



The Kingdom of Thailand

Joint Submission for the UN Universal Periodic Review

39th Session of the UPR Working Group

Submitted by ¹NGOs Coalition for UPR-Thailand

Sangsan Anakot Yawachon Development Project in collaboration with V-Day Thailand and (LBTIQ) Indigenous Youth for Sustainable Development (IY4SD)

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Joint submission by:

1. Sangsan Anakot Yawachon Development Project (Sangsan)
2. V-Day Thailand
3. (LBTQ) Indigenous Youth For Sustainable Development (IY4SD) from MaeSamLaep Community

Additional information about the joint submission:

Matcha Phornin is a local and international gender justice advocate and an Ethnic minority/Indigenous Lesbian Women Human Right Defender who have been 15 year in work at the local and international levels in advancing women's human right and LBTQ right for indigenous community in Thailand that holding landless and stateless status in the Thailand - Myanmar border where an armed conflict between ethnic minority and military of Myanmar is still ongoing.

Sangsan Anakot Yawachon Development Project - [Sangsan Anakot Yaowachon](#) is an ethnic minority and indigenous lesbian and Bi-sexual feminist human rights defender led civil society organization working each year with more than 300 young indigenous people from indigenous communities in disaster-prone villages, Sobmoei, Maehongson at the ongoing armed conflict border with Myanmar and Karen State in order to fight for the empowerment of persons with intersectional layers of vulnerability through 1) Capacity Building Training Program 2) Stateless Scholarship Program 3) Young Indigenous Women Leader Program and 4) Innovative Community Solution Program for Sustainable Development. Sangsan has been working for the past 15 years with more than 3,000 young indigenous women and girls which many of them are stateless and also some of them are LBTQ young people, supporting them to become leaders and

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raise their communities' awareness regarding women human rights, sexual orientation, gender identity and expression (SOGIESC) justice at the local level and strengthening at the regional level toward development justice across many constituencies and movements such as feminist, LGBTIQ and human right.

V-Day Thailand - an NGO established in Thailand, under one billion rising global movement in fight to end gender-based violence. V-Day Thailand works to empower women, LGBTIQ and children and to strengthen them from the local movement to the global movement for advancing gender equality and social justice.

(LBTQ) Indigenous Youth For Sustainable Development (IY4SD) - a group of LBTQ indigenous youth from MaeSamLaep Community that works on advancing LBTQ indigenous right and social entrepreneur which involve LBTQ indigenous youth and indigenous women from indigenous community that holding landless and stateless status. In early 2021, IY4SD won the Youth Co:Lab Thailand 2020 - a UNDP initiative that strengthens Social Innovation and Entrepreneurship skills for youth in Thailand. Based on the Youth Co:Lab Thailand, they will be able to work on advancing economic justice for LBTQ and Indigenous women that holding landless stateless status.

1. Introduction

1.1 This is a joint submission name as “**NGOs Coalition for UPR-Thailand**” prepared by Sangsan Anakot Yawachon Development Project in collaboration with V-Day Thailand and (LBTQ) Indigenous Youth For Sustainable Development (IY4SD). This submission is made on the occasion of the Third Cycle of Universal Periodic Review of the Kingdom of Thailand. It contains proposed recommendations to the Thailand government for the 39th session of the UPR Working group in the Human Rights Council.

1.2 The joint submission illustrates the human rights abuses and challenges in relation to the issues on the right to a nationality, right to land, and right to freedom from discrimination and violence faced by an indigenous community that holding landless stateless status within the indigenous community so called “Maesamlaep”. It highlights the specific obstacles and abuses experienced by women, children, and LGBTIQ youth within this particular indigenous community during the COVID-19 pandemic with proposed recommendations to the Thai government.

2. Context:



²Maesamlaep is an indigenous community situated at the Sobmoei district of Maehongson Province in Thailand which is a border of Thailand - Myanmar and Karen State. There is an on-going armed conflict among ethnic minorities and the military of Myanmar. The indigenous peoples/community on both sides are suffering from the conflict for nearly 40 years which is exacerbated by their statelessness status in Thailand and in Myanmar. Indigenous peoples who are living in these community are Karen, Shan and some of them are Muslim/Rohiya.

