

14 June 2018  
Chiang Mai, Thailand

**Thailand: Uphold Article 70 of the 2017 Constitution and Strengthen the Implementation of Cabinet Resolution of 3 Aug. 2010 re Restoration of the Karen Traditional Livelihood; Protect the Rights of Indigenous Peoples**

*Statement of Solidarity with the Indigenous Karen of the Kaeng Krachan Forest*

Asia Indigenous Peoples Pact ([AIPP](#)), Network for Indigenous Peoples In Thailand (NIPT), and Forest Peoples Programme ([FPP](#)) acknowledge that the Supreme Court decision has recognised the Karen peoples as original people of Thailand, referenced the Cabinet Resolution 3 August 2010 pertaining to the Policy Guideline for the Restoration of Traditional Karen Livelihood, and validated the abuse of power of the national park authorities. But we are dismayed and appalled that the Karen communities who were forcibly evicted from Kaeng Krachan National Park in 2011 were denied their right to return to their land. This new ruling was handed down on 12 June 2018; two years after the case was lost in the Central Administrative Court.

The recent court decision ruled in favour of the Karen communities in awarding them compensation. However, due to the limitation of the existing legal framework in Thailand with regards to protecting indigenous peoples rights, it merely mirrors the dismaying outcome of the first ruling in the lower court. The indigenous communities' struggle for their right to live peacefully in their lands were disregarded and reduced to monetary compensation. It has been acknowledged and proven that indigenous peoples have particular relationship to their lands, territories and resources; severing their ties to their ancestral lands constitutes gross violation of their fundamental right to life, including their basic civil, political, economic, social and cultural rights.

The harassment of the indigenous Karen communities living within the Jai Paen Din, Kaeng Krachan forest, which was declared as national park in 1981, has been going on for decades. The recent Supreme Administrative Court decision involves the case of national park guards attacking a number of Karen communities in the forest with the intent of forcibly displacing them in July 2011. They burned down the Karen's houses and rice stores, which would have provided food for almost one year. This case is just one of the many incidents of harassments to the Karen communities. This case was filed by Kho-Ei, a 107-year-old spiritual leader, along with five (5) other representatives, who have been among the victims of the eviction and been suffering from the persistent harassments of the national park guards. Unfortunately, however, on both court rulings their appeal to return to their home in peace was denied.

The Ministry of Culture's Cabinet Resolution of 3 August 2010 reflects Article 70 of the 2017 Constitution, which refers to the State promoting and protecting ethnic group to live in the society according to their culture, customary and traditional way of life voluntarily and peacefully. But the parochial perception of preservation and conservation of national parks that is devoid of human presence, which is reflected in the Ministry of Natural Resources and Environment's Forest Act of 1941, National Park Act of 1961, and National Reserve Forest Act of 1964, continues to prevail and dominate how indigenous peoples are treated, as illegal settlers in their own lands.

Thailand has been called out by the UN Committee on the Elimination of Racial Discrimination (CERD)<sup>i</sup> regarding the forceful eviction and harassment to the Karen communities in Kaeng Krachan National Park in 2012. But that was ignored by the government of Thailand. In 2016, another communication<sup>ii</sup> was sent to CERD to raise the same issue and although CERD again reiterated<sup>iii</sup> its serious concerns about the status of the Karen in Kaeng Krachan, again the government of Thailand failed to act to protect them. The UN Human Rights Committee also highlighted in 2017<sup>iv</sup> the other

challenge that Karen communities, and indigenous peoples in Thailand in general, struggle with, including lack of legal recognition and citizenship. The indigenous peoples issue of statelessness is one of the main concern that affects their right to life and access to justice, among others.

We echo the disappointment of Karen communities to the decision of the Supreme Administrative Court in denying them right to return to their land. We urge the Prime Minister of Thailand to:

- Update their forest and environment acts and keep it in line with Article 70 of the 2017 Constitution, including other international human rights instruments to which it has ratified, particularly, Covenant on Civil and Political Rights, Convention on the Elimination of all Forms of Racial Discrimination and Covenant on Economic, Social and Cultural Rights; specifically, the Ministry of Natural Resource and Environment to implement the environmental and forest acts in cognizance of these legal frameworks as well as the Cabinet Resolution of 3 August 2010, and allow the Karen communities to return home to Kaeng Krachan forest
- Collaborate with indigenous peoples organisations in operationalizing Article 70 of the 2017 Constitution and the Cabinet Resolution of 3 August 2010, and in mainstreaming them in the forest and environment acts
- Recognise the right to citizenship of indigenous peoples in Thailand and ensure support to ease the process to acquire citizenship for indigenous peoples

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<sup>i</sup> See communiqué of CERD to Thailand in 2012 here: [http://iphndefenders.net/wp-content/uploads/2016/08/CERD\\_Thailand.pdf](http://iphndefenders.net/wp-content/uploads/2016/08/CERD_Thailand.pdf)

<sup>ii</sup> See request for reconsideration submitted to CERD: <http://iphndefenders.net/wp-content/uploads/2016/10/CERD-KKNP-FINAL.pdf>

<sup>iii</sup> See communiqué of CERD to Thailand in 2017 here: [http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/THA/INT\\_CERD\\_ALE\\_THA\\_8209\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/THA/INT_CERD_ALE_THA_8209_E.pdf)

<sup>iv</sup> See paragraph 43 and 44: <http://tbinternet.ohchr.org/layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fTHA%2fCO%2f2&Lang=en>