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UN Committee on the Elimination of Racial Discrimination

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27th July 2016

Request for Consideration of the Situation of the Karen Indigenous People Forcibly Evicted from the Kaeng Krachan National Park, Thailand, under the Committee on the Elimination of Racial Discrimination's Urgent Action and Early Warning Procedure

1. The Karen Network for Culture and Environment, the Inter Mountain Peoples Education and Culture in Thailand Association, the Indigenous Knowledge and Peoples Network, Indigenous Peoples' Foundation for Education and Environment, the Asia Indigenous Peoples Pact and the Forest Peoples Programme ("the submitting organisations") respectfully submit this short report for the consideration of the United Nations Committee on the Elimination of Racial Discrimination ("the Committee") under its early warning and urgent action procedure ("EW/UA procedure"). It provides additional information and concerns regarding the continuing and escalating pattern of violence against the Karen indigenous people living in their ancestral territory, now incorporated into the Kaeng Krachan National Park ("KKNP") by the State of Thailand ("Thailand" or "the State").

2. The pattern of escalating violence against the Karen includes repeated instances of forcible relocation of Karen families and the burning of their homes and possessions by members of the Thai National Parks Authority. In February this year a Central Administrative Court decision implies the actions of the authorities in forcibly evicting Karen families may continue with impunity and that the national judicial system, under the current military government, is failing to provide redress for these violations. The situation is heightened and made more urgent by the incorporation by Thailand of the ancestral lands of the Karen in a nominated natural World Heritage Site, the Kaeng Krachan Forest Complex. The inscription of this World Heritage Site has the potential to radically worsen the situation of the Karen in the KKNP and will be considered by the World Heritage Committee at its next session.

3. Thailand's attempts to forcibly remove the Karen from the KKNP date back more than a decade and have intensified in the past 5 years. This situation is compatible with the criteria adopted by the Committee for the use of the EW/UA procedure as it constitutes a large-scale, violent, discriminatory and persistent pattern of "forced removal of [indigenous] peoples from

their lands”, which threatens irreparable harm to Karen cultural integrity and other basic rights.¹ The submitting organisations, therefore, respectfully request that the Committee considers this situation under its EW/UA procedure at its 90th session and issues appropriate recommendations in line with the requests made in paragraph 28 below.

4. In submitting this report, we incorporate by reference previous information submitted to the UN Committee on the Elimination of Racial Discrimination regarding the situation facing the Karen in Kaeng Krachan including that provided to the Committee on 13 February 2012 in a submission by the Karen Network for Culture and Environment, the Northern Farmer’s Network, the Inter Mountain Peoples Education and Culture in Thailand Association, the Indigenous Knowledge and Peoples Network, Indigenous Peoples Foundation for Education and Environment, and the Forest Peoples Programme², and the additional information provided by the Karen Network for Culture and Environment, the Network of Indigenous Peoples of Thailand (NIPT) and the Asia Indigenous Peoples Pact (AIPP) on 21 April 2014.³

5. We further draw attention to the communication adopted by the Committee, on 9 March 2012 in which the Committee expressed its concern about “an increasing level of violence...committed against the Karen people by the Thai National Park and Forestry Authorities” and requested “information regarding the measures taken to improve the situation of the Karen people in the KKNP”⁴. We note that the Thai Government has failed to provide further information to the Committee, and instead appears to be escalating its approach to the Karen communities in Kaeng Krachan NP.

6. Finally we note the incorporation of the Kaeng Krachan National Park into the ‘Kaeng Krachan Forest Complex’, a site nominated by the Royal Thai Government for inscription as a natural World Heritage Site under the World Heritage Convention. The KKFC was first placed on the ‘tentative list’, a formal procedure to notify the Committee of intent to nominate, in February 2011. After placing a site on the formal ‘tentative list’ the State Party is expected to begin to prepare the nomination dossier and the management framework required for a World Heritage Site. In Thailand, this appears to have included efforts to remove the Karen communities from the site, as the most recent violent evictions post-date the point at which the site was placed on the ‘tentative list’. The site has now been formally nominated for inscription, first in 2015 and now again in 2016.

