control by elites, limiting the ability of Defenders and civil society to act as a check on power. For example, the Sri Lankan case study in this report shows that it has now been made completely illegal to protest against the highly polluting garbage dumps that many local communities across the country are so concerned about. In Bangladesh, a new Digital Security Act is expected to be used to intimidate and imprison anyone engaging in dissent online – especially since the law that it replaced has already been used to arrest more than 1,000 people.[30]

Assassinations of Defenders of Territories were also recorded in Cambodia, India, Iran, Iraq, Myanmar, Oman, Pakistan, Palestine and Syria.[31] Defenders were subjected to abuse in other countries across the region as well, including Indonesia, Japan, Laos and Malaysia. There is a concern that these abuses are under-reported and under-recorded in some parts of Asia,[32] and that there may be many more cases than this.

Observers note that language like that used above by Indonesian President Widodo is an open threat against indigenous peoples and environmental activists. They also point out the fact that – as in Malaysia and the Philippines – inequality in land and resource laws has facilitated corporate appropriation of land owned or occupied by indigenous people as well as forests that are held in common by indigenous and rural communities, for plantation and mining operations.[33] Conflicts over land rights have led to numerous cases of violence in the region, from intimidation and attacks against indigenous peoples for putting up blockades against logging inside their traditional territory in Malaysia to the massacre of anti-plantation indigenous leader Datu Victor and members of his family and community in the Philippines.

01

Understanding the systemic nature of the threats and violence faced by Defenders of Territories is vital to stemming the seemingly relentless flow of Defenders' blood. The pursuit of a world based on democracy, justice and peace, in which peoples and communities have sovereignty over their territories and resources and are able to participate in decision-making processes, is absolutely contingent upon the current system being changed.

Indigenous and local communities' sustainable relationship with their environment in the Asia Pacific region are underpinned by cultural ties that are as rich, vast and diverse as the region's natural resource landscape. From Palestine to Sri Lanka, Japan to Malaysia, Indonesia to Papua New Guinea – this harmonious connection with nature can be seen in different religious rituals, agro-ecological practices, food preparation, land stewardship, and traditional resource management, utilisation and consumption.

Instead of championing this worldview and way of life, which has preserved and conserved resources and sustainable resource use practices, governments in the Asia Pacific region have instead opted for capitalist development and unsustainable economic growth, facilitating oligarchic control through the state and corporate plunder of resources.

It is in this context that Defenders of Territories and climate warriors are red tagged or vilified as terrorists while resource plunderers are feted and celebrated; laws allow entry of investments for extractives but not for funding of environment NGOs; women environmental defenders are demonised, threatened, abused and murdered; security forces protect business operations and attack indigenous communities and environmental activists; and Defenders of Territories are violated even while perpetrators enjoy impunity.



Friends of the Earth Asia Pacific mystica celebrating Diwali with the Gāyatrī mantra for life, illumination and hope, at the Friends of the Earth International biennial general meeting 2018, Nigeria.
© Amelia Collins/Friends of the Earth International.

FOOTNOTES:

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CASE STUDIES

02



Police manhandle an activist from the National Committee to Protect Oil, Gas and Mineral Resources, Power and Ports, at Shahbagh in Dhaka, January 2017.
© New Age/Bangladesh.

BANGLADESH: RAMPAL VERGING ON DEVELOPMENT DISASTER

"Sundarbans and Rampal do not fall in a line. Sundarbans needs to be protected. Our lives are intertwined with the forests. We would die if the forests die."[9]

Md Serazul Islam (45), Harinagar, Shyamnagar. Honey collector, fisher and member of a Community Patrolling Group that protects the forests from theft.

The Sundarbans mangrove forest is the world's largest contiguous block of mangrove forest and the world's largest coastal wetland. Around a quarter of a million people depend directly on the forest and its waterways for their household income, and 3.5 million rely on it for their lives and livelihoods more generally. It is a critical source of subsistence foods, medicines and building materials. Ecotourism and the sale of key products – including palm fronds, honey, fish, oysters and snails – support local livelihoods. The Sundarbans is also a natural buffer against cyclones and flash floods originating in the Bay of Bengal, providing protection for some 40 million people.

This vast wetland is home to such an extensive range of species, including many that are endangered, that it is recognised as a UNESCO World Heritage site. Notable species include the endangered Royal Bengal Tiger, Ganges river dolphins, Irrawaddy dolphins and river turtles.

Yet Bangladesh and India are building a vast 1,320 MW coal-fired power plant at Rampal, just 14km north of the Sundarbans, as part of a plan to produce 50 per cent of Bangladesh's electricity in eight coal-based power plants by 2030.

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Construction involves forest clearance, shipping and dredging, dust and water pollution (including because ships frequently capsize), disrupting fish migration and emitting substantial quantities of greenhouse gases.

When in operation, the power plant is expected to have extensive negative impacts on air and water quality, riverine biodiversity, the accumulation of pollutants up through the food chain, and noise levels. For example, in spite of claims that cutting-edge technologies will be used, there is no treatment plan for filtering or treating various gaseous pollutants, which are collectively responsible for acid rain, destruction of crops and ecosystems and climate change. They are also linked with asthma, bronchitis and damage to people's nervous systems.

Rampal will also be based on imported coal which will have to be transported directly by ship through the mangrove forest's waterways. The environmental impacts of this are expected to be stark – shipping accident statistics for the last five years are a telling indication of what is yet to come.

Dust particles, fly ash, and solid and liquid waste will also pose serious health hazards to workers and people living in the area. The plant will generate 0.94 million tonnes of ash, containing various toxic metals which are likely to cause serious damage to the environment, potentially impacting the whole region through the circulation of polluted water. The company assigned to build the plant, National Thermal Power Corporation (NTPC), is frequently accused of fly ash spillage. The most recent incident took place in the Singrauli district of Madhya Pradesh causing severe environmental damage and serious social tension.

Rampal will not follow the internationally accepted best practice of not discharging polluted water into rivers. This will change the temperature and velocity of the water system in the Sundarbans. In addition, the discrepancy between the volume of water drawn from the shallow Passur river and that discharged back into it means that the river will lose 4,000 cubic metres of water per hour. The pipe drawing water from the river will be so large that it will be able to suck in fish, dolphins, turtles and other water species. Collectively, these impacts will affect fish species, dolphin habitats, plant species, navigability, salinity, silt flow and tide in the Sundarbans.

Local communities have already experienced human rights abuses. Land acquisition for the project started in 2011 and 4,000 families have been displaced. A significant part of the affected people have complained that they were forcibly evicted and their houses were burned down. They were never consulted and no prior informed consent was obtained. Minimal compensation at a fraction of the market value was paid to some landowners (who also had to pay bribes to receive the money). 1,000 landless families received almost nothing.

