

**Strategic Litigation
on
Environmental and Community
Rights
Experience
in Thailand**

Sor.Rattanamane Polkla

Executive Coordinator/ Lawyer

Community Resource Centre (CRC)



**Examples of Environmental litigation
in
the Court of Justice
and
the Administrative Court**

Court of Justice: Sarika Auto parts factory case

**Factory Company has been operating since May 2014.
The civil lawsuit was filed on February 2018**



Detail of case

Impacts: There is noise due to constant noise from the production of the factory. After complaints about noise problems, the factory built metal sheets on the walls. purported to solve the problem of noise interference But it obscures the wind direction and scenery and can be dangerous if you fall.

Plaintiffs: 1 family, father-mother, aged 65, a daughter who is a primary school teacher, aged 35, and a granddaughter, a junior high school student, aged 12.

Defendant: Private company

Claims to sue:

- Claim health damages from suffering from having to endure noise that sometimes exceeds the standard value set by law by claiming damages since the factory started production until causing interference
- Claim for damage from obstruction of wind direction and view from the construction of metal sheets on the wall.
- Request to demolish the metal sheet
- Request to stop the business operation

Case results

First judgment came out in January 2022

- The court found that the factory operations interfered with the good living environment of all plaintiffs.

Appeal judgment came out in September 2023

- The Appeal Court also found the violation.

Case status

Submitting Supreme appeal April 2024, case is pending in Supreme court

Court of Justice: Loei gold mine case

The mining has been operated since 2006.

The civil lawsuit was filed in January 2018.



Claims to sue:

- **Claim compensation on**
 - Health from the examination of arsenic or heavy metals in the body
 - Expenses from buying water for consumption
 - Damages from not being able to collect vegetables or catch aquatic animals for consumption
- Ask to **restore natural resources and the environment** in the area that mining company has to pay all expenses and the restoration process has to be carried out with the participation of the plaintiffs, local people, academics trusted by the plaintiff, government agencies, and companies



- **Case Result: Judgment was came out in December 2018**
 - The court held that **mining operations had both health and environmental impacts, according to the lawsuit.**
 - The court ordered the **company to pay compensation for health impact, could not be used to live a normal life, and the cost of having to buy water to use.** All compensations were granted together 104,000 baht (about 2,970 USD) per family.
 - Court also ordered the **company to proceed the restoration of natural resources and the environment in the area by company budget.** The restoration process has to be carried out **with the participation of the plaintiffs, local people, academics trusted by the plaintiff, government agencies** and companies

Administrative court: Chao Phraya River Pathway case



The Civil society people in Bangkok and villagers in communities along Chao Phraya River jointly **filed a lawsuit in November 2018.**

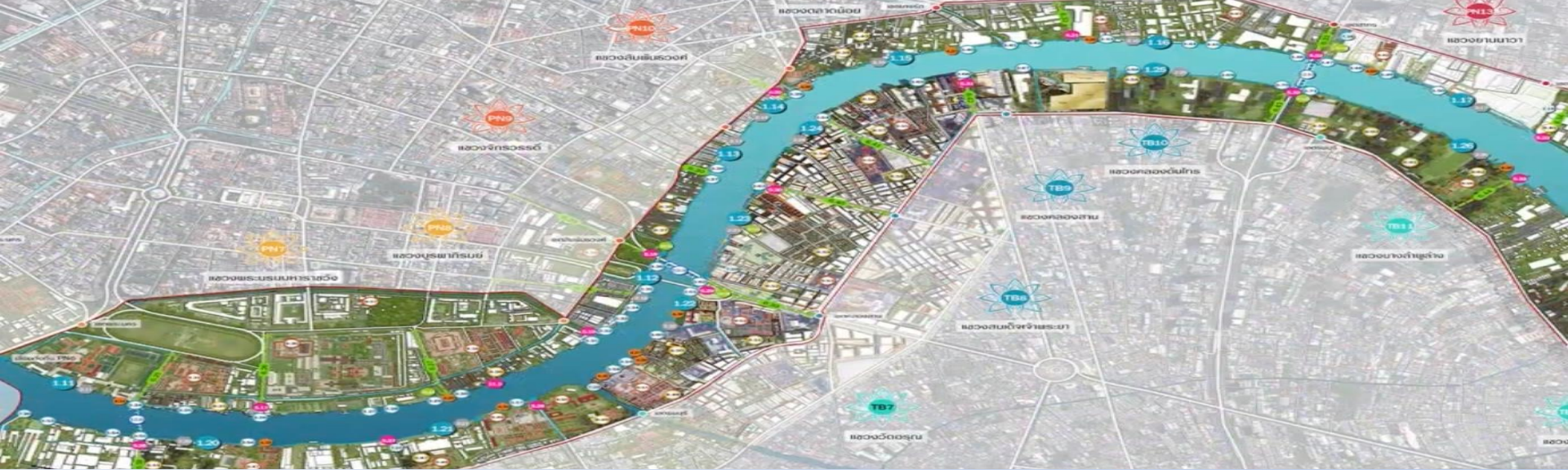


- **Impact:** While the lawsuit was filed, there was still no construction. But because **there have been studies from many sectors, especially those interested in city planning, engineers, architects, and environmental scholars**, they see that the project will affect the **ecosystem, water traffic of the Chao Phraya River, as well as the way of life of communities along the Chao Phraya River.**

The project need to have an Environmental Impact Assessment (EIA)

➤ **Claims to sue:**

- Order that the **implementation of the project is unlawful.**
- Request to **cancel the project** along the Chao Phraya River.
- If there is already construction, it need to be **demolished and rehabilitated.**
- **Ask the court for temporary protection by suspending proceedings until a judgment is rendered.**



➤ **Case result:**

- **In February 2020**, the First court ruled **injunction order to suspend the project until a judgment**
- **In March 2023**, the First court judged that
 - **The project is an unlawful project**
 - The Judgment cancel the project
 - Continue injunction order to delay the project until the case is final
- **Case status:** The case is pending consideration by the Supreme Administrative Court.
- **Significant judgment:** Under the constitution law, if any project will have environmental impact, it need to make the Environmental Impact Assessment (EIA), even the regulations do not request the those project need the EIA.