7. The World Heritage Committee will consider the nomination in October 2016 when the 40th session is reconvened. We note, in particular, the statement of objection to inscription that has been released by the Karen Network for Culture and Environment, which calls for the rights

¹ Committee on the Elimination of Racial Discrimination, *Guidelines for the Use of the Early Warning and Urgent Action Procedure*, August 2007, at p. 3.

² FPP, et. al., Urgent Action/Early Warning submission to the UN Committee on the Elimination of Racial Discrimination, <http://www.forestpeoples.org/sites/fpp/files/publication/2012/02/cerd-80th-kknp-final.pdf>

³ AIPP, et.al., Urgent Action/ Early Warning submission to the UN Committee on the Elimination of Racial Discrimination, 21 April 2014. Available at: <http://www.forestpeoples.org/sites/fpp/files/news/2014/04/2014Apr21CERD%20EW-UA%20Kaeng%20Krachan%20disappeared.pdf>

⁴ Communication from the UN Committee on the Elimination of Racial Discrimination, 9 March 2012. Available at: http://aippnet.org/pdf/CERD_Thailand.pdf

of the indigenous peoples of the area to be fully respected in the nomination and inscription process.⁵

Forcible and Violent Evictions:

8. The Karen indigenous people's ancestral territory lies in northwest Thailand and neighbouring countries. Part of this territory was incorporated into the Kaeng Krachan National Park (KKNP) in June 1981, pursuant to the 1961 *National Park Act*. Since the establishment of the KKNP, the State has engaged in a concerted policy of harassing and forcibly evicting Karen communities from the area. To legitimise these acts, the State claims, separately or together, that indigenous peoples' traditional farming methods are incompatible with conservation objectives; that the evicted are migrants from Burma (Myanmar) or otherwise undocumented, non-Thai citizens, or raises national security-related arguments concerning the drug trade.

9. However, none of these arguments can be fully substantiated in general and are specious in the instant case. For instance, thousands of indigenous people cannot prove Thai citizenship precisely because the State has failed to grant it to them despite their meeting the relevant criteria.⁶ Also, it is well documented in the instant situation that those evicted were Thai by birth and descent.⁷ Additionally, the Karen have been farming in this area for centuries without any degradation of the ecosystem, a fact amply attested by the outstanding ecological integrity of the area, which has led Thailand to seek UNESCO World Heritage Status for the KKNP and surrounding area.⁸ At any rate, these justifications do not excuse the forced and often violent eviction of indigenous communities when viewed in the light of Thailand's international obligations.

10. The Karen have lived in the Kaeng Krachan forest for hundreds of years. Despite this longstanding occupation and their effective stewardship of the area, in the past 16 years they have been repeatedly harassed by Thai national park and forestry authorities, who have sought to permanently evict them from the KKNP.⁹ In 1996, 57 Karen families were forced to leave their homes in Baan Bang Klo Bon and Baan Pu Ra Kam, agreeing to be resettled with the assurance of a fair resettlement package and allocation of lands for settlements and farming. The failure of the Thai State to provide the agreed package led to the return of a large proportion of the resettled families to the original settlement areas. In 2010, Karen from settlements near Bang Klo Bon and Pu Ra Kam were again ejected from their lands, and their houses, rice granaries and other buildings were destroyed.

⁵ Statement, Karen Network for Culture and Environment, Tanaosri region, 14 July 2016 (on file with authors, in English and Thai)

⁶ The denial of citizenship to indigenous people in Thailand is a longstanding problem and is extensively explained in the *Report on the Situation of Human Rights and Fundamental Rights of Indigenous Peoples in Thailand*. Submitted to Prof. James Anaya, United Nations Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People. Network of Indigenous Peoples in Thailand (NIPT), Asia Indigenous Peoples Pact (AIPP) and the International Work Group for Indigenous Affairs (IWGIA), 19 January 2010, p. 9 *et seq.*

⁷ See, for instance, 'Royal vouchers for 103-year-old Karen', *Bangkok Post*, 4 September 2011. Accessed at: <http://www.bangkokpost.com/print/254877/>. (Now archived, available behind the paywall).