Because so many different kinds of people were affected they found it hard to organise resistance, but a committee was formed. However, the project authorities, led by the local MP and law enforcement agencies, led a reign of terror and committee members were intimidated and coerced and a series of false cases lodged against them. In 2013, a five-day rally and 400km march, just before the launch of the power plant project, were brutally suppressed.

"We won't leave our land, if needed, we would shed our blood".

Shushanta Das (52), Khulna, small family business and rice farmer.

Campaigners trying to defend the Sundarbans continue to be harassed by pro-government actors, and some receive death threats. The police respond to their protests with guns, batons, water cannons and tear gas.

The government of Bangladesh is resolutely ignoring local, national, regional and international concerns about the Rampal Power Project. The Prime Minister's Energy Advisor has claimed that the controversy is "not based on facts", and the governments of India and Bangladesh are pressing on with construction.

Rampal is on the verge of turning into a development disaster. Even if the government operates the Rampal plant with supercritical technology, only 8 to 10% of the pollution will be controlled.[34] To protect the Sundarbans forest, in line with Bangladesh's commitments under the Convention on Biological Diversity and the Ramsar Convention, the Bangladeshi government should immediately suspend Rampal, banning future exploration and the use of fossil-fuel based energy within 20km of the forest as an Ecologically Critical Area. Fish and dolphin sanctuaries must be protected, and the Ramsar Guidelines and UNESCO checklist followed strictly.

The government must also reconsider its energy options nationally, given the overwhelming evidence that coal is a dirty, polluting and climate damaging fuel. As one of the countries most vulnerable to the impacts of climate change, Bangladesh should be working towards implementing the commitment already made by its Prime Minister, as a member of the Climate Vulnerable Forum (CVF) in UNFCCC COP 22 in 2016: that Bangladesh will become completely reliant on renewable energy by 2050.

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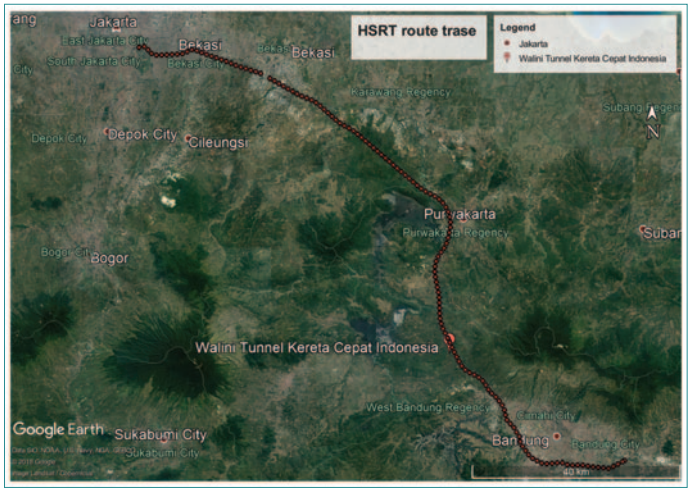


Villagers homeless after PT.KCIC flattens their homes in Gadobangkong village, Ngamprah, Padalarang, West Java.
© WALHI/Friends of the Earth Indonesia West Java.

INDONESIA: THE DEVASTATING IMPACTS OF TOD WALINI

The controversial 'Jakarta Bandung' Fast Train project (Kereta Cepat Jakarta Bandung or KCJB) is one of a number of infrastructure developments being promoted by the Indonesian government as part of China's transnational Belt and Road Initiative. This aims to enhance Chinese exports by facilitating the development of the physical infrastructure needed for increased international trade with countries in neighbouring regions.[35]

A consortium of Indonesian and Chinese joint ventures has provided 25% of the capital for the KCJB project; the remaining 75% of funding is owed to the China Development Bank, increasing Indonesia's external debt. The project has been sold to Indonesia's public – with state authority being used to obscure the interests of transnational capital and secure public approval – as a development project that will benefit people generally. But it is already clear that this is not the case. A range of social and environmental problems are arising as a direct result of the development.



Source: WALHI/Friends of the Earth Indonesia.

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The evidence to date indicates that it is private and foreign investors, including China, of course, that really stand to benefit. The people living in the project areas, on the other hand, are already experiencing land grabbing, unemployment, marginalisation, health and safety problems, food vulnerability, loss of access to communal resources, and the general disruption of their communities.

A key reason for all of this is the fact that the project is expensive and costs cannot be recouped through future train ticket sales alone. Because of this, a further parallel part of the plan is the additional 'Transit Oriented Development' (TOD) project – the development of further new infrastructure around the Walini railway station, on what has wrongly been labelled as 'unproductive land'. This will be integrated with the West Java provincial government's plan to build the New City of Walini.

It is variously planned that this city will become part of a Jakarta-Bandung megacity, act as a 'Green City' national pilot and a cyber city, be an Integrated Agribusiness and Tourism Region, be home to the ITB Walini Campus, and include a Special Economic Zone (Kawasan Ekonomi Khusus or KEK). These commercially attractive investment opportunities have triggered rushed and chaotic planning processes and large-scale land grabbing, without public consultation and in violation of spatial planning regulations and a number of environmental protection regulations and commitments.

TOD Walini is being built in three stages – 1,270 ha have been used to support the KCJB station in Walini, 3,000 ha will be used for the new city, and a further 10,000 ha will be used for the regional development of West Bandung regency.

The initial land acquisition processes have been coloured by intimidation and manipulation by local officials, who have focused on the profitable involvement of speculators – domestic and foreign land buyers and brokers. The importance of informing and involving local landowners has been ignored.

The ongoing project has also driven up the price of land and property, making housing increasingly unaffordable for local people. This problem has been compounded by low compensation payments to landowners, leaving them unable to buy land or new homes. Some residents have even been forced to move twice, first because of the construction of the KCJB station and then because it turned out they had moved into areas where the fast train track would be – precisely because they did not have information about the development project and what was happening.

Contrary to initial promises that the development would lead to more jobs, the project is also driving up unemployment. Tenants and profit-sharing farmers have lost access to the land they had been working on without compensation. Freelance and contract workers in plantations have found their work stopped unilaterally by PTPN VIII (Plantation State-Owned Company) with no official information or alternative work options. And many residents have found that they are not eligible to work on the KCJB and TOD projects due to various factors related to gender, age, education and expertise, that are deemed incompatible with the needs of the project. The developers prefer to employ 'ready-to-use' workers and bring them in from elsewhere.

The loss of land, territories and communal agrarian resources – such as grass, water and firewood – together with uncertainty about future tenure, all contribute to the dislocation of communities, increasing the potential for conflicts over land and resources. The absence of information, support or retraining options – from either the developer or the local government – is highly irresponsible because it makes the socio-economic transitions required considerably more complicated.