Khuha mining area case

- Lime stone mining was located in Rattaphum of Songkhla, province, Southern of Thailand
- Announced to be industrial mining area in 1997
- Filed case to Administrative court in 2015



Case details

Argument:

- The announcement didn't have public consultation
- The mountain has been announced as Basin area level 1B (Forest protection area)
- Ask to withdraw Khuha mountain from the industrial mining area

Judgment July 2024

- There was no reason to change the protection area to be the industrial mining area
- The Khuha mountain cannot be the mining area

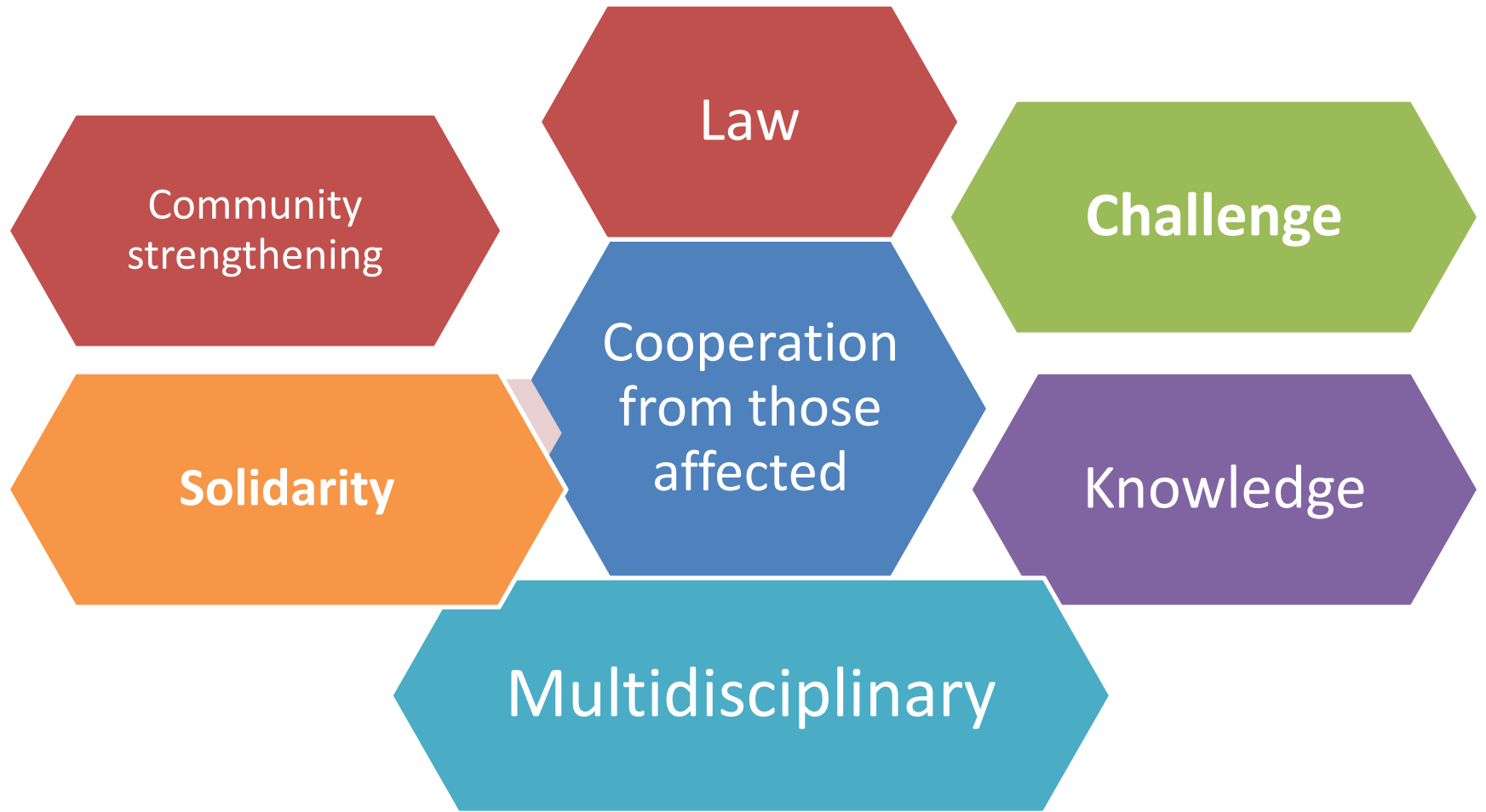
Xayaburi Hydropower Dam



Location of Dam

Pak Bang hydropower case





Understanding of environmental, community and human rights

Strategic Litigation

Environmental Principle

**Polluter Pays
Principle (PPP)**

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Strict Liability

Remedy must
be included
restoration

Environmental
violation is
responsible of
private and
authority who
engage with the
project



Thank you