The women in the community experience multiple layers of marginalisation, and among them are indigenous peoples, undocumented refugees and/or people holding stateless status and being landless. These conditions prohibit them from freedom to travel, work outside the community, access to education and health care. Their right to land is nonetheless restricted as this is not recognized, putting them in a situation where they can only build their houses on their own and live in disaster-prone areas to landslides, floods as well as wildfires.

Being indigenous and holding undocumented status and/or landless stateless status as well as situated their home at the national park where an armed conflict is still ongoing made this particular group of peoples face insecurity, uncertain and life-threatening situation, and are at risk of disasters including landslides, floods and forest fires. Their traditional culture and way of life are also under threat and many of them lost their collective agriculture, and were forced to do rotation farming because they were not allowed to plant anywhere in the national park. Moreover, the indigenous community is faced with challenges of poverty, and especially for women and girls who struggle with domestic and gender-based violence.

More than 50% of the ³indigenous peoples within the MaeSamLaep Community are still unable to access the Thai Citizenship and it negatively impacts their equal right to travel, right to access employment and equal education and opportunity, right to access to health and welfare that is provided by the Thai government.

Among this particular group of peoples, landless and stateless indigenous women and young LBTQ are extremely vulnerable to exploitation while living in a society where the impacts of patriarchy, militarisation, fundamentalism and capitalism are the systemic barriers in advancing gender equality, women's right, SOGIESC right and land right.

3. Cases, Challenges and Human Right Situation faced by LBTQ and women from Maesamlaep indigenous community that holding landless stateless status:

3.1 Discriminatory law and policies undermining land right, community right and environmental right for indigenous peoples in Thailand made a huge negatives impact to women's lives in many ways, including leading to life in poverty, facing food insecurity, losing livelihood and traditional way of life, and resulting in powerlessness, for example:

³ Information found by Sangsan Anakot Yawacho while conducted the Land Right Feminist Participatory action research supported by APWLD: https://apwld.org/wp-content/uploads/2020/07/Submission_UNSRIP_covid19_FINAL.pdf



3.1.1 Forest reclamation policies: ⁴issued in 2014 by the National Council for Peace and Order (NCPO), the Order 64/2014 and 66/2014 aim to increase the national forest land from 31 to 40 percent or 26 million rai by evicting those using the lands managed by the Internal Security Operations Command (ISOC) and the Ministry of Natural Resources and Environment, as assigned by the National Council for Peace and Order (NCPO).

3.1.2 ⁵A series of new acts regarding protection and conservation of the environment were passed: (2.1) Wildlife Preservation and Protection Act B.E. 2562 (2019) (2.2) National Park Act B.E. 2562 (2019) and (2.3) Community Forest Act B.E. 2562 (2019). All the 3 Laws are effected and implemented in the area where indigenous peoples mostly live and they are effected to indigenous community included MaeSamLaep.

3.2 Indigenous Women of MaeSamLaep Community are marginalised in terms of right to land, access to natural resources. The discriminatory laws and policies have deteriorated the exclusion, limitation and restriction on indigenous community including MaeSamLaep, making indigenous women's right to land, and access to natural resources impossible.

3.3 Indigenous women of MaeSamLaep community are stateless and also landless – right to accessing Thai citizenship. Indigenous peoples from MaeSamLaep Community are not considered as Thai citizens by Thailand government and become stateless people under their own land territorial as a result of the 70 years' long active armed conflict between indigenous peoples Karen and Myanmar military. Moreover, in Thailand, **Statelessness is absolutely landlessness.** In addition, these indigenous peoples, particularly women and girls were forced to stay in the places that are exposed to a greater risk of natural disasters and traumatization due to the exclusion.