TOD Walini also has the potential to accelerate environmental damage and reduce the carrying capacity of the local environment. The area is classified as Zone B4 meaning that it is supposed to be for agricultural cultivation or 'non-massive' development. It is also located at the foot of Mounts Gedogan and Burangrang, significant water catchment areas. Land conversion may impact water resources and water filtration in the Bandung Basin area, and lead to flooding and related pollution. The project area also encompasses several locations at risk of earthquakes and ground movement.

Overall, using the 'Impoverishment Risks and Reconstruction' (IRR) model recommended by the UN, TOD Walini clearly qualifies as a project that is displacing and impoverishing local people, especially because developers and the government are failing to provide preventative monitoring and mitigation.



Gadobangkong villagers resist eviction to make way for the high speed rail track in Ngamprah, Padalarang, West Java
© WALHI/Friends of the Earth Indonesia West Java.

FOOTNOTES:

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CASE STUDIES CONTINUED



Fishers and civil society organisations protest at Malaysian Parliament on 11 July 2019.
© Sahabat Alam Malaysia/Friends of the Earth Malaysia.

MALAYSIA: OCEAN GRABBING WRECKS COASTAL ZONES AND FISHER COMMUNITIES

Healthy oceans are critical for sustaining life, eliminating poverty and promoting prosperity. They also sequester carbon dioxide from our climate. Yet despite their importance they continue to be devastated by human activities, including coastal development and 'ocean grabbing' reclamation projects. This is devastating marine biodiversity and robbing fishers and communities of access to the coastal and marine resources they have traditionally relied upon.

Fisherfolk and coastal communities in Malaysia have not been spared, as reclamation projects abound across the country. The scale and speed of this development is alarming, given its multiple negative impacts.

Malaysia's coast includes diverse habitats and ecosystems including estuaries, coral reefs and seagrass beds. These provide coastal communities with goods – such as fish, oil and minerals – and services, including natural protection from storms and tidal waves, and recreational opportunities.

However, the coastline is increasingly densely populated and is a preferred site for urbanisation. Coastal states are heavily engaged in shipping, oil and gas development, and coastal tourism, and competition for land and sea resources results in severe conflicts and the destruction of the functional integrity of the resource system. Land and real estate values are also escalating, making homes increasingly unaffordable for many. Affected stakeholders include groups in communities that regard and use natural resources as common property.

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Malaysia's response to competition for land and resources has been to increase the size of coastal zones by reclaiming land from oceans and wetlands, and by building artificial islands. Projects used to be relatively small-scale but that is no longer the case. Several states, such as Johor, Melaka, Negeri Sembilan, Penang and Perak, have now embarked on massive reclamation projects along their coastlines to augment their land bank and enable them to carry out large-scale development projects.

As a result, hundreds of hectares of fishing grounds and marine habitat are disappearing, with severe impacts on fishing communities. For example, the lives and livelihoods of fishing communities in Southern Johor were sustained by a relatively healthy marine ecosystem before reclamation projects began for port, industrial, commercial and residential development. Similarly, in Perak, the fishermen of Telok Muroh not only lost their livelihoods to reclamation, they also lost their age-old undisturbed fishing heritage. Yet the fishing communities' vocal protests have been ignored, as have the devastating environmental impacts at the heart of their concerns.

For example, the mining of millions of tons of marine sand and aggregates to create new land is having significant impacts on seabed flora and fauna, including coral reefs and seagrass meadows. Dredging and the extraction of aggregates from the benthic (sea bottom) zone destroys organisms, habitats and ecosystems, changing species composition and reducing net faunal biomass.

Coastal reclamation also involves the loss of coastal ecosystems such as mangroves and mudflats, as well as seagrass meadows. These act as natural buffers against wave energy, protecting coastal areas from flooding and erosion. For example, during the tsunami in 2004, the survival of the fisherfolks at Pulau Betong, south-west of Penang Island, was attributed to the mangroves growing there.

Various reclamation activities – including siltation, mechanical damage and pollution – have severe impacts on coastal water quality and thus biodiversity, especially fish species and coral reefs. Coral reefs are the spawning, feeding and nursery grounds for much of marine life, and their destruction will inevitably cause ecosystems to breakdown. Seagrass meadows improve water quality by absorbing nutrients in runoff from the land, slowing the velocity of water, and capturing sand and silt. Their destruction leads to those toxins, including heavy metals, being released.

Dredging and extraction also lead to an increase in suspended solids in the ocean, especially particles that are too fine to be used by dredging boats. This releases vast dust plumes that alter the water turbidity, resulting in major changes to aquatic habitats over a large area. Coral reefs and sea grasses are particularly vulnerable to siltation and reduced light. Research reported in 2010, by the National Hydraulic Research Institute of Malaysia, showed that siltation had impacted Penang's coastal waters so much that the sea currents had changed direction, pushing massive amounts of mud to be deposited in areas such as Gurney Drive, which was transformed from a sandy beach to a continuous mudflat.

This loss of mangrove forests and seagrasses, and activities that directly disturb ocean substrates and micro-environments, also has significant implications for coastal food chains, with severe impacts on local fishers, whose livelihood and source of income depend on the fishing industry, and for local communities' access to food more generally. For example, the Environmental Impact Assessment for the Proposed Reclamation of Seri Tanjung Pinang Development in Penang found that the local fishing grounds would be partially or totally lost, because inshore fishers are not able to venture more than eight nautical miles out to sea due to their smaller vessels and higher costs for fuel. The compensation being offered does not cover this significant loss.

Again in Penang, the state government's plan to reclaim 4,500 acres south of the island, as part of the multi-billion ringgit Penang Transport Master Plan (PTMP), neglects the heavy toll on more than 3,000 fishers, their communities and marine resources, and upstream and downstream economic activities.

Coastal farming communities can also be impacted. Land reclamation activities in coastal areas can change local groundwater systems and lead to saltwater intrusion, especially where the coast is no longer protected by mangroves and mudflats. This can have significant negative impacts on the productivity of nearby agricultural lands.

Sahabat Alam Malaysia/Friends of the Earth Malaysia is calling upon the Malaysian government to cancel all proposed reclamation projects in the country. The environment and Malaysia's multi-million ringgit fisheries sector, which many thousands of people depend on, and communities' food security are being traded off for development projects that are not justified.

The campaign against the proposed Penang South Reclamation project has been gaining momentum since early 2019. Unjust and defamatory statements targeting campaigners, including fisher communities and civil society organisations such as Sahabat Alam Malaysia, are increasingly prevalent. This ongoing slander by supporters of the reclamation project has been spread through social and online media, videos and printed materials.

Nevertheless, the defenders of these ocean and coastal territories remain determined.