⁸ Karen traditional farming and forest stewardship methods are explained in detail in K. Rattanakrajangsri, *Strengthening Community Rights Over Forests: Piloting Joint Management of a Protected Area in a Karen Village in Thailand*, 2011.

⁹ *Id.* p. 16-7.

11. On 7 February 2011, the Government of Thailand placed the Kaeng Krachan Forest Complex, a site consisting of Kaeng Krachan National Park, plus the Kui Buri National Park and an additional wildlife sanctuary, on the ‘tentative list’ for nomination as a natural World Heritage Site.¹⁰ During 5-9 May 2011, 98 Karen houses and granaries in Bang Kloi Bon and Pu Ra Kam were burnt and their owners’ farm tools and other possessions were confiscated. A month later, between June 23-26, 21 Karen houses and rice granaries were burnt and destroyed. Knives, fishing nets, salt, and traditional musical instruments were taken.

12. More recently, in July 2011, Thai national park guards attacked a number of Karen communities in the KKNP with the intent of forcibly displacing them from the park. According to reports, these armed men burnt down the Karen’s houses and rice stores, which would have provided food for almost one year, kill their chickens, and steal their money, jewellery and agricultural tools.¹¹ The Karen were forced to flee and seek shelter with relatives outside of the KKNP. A number of Karen were arrested and charged with ‘forest encroachment’, a criminal charge that may lead to imprisonment for up to five years and a large fine (the equivalent of tens of thousands of US dollars that is beyond the means of the Karen).¹² Families affected by this eviction drive in 2011 faced severe hunger due to the destruction of food stores and shortage in land for cultivation in areas where the families were moved to. Again the Karen families chose to return to their original settlement sites, despite the significant risk of violence attached to residence there.¹³

13. The official responsible for carrying out the July 2011 attack, Mr. Chaiwat Limlikhit-aksorn, the head of the KKNP, claimed that the evictions were necessary because the Karen were undocumented migrants from Burma and because the *Forestry Law* prohibits occupation of national forest lands, including by indigenous persons, irrespective of whether the lands in question were traditionally occupied and used by them. However, the available evidence demonstrates that the persons evicted were Thai by birth and descent. This was verified by a member of the revered Thai royal family and by virtue of their possession of silver coins that were issued to the villagers by the Thai Government in the 1960s and that serve as proof of their Thai citizenship.¹⁴

14. Moreover, the 2007 Royal Thai Constitution provides for the right of persons to remain in national parks and other forest areas if they can prove that they occupied the area prior to its

¹⁰ Kaeng Krachan Forest Complex, Tentative List, World Heritage Centre:
<http://whc.unesco.org/en/tentativelists/5593/>

¹¹ See ‘Where the law of the jungle rules: Indigenous Karen forest dwellers suffer violent eviction despite their constitutional right to stay in their ancestral land’, *Bangkok Post*, 1 October 2011. Available at: <http://www.bangkokpost.com/print/259158/>; and ‘Royal vouches for 103-year-old Karen’, *Bangkok Post*, 4 September 2011. Available at: <http://www.bangkokpost.com/print/254877/>. (Now archived, available behind the paywall).

¹² See for instance K. Rattanakrajangsri, *Strengthening Community Rights Over Forests: Piloting Joint Management of a Protected Area in a Karen Village in Thailand*, 2011, at p. 14. (explaining that “An 80-year-old man, Mr. Dipaepho was charged with destroying an area of forestland totalling 21 rai and 89 square wa (3.4 ha). The court sentenced him to 2 1/2 years of imprisonment, which was later reduced by 3 months for his confessing to the so-called ‘crime’. In addition, he has to pay the huge sum of THB 3,181,500 (USD 96,409) to compensate the ‘damage’ done”).