3.5 Indigenous Women of MaeSamLaep Community faced multi-burden with regard to Gender Inequality. Based on 15 years of working at the MaesamLaep Community in restoration gender justice, Sangsan Anakot Yawachon Development Project found the fact that indigenous women who holding stateless status, most of them unable to go to school when they are young. Due to poverty, lack of school at the village, marriage at age under 18, and recently increase in domestic violence, their rights to education were deprived of. In addition, women participation in any decision-making process is also left behind agenda. Recent situation also found if teenagers are unable to go school they will be at risk to force marriage. Both Women and young LBT do not have body autonomy. In terms of LBT, they are unable to design what kind of cloth they want to wear and/or the pronoun that they want others to use. Moreover, being young LBT in the

⁴ *The forest reclamation case: when the court sent the Sapwai villagers to prison and off their land:* <https://prachatai.com/english/node/8177>

⁵ *Villagers face greater threat under new national parks law:* <https://www.bangkokpost.com/thailand/general/1691204/villagers-face-greater-threat-under-new-national-parks-law>



indigenous community made them at risk to the so-called “Corrective Rape”. The gender inequality also reproduces the gender role that made the women and young BLT lose their opportunities because they have to response to all the care work included raising children, taking care of the elderly, full-time household work. Moreover, they are responsible for finding income to feed all family members.

3.6 Multidimensional Discrimination and Violence against LGBTIQ. LGBTIQ in general in Thailand are facing multidimensional discrimination, in addition, LGBTIQ who belong to indigenous community are experiencing more challenges while their own community do not acknowledge people with diverse SOGIESC due to homophobia which is rooted within culture, religion and practices. It made them highly vulnerable because of their sexual orientation and gender identity. LGBTI youth in MaeSamLaep community are confined in hostile environments with unsupportive family members or co-habitants. This increases their exposure to violence, as well as their anxiety and depression. Community members perceive LGBTIQ people as bringing bad luck to the village and they have been previously blamed for disasters, both manmade and natural, and it is also happening in the context of Covid-19. Moreover, LGBTIQ youth are the most vulnerable among the community. They face high risks of dropping out from their school and/or university due to the lack of support from family, community and the government. The dropout rate of bisexual indigenous women is also aggravated due to the financial difficulty caused by the COVID-19 pandemic.

Recommendations

Given the above-mentioned situation, we would like to propose recommendations to the Thai government as follows:

4. Adopt laws, policies and Free, Prior and Informed Consent (FPIC) in order to ensure equal recognition of the human rights of all indigenous peoples in Thailand.
5. Ensure the right to land and right to natural resources of all indigenous peoples are fully protected in Thailand by repealing all laws and all policies including Forest reclamation policies, Wildlife Preservation and Protection Act B.E. 2562 (2019), National Park Act B.E. 2562 (2019) and Community Forest Act B.E. 2562 (2019).
6. Repeal all the laws and policies that prevent indigenous peoples from accessing the citizenship and land, and take concrete measures to ensure economic empowerment and sustainable development of all indigenous peoples in Thailand.
7. Ensure meaningful and effective participation of indigenous peoples, particularly indigenous women and LBTQ in the decision-making processes at all levels and the governmental efforts to tackle gender equality and SOGIESC justice.

4. The impact of COVID 19 pandemic on women, children and young LGBTIQ in the stateless MaeSamLaep Community.

Through interviewing 90 women, children and LGBTIQ youth from the MaeSamLaep indigenous community that holding landless stateless status, a recent report produced by Sangsan Anakot Yawachon (Sangsan) has found out the covid-19 pandemic has exacerbated existing inequities experienced by women, children and LGBTIQ youth, and imposed severe threats to



their everyday survival and lives. The issues and challenges found are indicated below:

4.1 Women do not have access to COVID-19 information. ⁶Women in indigenous community face challenges in accessing COVID-19 related information due to language barriers in culture. Given that the information provided by the Thai government and relevant government agencies on the spread of COVID-19 are only available in Thai language, without consideration of the needs of indigenous communities, particularly those living in the rural areas, women have no access to all the necessary information. This led to the lack of knowledge and understanding which created anxiety and fears of the outbreak of COVID-19.

4.2 No access to the basic hygiene and protective materials. They cannot access mask, alcohol and hand washing gel to protect themselves because of the shortage of such products and the high price of such products. Given the women are poor, they cannot afford these protective materials.