Stop reclaiming our seas! Stop ocean grabbing!

CASE STUDIES CONTINUED



The child Bilal has cancer in his eyes since birth.
© Thaer Faqousa/Ma'an Development Center.

PALESTINE: POISONED BY ISRAEL'S NUCLEAR INDUSTRY?

Research in the Hebron region of Palestine shows its inhabitants are suffering the effects of nuclear radiation contamination – and that this radiation is almost certainly emanating from nuclear activities taking place nearby in Israel, and the suspected dumping of Israeli nuclear waste inside Hebron. It may also be a result of weapons containing depleted uranium having been used against the Palestinian people in the past.

Our meta-analysis looks at research published between 2003 and 2016, including laboratory tests conducted by the Egyptian Atomic Energy Authority and the Palestinian Ain Shams and Hebron Universities. It considers levels of specific radionuclides in air, plant, rock, soil and water samples, comparing results with those found elsewhere in the world and with limits established by the World Health Organisation. The samples were tested for radioactive caesium, radon, radium and uranium, and likely sources considered.

Undertaking and disseminating this ground-breaking research is highly risky for Defenders of Territories and related organisations, especially given the shrinking space for human rights Defenders who work on monitoring and documenting violations of international humanitarian and human rights in the Occupied Palestinian Territory (OPT).

This is particularly the case for those who have tried to monitor transfers of nuclear waste and document related violations. Attacks intended to silence people's voices include shootings, the burning of people's properties and limitations on donor funding. The Israeli occupation threatens human rights Defenders, and violates the rights to freedom of opinion and expression, access to information,

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and the freedom of movement that would enable field research to confirm the suspected use of Palestinian land as a dumping site for Israeli nuclear waste.

The research shows that communities living in Hebron are experiencing rapidly increasing rates of certain illnesses and birth deformities. The Palestinian Ministry of Health in Hebron Governorate reports a significant increase in the number of deaths due to cancers of more than 35 types, especially leukaemia, and prostate, lung, liver, brain, breast, stomach, thyroid, bone, pancreas, colon, ovary, bladder, skin and tongue cancer. Cancer rates are increasing year on year as well – rates in the West Bank doubled between 2010 and 2017. There are also increasing rates of organ, respiratory, skin, eye and chest diseases, and a growing number of cases of infertility, damage to chromosomes, repeated abortions and birth defects (such as children being born without hands). Related immune system deficiencies enable the spread of other diseases as well.

In recent years medical professionals have also told of torn bodies, deep wounds and strange-smelling burns which are strongly suggestive of the use of radioactive materials such as depleted uranium in Israeli weapons. This would cause widespread contamination as well: upon impact depleted uranium shells release radioactive uranium oxide dust into the atmosphere.

The research uncovered some startling results. Soil samples from Wadi Hebron/southern Dhahria contained more than six times the level of radioactive uranium-238 that might be expected to occur naturally. Plant samples similarly contained more than five times the expected level. These exceptionally high levels are almost certainly the result of the burial of depleted uranium from nuclear weapons or nuclear fuel enrichment.

Radium-226 and caesium-137 were found in plant samples as well. Radium-226 was also found at concentrations of up to nine times the World Health Organisation's allowable concentration, making it the highest level found globally. This isotope is a product of the radioactive decay of uranium-238, and its presence at these levels, in spring waters in particular, is again indicative of nuclear waste buried nearby. In some mineral water samples – especially those from the Ain Gedi springs – radon-222, a decay product of uranium-238 and radium-226, was also found at levels that constitute a radiation hazard.

Concentrations of radioactive caesium-137 in soil were similarly some of the highest found globally. This isotope does not occur naturally on Earth, it is a product of the nuclear fission of uranium-235 and other isotopes in nuclear reactors and weapons. This particularly dangerous radionuclide can contaminate the environment via spent nuclear fuel, nuclear accidents, and leakages from nuclear reactors. It is highly likely that Israel's antiquated Dimona reactor, which is one of the largest nuclear reactors in the Middle East and the oldest in terms of construction, is a key source.

Anecdotal reports support conclusions that Israel is burying radioactive residues in Hebron, seemingly in some fifty landfill sites across the West Bank and the Gaza Strip. In the town of Yatta, for example, suspicious Israeli trucks and bulldozers have been reported. Yatta is contaminated with caesium and radioactive uranium, and has high levels of people suffering from cancer, disabilities and deformities (of which more than half are congenital malformations). In Bani Na'im, Bedouin residents confirmed that a large cave had been sealed with cement and bolts by the Israelis. In the town of Dora, rates of lymphoma in children are two to four times higher than in the rest of the West Bank, and in Arab and Jewish communities in Israel. Of these cases, 54% are Burkitt's lymphoma – which attacks the immune system – compared with just 18% in the rest of the West Bank.

The international community needs to take immediate action, in the first place by sending an international technical team to the region to examine the nuclear contamination described here and its devastating impacts. All relevant official bodies – including local, Arab and international media, relevant scientific and legal institutions, and human rights and environment stakeholders – also need to act to curb Israeli violations of Palestinian environmental rights, and to ensure Israel implements relevant international treaties such as the Basel Convention.

Palestine also needs support to introduce a stronger and more inclusive processes for monitoring and addressing nuclear radiation contamination and its impacts, including support and training for Defenders of Territories enabling them to properly monitor and document violations.



A thick cement-like rock cover with screws closes a large cave where nuclear waste is buried, say residents of Wadi Waa'r Bani Na'im.
© Thaer Faqousa/Ma'an Development Center.

CASE STUDIES CONTINUED



Families are still living in the contaminated area around the Mayak plant.
© Timme Ellingjord/Natur og Ungdom

RUSSIA: HIGH-RISK ROSATOM EXPORTING DEADLY TECHNOLOGIES

Rosatom is a Russian state-owned transnational corporation which builds and operates nuclear power plants in Russia and globally. It deals with all aspects of the nuclear technological chain, from uranium mining through to the management of nuclear waste and spent fuel.[36]

In 2016, the Russian government announced the country's plans to build 11 new nuclear reactors by 2030. In August 2019, Rosatom's current investment plan reportedly received preliminary approval, to the tune of some US$13 billion in funding up to 2035.[37] The company's plans include prolonging the lifetime of outdated reactors, building nuclear waste and spent nuclear fuel repositories in various parts of the country, and producing nuclear fuel for export from uranium extracted from spent nuclear fuel.