¹³ *Id.*

¹⁴ See ‘Royal vouches for 103-year-old Karen’, *supra*.

establishment and demarcation.¹⁵ This Constitution, in force at the time of the evictions, in principle supersedes the *Forestry Law* and *National Park Act* yet Thai authorities continue to evict persons, especially indigenous people, who are ostensibly protected by this provision, from national parks and forest areas throughout the country.¹⁶ A Thai Cabinet Resolution on restoring the livelihoods of the Karen was adopted on 3 August 2010 and reconfirmed the protection outlined in the 2007 Constitution.¹⁷ This resolution states unequivocally that the Karen have the right to stay in their ancestral land and to continue their traditional farm rotation system, and prohibits the arrests of indigenous Karen forest dwellers. Despite these laws, Thai authorities have done nothing to redress the forced eviction, inhumane treatment and arbitrary arrest of the Karen residing in the KKNP, including in the context of the July 2011 violent attacks on their communities.

15. Villagers from the affected communities filed an Administrative Court challenge to the violent attacks of July 2011. On 17 April 2014 a Karen community leader supporting the case, Mr. Pholachi Rakchongcharoen (better known as Billy), was travelling to Kaeng Krachan District centre to meet with his fellow villagers and activists and prepare for the upcoming hearing at the Administrative Court regarding the lawsuit filed by them against the National Park, Wildlife and Plant Conservation Department, Ministry of Natural Resource and Environment, and the Head of Kaengkrachan National Park, Wildlife and Plant Conservation Office. Mr Pholachi disappeared. The next day, on 18 April 2016, the Head of Kaengkrachan National Park, Wildlife and Plant Conservation Office Mr. Chaiwat Limlikitsorn admitted that Mr. Billy had been detained and taken for interrogation as a wild honeycomb and six bottles of wild honey had been found in his possession. Mr. Limlikitsorn also claimed that Mr. Pholachi had been released. No report of his original detention or any evidence of the release of Mr. Pholachi from detention has been disclosed by the authorities. He remains missing to this day.

16. In February 2016 a separate legal challenge to the burnings and evictions that took place in 2011 was considered by the Central Administrative Court and, in a judgment with serious ramifications for the protection of the rights of indigenous peoples, the Court found that the Department of National Parks, Wildlife and Plant Conservation was within its rights to burn Karen properties.¹⁸ The implications of this ruling are significant for peoples and communities living throughout Thailand's network of protected areas, including indigenous communities like the Karen whose settlements significantly predate the establishment of the protected areas. It also directly violates their rights to sustain the cultural use of their lands as protected, *inter alia*, by a Royal Thai Government Cabinet Resolution from August 2010 which specifically commits the government to "cease the arrest and detention of the Karen people who are part of local

¹⁵ Royal Thai Constitution of 2007, Secs. 66 and 67 of Part 12.

¹⁶ After the military coup of 2014, an interim Constitution was drafted and adopted by the military governing body, the National Council for Peace and Order, and the 2007 Constitution suspended. However the provisions of that Constitution were in force at the time of the forcible evictions and the interim Constitution does not address the issue of forest dwelling peoples.

¹⁷ Cabinet Resolution of 3 August 2010 on policies regarding the restoration of the traditional practices and livelihoods of Karen people.

¹⁸ "Court backs officials in torching case", *The Bangkok Post*, 9 February 2016
<http://www.bangkokpost.com/archive/court-backs-officials-in-torching-case/856500>

traditional communities settled on disputed land which is traditional land used for making a living”.¹⁹

Applicable Jurisprudence:

17. As noted in the submission by civil society to the Committee in 2012, the Committee has articulated two inter-related rules applicable to the establishment and management of nature reserves in indigenous peoples’ territories that apply to the above-described situation. First, in 2002, it held that “no decisions directly relating to the rights and interests of members of indigenous peoples be taken without their informed consent” in connection with a nature reserve and the eviction of indigenous people therefrom in Botswana.²⁰ Second, with regard to a national park in Sri Lanka, the Committee called on the state to “recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources.”²¹ More generally, the Committee has recognised that indigenous peoples have a right to restitution of their traditional territories and resources, which in principle also applies to nature reserves, stating that: “where they have been deprived of their lands and territories traditionally owned, or such lands and territories have been otherwise used without their free and informed consent, ... that the State party take steps to return those lands and territories.”²²