4.3 Unable to comply with Social/ Physical Distancing and Self-quarantine after coming back from risk area. Indigenous Peoples of MaeSamLaep who returned to the community were unable to do self-quarantine in their own home effectively as a result of the limited space in the house that made it impossible to do area separation for self-quarantine purposes. In some families, more than 10 people live together in the same house. The requirement of keeping distance of separation is therefore not practical and/or less effective.

4.4 The impact of government policies. Many countries, including Thailand, need to cope with the outbreak of COVID-19 with specific measure i.e., the lockdown policy and the emergency decree. The effects of the pandemic and the response measures have caused the community to face crisis: shortage of income due to lack of work opportunities or unemployment, school and university closure, lack of necessary food, products and medicines. For instance, the community had to close the port and people who have income from being boat drivers and goods or luggage carriers had to stop working and that led to shortage of income, leaving them with insufficient money to buy food, milk for children, necessary equipment for disabled and elderly, as well as medicines for chronic patients and patients with psychological conditions/ depression.

4.5 Food Crisis. The impact of the COVID-19 caused the community to face a severe food crisis from the shortage of income and unemployment. Moreover, the stateless indigenous communities are located in the national park area. The community were restricted to live in areas with no agricultural area, therefore they have no land to grow rice and food. This made women, LGBTIQ+ children, youths, chronic patients, people with disability, and elderly in stateless communities we examined, face food shortage prior to the outbreak of COVID-19 and face more serious food crisis after the outbreak.

⁶ *Inputs to the Report of the Special Rapporteur on the Rights of Indigenous Peoples to the United Nations General Assembly: Impact of COVID-19 on Indigenous Peoples*
Friday, 19th June 2020: https://apwld.org/wp-content/uploads/2020/07/Submission_UNSRIP_covid19_FINAL.pdf



4.6 Gender-Based Violence. In the MaeSamLaep community, when the whole family is in shortage of income and food, women are the ones who bear those family hunger and economic problems. Indigenous women in MaeSamLaep Community mostly try to find food in the forest, where they have limited access to resources (food in the forest) by the national park laws. In addition, they also take risk to fish in the deep river to feed the whole family, but it is still not enough. The effects of the climate change and drought caused decrease in the food supply from the nature and thus unable to meet the needs of the entire community. Moreover, when the whole family members are staying home, women are more burdened with responsibility for domestic work. Most importantly we found that prior to the pandemic, 100% of women we work with, face violence from their husbands but during the COVID-19, domestic violence that these women faced were doubled both in quantity and intensity. The domestic violence also affects children and LGBTIQ youth in the family.

4.7 Impact on children and LGBTIQ youth in the education system.

4.7.1 ⁷The effects of COVID-19 caused children and youth to face inability to start school semester normally. This caused anxiety among them when they need to stay home longer than usual, causing stress, feeling nostalgic for friends and classrooms. Online learning is inconsistent with the community contexts, is a burden of expenses and is questioned about for its quality of education.

4.7.2 Family has no income from the effect of COVID-19, as a result, children and youth who graduate at grade 3 and grade 6 are likely to not continuing their studies. Children in different level are also at risk of falling-out of education system.

4.7.3 LGBTIQ youth are affected by Homophobia and the lack of acceptance of sexual orientation and Gender Identity both from family members and the community. ⁸While working on advocating for advancing LGBTIQ rights for indigenous people and involving with the Youth Co:Lab initiative by UNDP Thailand, Indigenous Youth For Sustainable Development opened up and shared about their experiences within Thai society: being LGBTIQ youth they experienced physical, mental and sexual abuses at multiple levels from families who do not accept Sexual Orientation and Gender Identities of their offspring. LBTQ women are at risk of being forced into marriage by the family based upon the assumption that LBTQ women can change her sexual orientation and Gender Identity, leading to “Corrective Rape”.