Rosatom is also ramping up exports of its deadly nuclear technologies, and building nuclear power plants in other countries with plans to reimport their hazardous nuclear waste, which will remain a threat within Russia for tens of thousands of years. In terms of foreign orders, it is already the world's largest nuclear company, claiming to have a total of 36 nuclear reactor construction projects at different stages of implementation[38] including in Belarus, Bangladesh, China, India, Turkey, Finland, Hungary and Egypt.[39] It is also interested in the nuclear plans of Argentina and Saudi Arabia.[40] The company aims to triple its foreign project revenue in US$ terms by 2030.[41]

This expansion poses huge social and environmental threats in many regions of the world. The state-run nuclear industry in Russia has a long history of nuclear crises, including the dumping of liquid radioactive waste into the Techa river over many decades, the Kyshtym (Mayak-Ozersk) disaster in 1957 and Chernobyl in 1986, and accidents continue.

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In the 1957 disaster, a liquid waste storage container exploded at the Mayak plutonium plant in Ozersk, in the Ural mountains. Within ten hours radioactive clouds had spread over more than 20,000 square kilometres, exposing more than half a million people to radiation.[42] Many people, including the third generation of irradiated people, still live in the contaminated areas, without recognition or proper compensation for the violation of their rights.[43] Mistakes continue. In 2017, evidence of a radiation leak 10,000 times the annual allowed limit of emissions of ruthenium-106 and its decay product rhodium-106, emanating from the region where Mayak is located, was detected, including by the French nuclear research agency Institute for Radiological Protection and Nuclear Safety (IRSN). The agency said this should trigger protective measures for people living in a radius of several kilometres.[44] Altogether, Mayak is estimated to have dumped the equivalent of four 'Chernobyls' worth of radiation into the environment, but it continues operations as a reprocessing plant for spent nuclear fuel from nuclear plants and nuclear heritage sites across Russia.[45]

Even more recently, in August 2019, Rosatom confirmed that an explosion had taken place in the Arkhangelsk region, during a test of a liquid-fuelled rocket engine. Five staff died and radiation spiked briefly at up to 20 times the normal level in the nearby city of Severodvinsk.[46] Safety standards remain low.[47]

This ongoing catalogue of errors is alarming given Rosatom's global expansion plans. A key example is the construction of the Rooppur Nuclear Power Plant in Bangladesh, which Rosatom says it is accelerating.[48] Serious concerns have been raised about the lack of public consultation and safety in relation to Bangladesh's first nuclear power plant, especially since Bangladesh is particularly prone to natural disasters such as floods, cyclones, earthquakes and drought, which can trigger nuclear accidents. The return of nuclear waste to Russia, mandated by the Russia-Bangladesh nuclear agreement, also poses a significant threat to people living along transport routes and in Russia, where it will probably be sent to Mayak.

Rosatom, along with other nuclear corporations, is trying to promote nuclear energy as a low-carbon solution at UN climate negotiations. This is a false solution to climate change, as the entire lifecycle of nuclear plants relies on carbon emissions, and nuclear energy generates copious amounts of long-lasting nuclear waste.[49]

It continues to be highly risky for Russian NGOs to criticise Rosatom. Russia's Foreign Agents law has been used to target and close down NGOs in the 'national interest', limit access to information, prevent public discussion and threaten anti-nuclear activists with charges of espionage. In 2015, shortly after her organisation was labelled as a Foreign Agent, Nadezhda Kutepova, one of the most active critics of Rosatom, had to flee the country to protect her family, because she faced accusations of espionage.[50]

By the end of 2018 only nine of the 31 environmental NGOs labelled under the law were continuing their work. The focus is also shifting, from organisations to individuals, so that they can be targeted directly in many ways. For example, in May 2019, authorities in the Kaliningrad region of Russia initiated five criminal cases against Alexandra Korolyova, Director of Ecodefense. She was also obliged to flee the country.[51]

The Russian government needs to change course. It needs to protect its people, respecting universal human rights and continuing its support for the negotiations towards the UN treaty on transnational corporations and human rights. This has practical implications in Russia: We demand justice for those whose lives will never be the same because of nuclear disasters and other corporate crimes, and protection for Defenders of Territories, including those critical of Rosatom's policies.

The government should end its subsidies for the nuclear industry, stop Rosatom developing new nuclear projects in Russia and elsewhere, and support nuclear-free climate agreements. Public investment needs to be redirected to promote social and environmental well-being, including through the development and implementation of renewable energy solutions, and compensation to victims of the nuclear industry.

FOOTNOTES:

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CASE STUDIES CONTINUED



Port City Campaign against China's Belt and Road Initiative, 'China: Don't destroy our life'.
© Janaka Withanage/CEJ/Friends of the Earth Sri Lanka.

SRI LANKA: RAIDING RESOURCES, CRIMINALISING DEFENDERS

Compared to some other countries in the Asia Pacific region, Sri Lanka is a relatively safe place for Defenders of Territories – but even here Defenders are not free from harassment, including murders, death threats, detention, criminalisation and legal action. Furthermore, the political situation in the country is in flux and space for civil society is shrinking. This situation is exacerbated by the fact that Sri Lanka's environmental laws are poorly enforced, and people lack faith in the legal system.

Environmental, resource and land-related disputes are frequent occurrences. Sri Lanka is a multicultural society with diverse political opinions and ethnic groups and a high level of income inequality. Three decades of armed conflict (which ended in 2009) has been linked to the country's high and increasing government debt, which includes borrowing from international capital markets at expensive commercial rates, and debt owed to China, Japan, India, the Asian Development Bank and the World Bank.

The cash-strapped country is currently relying on rapid resource-based growth as a means of servicing these debts – at the expense of Sri Lanka's rich and verdant landscape and the human rights of its inhabitants and defenders. Destructive economic activities include the extraction of mineral resources, river diversions, forest and land grabbing, the construction of a seaport, energy generation projects, and industrial parks and other infrastructural development. Wetlands, the coastal zone and forests, and other wildlife habitats are all the target of so-called development projects.

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An increasingly broad range of people – including upper middle-class groups, academics, Buddhist monks, farmers, youth and community leaders – are variously engaged in defending environmental rights including the rights to life, land, health, clean air, food security, healthy forests and water bodies, protection for wildlife, and a sustainable level of resource consumption.

Projects identified as being particularly risky for Defenders of Territories include mini hydropower projects, such as the Marukanda Mini Hydro Power Project. Local communities and campaigners report intimidation from police, military and non-state actors including government agencies and project proponents. Death threats and intimidation have similarly been reported by those protesting against the construction of the Norochcholei coal power plant, Rathupaswela rubber factory, Homagama Tech City, Arruwakkaru sanitary landfill and land grabbing in the Eastern region.

Negombo fisherfolk leaders protesting against the construction of the Chinese-owned Colombo Port City are being criminalised for seeking to protect their communities and livelihoods by stopping a development which is driving ocean grabbing and sand mining. Similarly, community leaders from Rideemaliyadda in Bibila who are resisting illegal encroachment by the large-scale public-private Rideemaliyadda sugarcane project, are being criminalised and legal actions have been taken against them.