18. In 2007, the Committee elaborated further, expressing its concern “about the consequences for indigenous groups of the establishment of national parks ... and their ability to pursue their traditional way of life in such parks....”²³ It recommended that:

the State party provide ... information on the effective participation of indigenous communities in the decisions directly relating to their rights and interests, including their informed consent in the establishment of national parks, and as to how the effective management of those parks is carried out. The Committee also recommends that the State adopt all measures to guarantee that national parks established on ancestral lands of indigenous communities allow for sustainable economic and social development compatible with the cultural characteristics and living conditions of those indigenous communities.²⁴

19. These norms are reflected generally in the decisions of the Conference of Parties to the Convention on Biological Diversity, an international environmental treaty in force for Thailand. *Decision VII/28 on Protected Areas*, for instance, provides that “the establishment, management and monitoring of protected areas should take place with the full and effective participation of, and full respect for the rights of, indigenous and local communities consistent with national law and applicable international obligations.”²⁵ This Decision also addresses the relocation of indigenous peoples from protected areas, calling on states to “Ensure that any resettlement of

¹⁹ “Recovering the Karen Livelihood in Thailand”, Cabinet Resolution of the Royal Thai Government, 3rd August 2010

²⁰ *Botswana*. 23/08/2002. UN Doc. A/57/18, paras.292-314, at 304.

²¹ *Sri Lanka*. 14/09/2001. UN Doc. A/56/18, paras.321-342, at 335.

²² *Inter alia Guatemala*, 15/05/06. UN Doc. CERD/C/GTM/CO/11, 15 May 2006, at para. 17.

²³ *Ethiopia*, 20/06/2007. UN Doc. CERD/C/ETH/CO/15, at para. 22.

²⁴ *Id.*

²⁵ Decision VII/28 Protected Areas, at para. 22. In, *Decisions Adopted by the Conference of Parties to the Convention on Biological Diversity at its Seventh Meeting*. UNEP/CBD/COP/7/21, p. 343-64.

indigenous communities as a consequence of the establishment or management of protected areas will only take place with their prior informed consent that may be given according to national legislation and applicable international obligations.”²⁶

20. Thailand’s practice of involuntary or forcible relocation of the Karen in the KKNP (and elsewhere) “is considered a practice that does grave and disastrous harm to the basic civil, political, economic, social and cultural rights of large numbers of people, both individual persons and collectivities.”²⁷ For indigenous peoples, forcible relocation can be disastrous, severing entirely their various relationships with their ancestral lands, and constitutes a “gross violation of human rights.”²⁸ For this reason, Article 10 of the 2007 UN *Declaration on the Rights of Indigenous Peoples*, endorsed by Thailand, strictly prohibits forcible relocation or eviction and requires that indigenous peoples’ free, prior and informed consent be obtained.

21. Various UN treaty bodies have also rejected the practice of forcible evictions by states, including the Committee under its EW/UA procedures.²⁹ In its 2010 review of Argentina, for example, the Committee urged the state “to take whatever steps are necessary to halt evictions and as appropriate to safeguard the communal property of indigenous peoples.”³⁰ More generally, the Committee unambiguously recommends in its General Recommendation No. 23 “that no decisions directly relating to [indigenous peoples’] rights and interests are taken without their informed consent.”³¹ The Committee on Economic, Social and Cultural Rights concludes that the practice of forcible evictions is incompatible with the obligations assumed under the Covenant,³² has stressed that relationships to lands are fundamental to cultural integrity, and called on state parties to respect indigenous peoples’ right to free, prior and informed consent whenever their rights may be affected.³³ Likewise, the Human Rights Committee has raised serious concerns about forced evictions in relation to the rights of persons belonging to indigenous peoples guaranteed by Article 27 of the International Covenant on Civil and Political

²⁶ *Id.* at para. 2.2.5, Programme of Work, annexed to Decision VII/28.