⁷Press Release: At least 1 in 7 children and young people globally has lived under stay-at-home policies for most of the last year, putting mental health and well-being at risk:

<https://thepattayanews.com/2021/03/05/press-release-at-least-1-in-7-children-and-young-people-globally-has-lived-under-stay-at-home-policies-for-most-of-the-last-year-putting-mental-health-and-well-being-at-risk/>

⁸ IY4SD or Indigenous Youth for Sustainable Development team consists of 3 Pkakenyaw youth who would like to create better livelihood for women in the community along with raising awareness on gender diversity and gender equality.:

https://m.facebook.com/story.php?story_fbid=2967049490284689&id=1700019606987690



4.8 Indigenous people that holding stateless status in Thailand do not have access to government food and money relief. Since the government condition to help and heal limits the rights only to people with Thai nationality, stateless people in community cannot receive help and support in the face of COVID-19 crisis.

Recommendation

Given the above-mentioned situation, we would like to propose recommendations to the Thai government as follows:

1. Ensure necessary measures including emergency supports, adequate goods, relief and services, including water and sanitation, health and social protection to prevent further COVID-19 spread, under special response measures specifically addressing indigenous communities' needs especially to those that holding landless stateless status.
2. Develop an effective guideline for ending domestic violence against women, LGBTIQ+ children and youths, elderly, people with disability, patients with chronic illness including those with mental illness/depression etc.
3. Ministry of Education, Ministry of Social Development and Human Security and Department of Children and Youth must take concrete measures to effectively prevent children and youth from dropout of an education system.
4. Ensure financial support from the government to children and youth, especially to those who are indigenous that holding stateless status which will help them to be able to going to school and/or able to continue study.
5. Provide and disseminate appropriate information related to Covid 19 and ensure that indigenous peoples are able to equally access and fully understand the information.

Annexe 1: Additional online news that covered Cases, Challenges and Human Right Situation faced by LBTQ and women from indigenous community that holding landless stateless status:

- <https://www.reuters.com/article/us-thailand-refugees-rights/no-name-no-rights-the-long-road-to-thai-citizenship-idUSKCN1MD035>
- <https://womenshouldknow.net/five-lgbti-activists-you-should-know-un-women/>
- <https://www.scmp.com/week-asia/health-environment/article/3048456/thailands-female-land-rights-defenders-activism>
- https://www.matichonweekly.com/column/article_140610
- <https://prachatai.com/english/node/8396>
- <https://www.thaienquirer.com/9218/international-womens-day-is-a-cause-for-celebration-but-many-challenges-remain-in-thailand/>
- <https://www.thaienquirer.com/9564/pintong-lekan-is-leading-the-way-in-protecting-the-dignity-of-isaan-women/>
- <https://www.equaltimes.org/are-indigenous-textile-makers#.XqsyOq2B3ow>
- <https://adambemma.ca/2019/07/03/southeast-asias-pledge-to-end-statelessness-gathers-steam/>



- <https://medium.com/@adambemma/thailands-urban-refugees-migrant-workers-and-stateless-people-d5270d0487bc>
- <https://prachatai.com/journal/2019/12/85494>
- <https://isaanrecord.com/2019/12/22/isaan-marriage-migration/>
- <http://www.hausofkameleon.org/hk-blog/lgbtiqsdg>
- <https://themomentum.co/one-billion-rising-in-chiang-mai/>

Annexe 2: Additional online news that covered issue of the impact of COVID 19 pandemic on women, children and young LGBTIQ

On the Parliament website and at least 5 online news and one YouTube channel covered Sangsan work in responded to the COVID 19 impact to women, children and LGBTIQ that holding landless stateless status.

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https://www.parliament.go.th/ewtadmin/ewt/parliament_parcy/ewt_news.php?nid=70037&filename=welcome2019

Online News:

- <https://today.line.me/th/pc/article/กลุ่มชาติพันธุ์ร้อง+ก้าวไกล+3+เดือนลี้กคาวน+แทบอดตาย-MnkRWj>
- <https://www.newtv.co.th/news/59536>
- <https://prachatai.com/journal/2020/07/88446>
- https://www.khaosod.co.th/politics/news_4435680
- https://www.innnews.co.th/politics/news_714357/

Youtube Chanel:

- <https://www.youtube.com/watch?v=y0-wEEbtcxw>
- https://www.youtube.com/watch?v=NbGIRU1tBDE&feature=youtu.be&fbclid=IwAR0FnuiPIQQWofRHxdsn50_t9At6RbveR3NHqNVBSs2GAmfPnv80GfMQhzE