Waste disposal is a flash point. Across Sri Lanka local communities are protesting against garbage dumping in their territories, demanding the right to clean cities and unpolluted soil. Yet they too face state-sanctioned violence, now backed by a gazette issued under the Public Security Ordinance prohibiting any actions to stop garbage dumping. Demonstrations in the Colombo suburb of Meethotamulla, where a dump collapsed in 2017 killing 32 people and demolishing hundreds of homes, have been met with rubber bullets and tear gas.

Mr. Mubarak, a villager from Puttalam who is fighting against the Arruwakkaru landfill where garbage from Colombo is being dumped says " transporting this dirty garbage 170 km to my village from the capital is unethical and wrong. But the government uses all the powers to pollute our village, the Puttalam lagoon and the Wilpattu national park without our consent. We are threatened by both official forces and the people with vested interests."

Research found that both state and non-state actors are involved in threatening Defenders of Territories in Sri Lanka. The police are the most likely to obstruct protests and campaigns, including by shooting at crowds, but companies and politicians are also involved in mild through to severe physical and mental harassment. In some cases, Defenders have been killed. In 2012, for example, Antony Warnakulasuriya, 35 and a father of two, was shot dead during a protest against fuel price increases of up to 50 per cent announced by the government as part of an International Monetary Fund-imposed austerity package. In 2013, three youths were killed by the Special Task Force during a demonstration protesting about water contamination by the Venigros rubber latex factory located in Rathupaswela village near Colombo. Mr. Ananda from Marukanda is now facing a lawsuit in which he has been asked to pay Rs.15 million compensation for delaying a mini hydro power project in his backyard. This violence and intimidation are hard to stand up to, and many people reported that due to bitter experiences they had given up their campaigns.

Protection for these Defenders is an urgent priority. The landscape and resources we enjoy today are often only there because of the sacrifices of Defenders in the past. They are a group of real-life heroes who should be supported rather than hounded.

Defenders of Territories need to know that they can engage in activism to protect rights and resources safely. The government should recognise Defenders of Territories, understanding and acknowledging the value of what they do, and provide dedicated protection, insurance, legal aid and technological support. Citizens also need to understand that Defenders campaign in the collective public interest, not for private interests, and it is therefore the duty of everyone to safeguard them. Defenders of Territories themselves should form a network that interconnects their campaigns, strengthening their voices and resolve.



Port City Campaign against China's Belt and Road Initiative.
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CASE STUDIES CONTINUED



Top left: TAMASCO chief Datu Victor Danyan signs the resolution of non-consent to the entry of Daguma Agro-Minerals Inc (DAMI). Above: Marivic Danyan, the daughter of slain chief Victor Danyan. **© LRC-KsK/Friends of the Earth Philippines.**

THE PHILIPPINES: COFFEE IN THE TIME OF IMPUNITY

Coffee is being touted as the next 'big thing' in the Philippines. Yet blood has already been shed over this seemingly innocuous drink, as coffee-growing companies attempt to wrest fertile ancestral lands away from indigenous peoples.

Coffee is an increasingly popular drink in the Philippines, which is poised to become one of the world's five largest coffee consumers in the near future. The Philippines is also an ideal location for growing coffee, and there are plans to revamp its ailing coffee sector, turning the Philippines back into a net coffee exporter by 2022.[52] A five-year coffee industry roadmap spells out the industry's plans, which include an expectation that 213,788 hectares of land will be made available for coffee farming. The main areas for coffee production are in Mindanao, particularly in the regions of SOCCSKSARGEN and Davao.

The experience of the T'boli Monobo indigenous people gives a taste of the violent scenario that could unfold as a result of this expectation. The village of Datal Bonlangon in Barangay Ned, in the Lake Sebu municipality in Mindanao, used to be home to 67 indigenous families (some 300 people). Their land was grabbed for coffee production by the Dawang Coffee Plantation, by means of Integrated Forest Management Agreement (IFMA) No.022, drawn up in 1992 between the Department of Environment and Natural Resources (DENR) and Silvicultural Industries Inc (SII) (which is part of the Consunji family's business conglomerate).

The community has since been locked in a bitter struggle to reclaim their land. At one point, in 2006, it seemed their efforts had paid off. They successfully returned and reclaimed their lands, in spite of violent threats from company guards.[53] They also applied for a Certificate of Ancestral Domain Title (CADT) and formally organised themselves with others as the T'boli-Manobo S'daf Claimants Organizations (TAMASCO). Datal became a hub where TAMASCO members would gather to plan and celebrate, led by chieftain Datu Victor Danyan, and elders and members of the tribal council.

However, tensions continued and were further exacerbated when coal-related contracts were issued to companies including DM Consunji Construction Equipment Resources Inc (DMCI) – again without Free, Prior and Informed Consent. Houses owned by the community were destroyed by DMCI Guards and Victor Danyan received death threats, forcing him to seek refuge elsewhere. In

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2013, these struggles were reported to the United Nations Special Rapporteur for Indigenous Peoples but nothing changed.

In 2016, the original IFMA agreement was scheduled to expire. Datu Victor cut down coffee trees in TAMASCO's ancestral domain, and demanded the departure of the company's guards in person. Datu Victor and several other community members were issued with arrest warrants.

However, by a bureaucratic sleight of hand, the IFMA had been renewed in 2015, by combining it with another IFMA awarded to M&S Company. Silvicultural's corporate existence ended and M&S company was granted the right to operate the plantation. The Consunji conglomerate has many companies for their various types of business: M&S Company is their agricultural arm and now holds the contentious IFMA.[54] This enabled the plantation to continue its operations, just as before. Datu Victor's nephew, Datu Dande, remembers Datu Victor warning the local office of DENR that "If you let this drag on, we will all be killed."

On 3 December 2017, one day before a planned meeting between TAMASCO and DENR, the military opened fire on the community, killing Datu Victor Danyan and seven other members of TAMASCO, forcing the community to evacuate.[55]

The military said it was conducting a military operation against rebels, but the community members are not rebels or insurgents, and no known members of such groups were found amongst the dead and injured. The community was simply defending its rights. Nevertheless, Datu Victor probably knew that cutting the coffee trees down would make himself a target for attack. He told current TAMASCO chief Datu Dande Dinyan, "I will die, so you can reclaim our land." His family and community are determined that his sacrifice will not have been in vain.

"I had to put part of my husband's brains back inside his skull so he was fit for burial. I tried to change the clothes of my dead brothers, but their wounds were too bad...The land is ours and that of our children. We live by it. We know no other place to call home. It is home."

Marivic Danyan, daughter of Datu Victor Danyan.