²⁷ *Study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms*. Final report submitted by Mr. Theo van Boven, Special Rapporteur. UN Doc. E/CN.4/Sub.2/1993/8, at 10. See also *Forced evictions: Analytical report compiled by the Secretary-General*. UN Doc. E/CN.4/1994/20 (for an enumeration of the various human rights implicated by resettlement); and, *Report of the Representative of the Secretary-General on legal aspects relating to the protection against arbitrary displacement*. UN Doc. E/CN.4/1998/53/Add.1.

²⁸ *UN Commission on Human Rights resolution 1993/77* (stating that the practice of forced evictions constitutes a “gross violation of human rights,” and urging governments to undertake immediate measures, at all levels, aimed at eliminating the practice).

²⁹ See *inter alia* *Communication of the Committee under the urgent action procedure: Tanzania*, 13 March 2009; and *Communication of the Committee under the urgent action procedure: United Kingdom*, 12 March 2010.

³⁰ *Argentina*, 29/03/10. UN Doc. CERD/C/ARG/CO/19-20, at para. 20.

³¹ *General Recommendation XXIII (51) concerning Indigenous Peoples*, at para. 4(d).

³² See Committee on Economic, Social and Cultural Rights, *General Comment No. 4, The Right to Adequate Housing (Art. 11(1) of the Covenant)* (stating that the Committee “considers that instances of forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law”), and *General Comment No. 7, The Right to Adequate Housing (Art. 11(1) of the Covenant): forced evictions*.

³³ Committee on Economic, Social and Cultural Rights, *General Comment No. 21: Right of everyone to take part in cultural life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights)*. UN Doc. E/C.12/GC/21, 21 December 2009, at para. 36-7.

Rights.³⁴ Consistent with the Committee's above cited jurisprudence, the Human Rights Committee also stressed that "When planning actions that affect members of indigenous communities, the State party must pay primary attention to the sustainability of the indigenous culture and way of life and to the participation of members of indigenous communities in decisions that affect them."³⁵

Persistent failure to provide redress:

22. The decision of the Central Administrative Court earlier this year highlights the difficulties that Karen people have in accessing redress through use of the national judicial system. Despite the existence of Constitutional law, in force at the time of the evictions, recognising the rights of the Karen to sustain residence in their traditional lands, and despite the passage of a Cabinet Resolution binding the Royal Thai Government to promoting and protecting Karen livelihoods, pressure continues to be applied on Karen communities in Kaeng Krachan Forest Complex to move out.

23. The nomination of the Kaeng Krachan Forest Complex, first on the tentative list and subsequently in a formal nomination, seems to have incentivised further efforts to remove the Karen. As the International Union for the Conservation of Nature (IUCN) and the UN Office of the High Commissioner for Human Rights (UNOHCHR), Asia office both pointed out, the nomination dossier talks explicitly about the removal of people from parts of the nominated site, and also provides for a tiny allocation of 1.14 hectares per family for farming purposes, an area that renders traditional agriculture impossible to maintain and relocation a necessity.³⁶

24. It is also the case that Thailand nominated the KKFC for World Heritage listing in 2013 without having conducted any significant consultations with the Karen communities and without having sought their Free, Prior and Informed Consent (FPIC).³⁷ According to reports, most of the villagers living in KKFC areas have received very little information regarding the World Heritage site proposal, which is a violation of their right to FPIC, as stated in Article 10 of the UN Declaration on the Rights of Indigenous Peoples.³⁸ There has also reportedly been little information provided to villagers who live in the area about the project. Communities are especially wary that the site will interfere with their daily lives and cause problems for the continuation of their lifestyles.³⁹

25. In 2014, indigenous organisations from Thailand sent letters to UNESCO and IUCN stressing that all conflicts between conservation authorities and the Karen should be resolved before inscription of the KKFC on the World Heritage List, and calling for a number of measures to be taken to ensure respect for the rights and livelihoods of the Karen in the proposed

³⁴ *Chile*, 30/03/99. UN Doc. CCPR/C/79/Add.104, at para. 22 (stating that "Relocation and compensation may not be appropriate in order to comply with article 27 of the Covenant").