Legal Rights and Natural Resources Center (LRC-KsK)/Friends of the Earth Philippines filed a petition on behalf of TAMASCO, demanding the immediate cancellation of the IFMA. In July 2019, DENR responded that it will look into the matter, although whether this actually happens remains to be seen – in the year and a half since the incident, nothing has been investigated.

LRC-KsK also supported TAMASCO in high profile hearings with the Philippines National Commission on Indigenous Peoples (NCIP), insisting the Commission uphold its mandate to protect indigenous communities.

Other non-governmental organisations belonging to the coalition Task Force TAMASCO have contributed with trauma debriefings, emergency humanitarian response and lobbying support. In December 2017, a resolution was filed in the Philippine Congress to inquire into the massacre of the eight TAMASCO members (Res.No.1550, 17th Congress, 2nd Regular Session).[56] It awaits determination.

Under President Duterte, indigenous people are being progressively criminalised and their lands militarised, even as national law recognises their rights. This case clearly demonstrates the need for a binding UN Treaty on Business and Human Rights that requires countries to commit to monitoring and penalising corporations that violate human rights.

Ancestral domains are the last bastions preserving and protecting the Philippines' natural reserves. The people's resistance, their determination to hold on to and protect their ancestral domains from the dominant and destructive 'development' framework, is being paid for with people's lives. This cannot continue.

Those violating the human and territorial rights of indigenous peoples need to be brought to justice. Contracts facilitating illegal encroachment need to be terminated, and the military pulled out of these territories. Instead, existing laws and principles need to be put into practice, respecting the individual and collective human rights of indigenous communities, starting with the Bryg. Ned T'boli Manobo community.

The T'boli Manobo people are a people living life in harmony with the land, but their way of life is threatened. Their resistance is punished with false accusations of crimes, threats, harassment and raids on their communities and homes. The massacre of the eight TAMASCO leaders is a tragic reminder of the risk and sacrifice that Defenders of Territories have to face.

Nevertheless, their determination to protect their lands and communities continues. With respect to TAMASCO, Datu Victor's successor, Datu Dande Dinyan, has continued the fight to regain control and full enjoyment of TAMASCO's ancestral domain. Despite the continued threats against his life and security, he has been instrumental in building up a case to finally cancel the current IFMA. Datu Victor's daughter, Marivic, also threatened, has taken up a leadership role for the community. All of their contributions are part of the continued struggle for their ancestral domain rights.

"We will stand by the land as our elders have.
Justice has to be served soon, how many more of us need die."

Datu Dante Dinyan.

FOOTNOTES:

52 See Industry road map to boost production of PF coffee, Philippine News Agency, 18.04.2018, https://www.pna.gov.ph/articles/1032353
53 LRC-KsK DVO, DBL Community Profile-draft, 2005 [internal document]
54 LRC-KsK research notes on the DBL Community Profile, 28 May 2004; and Notes taken from the Brief Background on IFMA No. 22 of Silvicultural Industries Inc. [on file at the DENR- FMB] during an office visit on 16 September 2004 in Quezon City (as an internal document, it was not cleared for reproduction); and Forest Management Bureau Website at http://forestry.denr.gov.ph/IFMA%2011-30-04.xls. While DMCI has denied involvement with M&S, Consunji family members are identified as incorporators, directors and stockholders of M&S.
55 LRC-KsK (2005). Case Study: Determining a Community's Future with Maps and Coffee. IWGIA (unpublished)
56 See House resolution No:1550, Philippines House of Representatives, www.congress.gov.ph › legisdocs › basic_17

KEEPING PEOPLE SAFE: SYSTEM CHANGE AND POLICY RECOMMENDATIONS

03



"Farming food next to a coal plant caused big loss to my income. I want my children to have a future better than this, so that's why I resist the new coal plant!" Ibu Rumsiah from Kalimantan, Indonesia resisting the Indrumayu coal fired power plant.
© Luka Tomac/Friends of the Earth International.

Every day, peoples and communities across the world come together to take collective action. Their struggles are varied and diverse, from a few people writing letters to save a local tree to mass movements of millions demanding justice and democracy. Often these people are fighting for their collective rights, for dignity and for access to resources and their sustainable use.

Major protests have been occurring with increasing frequency across the world over the past decade.[57] This is a reaction to the dominant neoliberal economic paradigm that is generating increasing inequality, hunger, loss of democracy, the devastation of territories and livelihoods, destructive climate change, biodiversity loss, land-grabbing, and impunity for corporations who commit human rights abuses.

Yet many of these Defenders of Territories and Rights are being threatened, suppressed or in extreme cases killed. In the last few years, Friends of the Earth Asia Pacific's member groups' staff, activists and supporters have been beaten, sued, kidnapped, bankrupted, defamed, jailed and murdered for campaigning for environmental justice.

To keep Defenders safe we need both system change and the introduction of practical policies at the local, national and international level, and also within civil society organisations. In the Asia Pacific region, Friends of the Earth is working with allies, communities, lawyers and doctors to enhance their capacity to defend our rights and territories more safely, and to understand our rights, including to Free, Prior and Informed Consent. We have held hundreds of security training and planning workshops across the region to build a network of Defenders of Territories, and have established solidarity strategies, a rapid response system for threatened Defenders, and a range of vital online resources.

The current neoliberal system exploits people for profit and facilitates corporate impunity, resulting in violence towards those who are standing up to economic and political power. To stop this violence over the long term we must change this system. We need to create sustainable societies and new relations between human beings, and between human beings and nature, based on equality and reciprocity. But to create these societies and assert people's rights we need to increase people's power.

For Friends of the Earth International this means transforming our economic, food and energy systems based on genuine, radical and just democracies centred around people's sovereignty and participation.

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TRANSFORMING OUR ECONOMIES

International law must put people above corporate profit, ensuring binding rules for business and mechanisms that guarantee access to justice for the victims of transnational corporations. The struggles against mega-investment projects in Indonesia (p10) and the ocean-grabbing reclamation projects in Malaysia (p12), highlighted in the case studies in this report, are just two examples of the ways in which governments and corporations are silencing dissent and kicking people off their land and out of their territories.

The legally binding instrument to regulate transnational corporations and other companies with respect to human rights, which is currently under negotiation in the United Nations, will help to end human rights abuses perpetrated against Defenders of Territories by corporations across the world.

There are already thousands of practical economic justice solutions for a more just and sustainable world that put citizens and the environment at their centre. These include public services achieved through tax justice, social ownership and co-operativism, local markets and fair trade, community forest management, and ways of valuing the wellbeing of people and the planet.