³⁵ *Id.*

³⁶ IUCN Evaluation Report, May 2016: pg. 8. Available at: <http://whc.unesco.org/archive/2016/whc16-40com-inf8B2-Add-en.pdf>

³⁷ KNCE et al., Letter to IUCN

³⁸ Rattanakrajang Sri, Kittisak. Thailand. Compiled by International Work Group for Indigenous Affairs. 2015. p. 282.

³⁹ *Ibid.*

site.⁴⁰ The Bangkok Office of the UN High Commissioner for Human Rights sent a similar communication to UNESCO.⁴¹ As a result, in part, of these communications, the WHC at its 39th session, following the advice provided by IUCN, referred the nomination back to the State Party, in order to allow it to:

“Address in full the concerns that have been raised by the OHCHR concerning Karen communities within the Kaeng Krachan National Park including the implementation of a participatory process to resolve rights and livelihoods concerns and to reach the widest possible support of local communities, governmental, non-governmental and private organizations and other stakeholders for the nomination...”⁴²

26. In October 2016 it is expected that the World Heritage Committee will again meet to consider the proposed nomination of the Kaeng Krachan Forest Complex. The Karen Network for Culture and Environment, the Tanaosri section, has consulted at length with the affected communities and has released a statement insisting that the traditional livelihoods and farming systems of the Karen must be respected. The statement goes on to insist that the Karen must be free to choose their own settlement and agricultural sites, in consultation with Park management, and offers a collaborative approach to conducting joint research on rotational farming and to collaborating on conservation initiatives.⁴³

Requests:

27. Thailand’s persistent efforts to forcibly and violently evict Karen indigenous people from the KKNP, which have intensified in the past 5 years, stand in stark contrast to its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and other applicable human rights instruments. The extent and duration of these evictions, the increasing violence employed, the substantial and potentially irreparable harm caused to the Karen, and Thailand’s on-going failure to provide meaningful and effective redress, despite the manifest illegality of its acts and omissions under domestic law, elevate this situation to one requiring consideration under the Committee’s EW/UA procedure.

28. The identity, well-being and existence of the Karen are fundamentally tied to their ability to maintain their various relationships with their traditional territory, and this is being violently and severely undermined by Thailand’s practice of forcible eviction of Karen communities from the KKNP. The Central Administrative Court decision in February 2016 affirming the legal position of the authorities in burning the houses and property of the Karen and in forcibly evicting them from the Park area highlights the legal impunity under which the national parks authorities act, and only serves to intensify the actions of the authorities in seeking to ‘empty’ the national parks of indigenous communities. The submitting organisations, therefore, respectfully request that the Committee, as a matter of urgency, recommends that Thailand:

- a) Immediately ceases the eviction of the Karen from the KKNP and ensures that they are able to exercise and enjoy their rights therein without hindrance, including, but not limited to, by implementing the relevant provisions of the Thai Constitution and the

⁴⁰ For details, see IWGIA, *The Indigenous World* 2015, p. 283; and KNCE et al., Letter to IUCN

⁴¹ See IUCN’s technical evaluation of the nomination of the KKFC, Doc. WHC-15/39.COM/INF.8B2, p. 48.

⁴² Decision 39 COM 8B.5.

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Thai Cabinet resolution on policies regarding the restoration of the traditional practices and livelihoods of Karen people;

- b) Recognises the rights of the Karen to the ownership and effective control of their traditional territory, including those parts incorporated into the KKNP, and negotiates and agrees on a management plan for the KKNP with the Karen and their freely chosen representatives;
- c) Immediately ceases all threats, harassment, arrests and all other forms of human rights violations against the Karen in and around the KKNP;
- d) Effectively investigates the actions of the staff and authorities of KKNP and all others involved in the above described acts of violence so that the perpetrators are sanctioned in accordance with applicable law and that adequate and effective reparation, including restitution, is rendered to the victims; and
- e) Recommends that UNESCO fully evaluates and addresses the practice of the forcible eviction of the Karen, as well as Thailand's compliance with their rights as guaranteed by, *inter alia*, the 2007 UN *Declaration on the Rights of Indigenous Peoples*, when re-considering Thailand's proposal for the inscription of the KKNP as a World Heritage Site.

Yours respectfully,

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