Implementing these solutions on the scale required needs national and international public policies that empower people to fight for a democratic state that promotes popular participation and guarantees peoples' rights to water, land and territories, as well as food, health, education, housing and decent jobs. Scaling these economic justice solutions up would help to end the era of neoliberalism and reshape our global economy towards sustainable societies.

The struggles of women Defenders of Territories illustrate how the incursion of capital into peoples' and communities' territories leads to increased violence against women alongside the violation of their rights. The principles of feminist economy, deconstruction of the sexual division of labour and reorganising care work are key to building a gender- and economically-just future.

TRANSFORMING THE ENERGY SYSTEM

We must transform our energy system away from dirty and dangerous fossil fuels towards a community-owned renewable energy future, where access to energy is a right for all. The struggles against the Rampal coal plant in Bangladesh (p8), Russian nuclear power plants (p16) and Israel's nuclear waste programme are just a few examples of the hundreds of communities whose safety is threatened while fighting dirty energy across the world.

We need to build a community- and publicly-controlled energy system, based entirely on renewable energy, which ensures the basic right to energy for everyone and respects the rights and different ways of life of communities around the world. To get there we need to challenge corporate power and exert real democratic control over the energy decisions of our governments. This will entail investment in locally-appropriate, climate-safe, affordable and low impact energy for all. We need to reduce energy dependence and energy waste, specifically ending the overconsumption of energy in developed countries, whilst ensuring energy sufficiency for everybody to meet their needs for a dignified life.

TRANSFORMING OUR FOOD SYSTEM

The intimidation of local people defending their lands in Sri Lanka (p18) and the tragic murder of indigenous leaders fighting coffee plantations in the Philippines (p20) demonstrate the link between agribusiness and abuse of power. We must transform the food system away from this harmful and violent agribusiness model towards agroecology.

Agroecology puts the control of seeds, biodiversity, land and territories, waters, knowledge, culture and the commons back in the hands of the people who feed the world. Protecting, investing in and expanding small-scale agroecological farming and food sovereignty is essential if we are to halt the excessive power of agribusiness whilst ensuring a safe, culturally appropriate, nutritious and sustainable food supply for the world's population. Agroecology is a powerful combination of science and traditional knowledge, creating dynamic agricultural practices, as well as being an alternative socioeconomic system and a political movement. It combines traditional farming practices and ecological principles, and provides numerous rich alternatives to destructive industrial agriculture.

Agroecology values local knowledge, promotes social and economic justice and people's control over their territories, and guarantees the right to land, water and seeds. It nurtures social relations founded on justice and solidarity, and recognises the fundamental role that women play in food production.



Abeer Al Butmeh from Pengon/Friends of the Earth Palestine, exposing the role corporations play in Israeli crimes against the Palestinian people and environment, during UN binding treaty negotiations in Geneva, 2018.
© Victor Barro/Friends of the Earth International.

KEEPING PEOPLE SAFE: SYSTEM CHANGE AND POLICY RECOMMENDATIONS CONTINUED

POLICY RECOMMENDATIONS:

Friends of the Earth Asia Pacific recommends that all government and international institutions should work towards the following to ensure companies, including state-owned enterprises, are accountable for human and environmental rights violations anywhere in their global supply chain:

- Establishing the UN Binding Treaty on transnational corporations, an enforceable legal mechanism holding transnational corporations to account for their crimes in an international court.
- Asserting the hierarchical superiority of human rights over trade and investment agreements, ensuring that human rights and states' sovereignty come before investors' rights.
- Directly and legally obliging transnational corporations, not just states, to comply with international human rights law, international environmental law and international labour standards.
- Ensuring these obligations apply to transnational corporations (the parent companies, their subsidiaries and affiliates), their supply chains (contractors, contractees, subcontractors and suppliers), the investors that provide capital, and any other entities under their control.
- In addition to strengthening the jurisdiction of national courts, creating strong implementation mechanisms, including an international court, which is essential to ensuring that the obligations set out in the Treaty are enforced. This court must be capable of receiving, investigating, judging and enforcing its decisions.
- Recognising the moral and legitimate authority of peoples affected by the activities of transnational corporations.
- Establishing the right to reparation, information, justice and guarantees of non-repetition of any human rights violations, and ensuring Defenders' right to say NO to any projects that might affect them.
- Preventing the influence of transnational corporations on the preparation, negotiation and implementation of the Treaty. Transnational corporations cannot be allowed to continue to write the rules that govern them.
- Holding international finance to account for environment and human rights violations.
- Including an international grievance mechanism ensuring justice for affected people.
- Including specific provisions ensuring legal protection for those who defend peoples' rights and nature from corporate interests.

Friends of the Earth Asia Pacific also recommends that all national governments should focus on:

- Enforcing existing legislation to stop the corporate plunder of community resources, preventing attacks on Defenders of Territories, and putting an end to the impunity of corporations with respect to environmental destruction and human rights violations.
- Recognising the role of Defenders, developing mechanisms to protect them and including them in relevant decision-making mechanisms.
- Independently investigating and bringing all perpetrators involved in the violations and murders of Defenders of Territories to justice swiftly.
- Fully observing and implementing the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).
- Agreeing to and ratifying the UN Binding Treaty on the accountability of transnational corporations.
- Putting in place regulations to limit the overconsumption which has been driving current levels of natural resource use and energy demand, reducing the availability of natural resources and increasing conflict between Defenders of Territories, the state and corporations.

Friends of the Earth Asia Pacific recommends that the Association of South East Asian Nations (ASEAN) and governments within ASEAN should:

- Push for the ASEAN human rights mechanism, the ASEAN Intergovernmental Commission on Human Rights (AICHR) to become a judicial body with the power to intervene when there are abuses and violations against Defenders of Territories, and to enforce its judgements.
- Allow AICHR to accept complaints from CSOs, NGOs and aggrieved parties after all national remedies have been exhausted, and provide the commissioners with powers to investigate violations against Defenders of Territories and recommend appropriate actions.

FOOTNOTES:

57 The Complexities of Global Protests, Carothers T & Young R, Carnegie Endowment for International Peace, 8.8.15, https://carnegieendowment.org/2015/10/08/complexities-of-global-protests-pub-61537

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Above: Gosman Kabirov a local activist in the field in the contaminated area of the Mayak plant.
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Left: Fisher community protesting the reclamation project in Penang, 13 March 2019.
© Sahabat Alam Malaysia/Friends of the Earth Malaysia.



Above: Umaoya campaign, 'Stop drilling our lives'.
© Janaka Withanage/CEJ/Friends of the Earth Sri Lanka.



Right: Keepers of the land T'boli Manobo woman tending to farm, Philippines.
© LRC-KsK/Friends of the Earth Philippines.

DEFENDING TERRITORIES,

DEFENDING OUR LIVES

Friends of the Earth Asia Pacific
NOVEMBER | 2019

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