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(IIFB)**

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January 15, 2012

Honorable Prime Minister,

**RE: FORCED RELOCATION OF KAREN PEOPLE FROM KAENG
KRACHAN NATIONAL PARK**

We, members of the International Indigenous Forum on Biodiversity (IIFB), are a global network of organizations representing Indigenous Peoples and local communities from all corners of the world, working on the implementation of the United Nations Convention on Biological Diversity (CBD). Recently, it has been brought to our attention that a number of Karen people have been forcibly relocated from the Kaeng Krachan National Park, leading to the violation of their human rights. We are very concerned about this situation and we would like to ask you to take immediate action to redress it.

According to sources that have visited the area and have collected information, the harassment of Karen villagers has been going on for some time and came to a severe situation in May, June and July 2011, when many houses of the villagers and their rice stores were burned and money, jewellery, fishing and agricultural tools were stolen by a group composed of National Park wardens and military forces. As a result, some of the people moved away and are now staying with relatives in other villages and a number of them (allegedly approximately 70 people) are hiding in the forest in a state of fear of meeting government officers: they are without sufficient food and shelter.

This alleged forceful action by the National Park is in contravention of the Thai Constitution of 2007 (in particular sections 66 and 67 of Part 12), the Thai Cabinet resolution adopted on August 3, 2010 on policies regarding the restoration of the traditional practices and livelihoods of Karen people, and international human rights law, as well as the UN Convention on Biological Diversity and the UN Declaration on the Rights of Indigenous Peoples.

The UN Convention on Biological Diversity, which was ratified by Thailand in January 2004, provides for specific duties of State Parties in relation to protected areas and indigenous and local communities, which are applicable and in need of implementation in the case of the Kaeng Krachan National Park. These include provisions under Articles 10(c)¹ and 8(j)¹ as well as Decisions on Protected Areas by the Conference of the Parties (“COP”) to the Convention.

Decision VII/28 on Protected Areas of COP 7 (“Decision VII/28”) notes that *“the establishment, management and monitoring of protected areas should take place with the full and effective participation, and the full respect for the rights of, indigenous and local communities consistent with domestic law and applicable international obligations.”*¹ Decision X/31 of COP 10 on Protected Areas (“Decision X/31”) invites Parties to establish clear mechanisms and processes for the full and effective participation of indigenous and local communities in relation to protected areas.² This is supported by Target 11 of the Aichi Biodiversity Targets of the CBD Strategic Plan for 2011-2020 which includes, *inter alia*, the aim of achieving *“effective and equitably”* managed areas for conservation. Included in the current rationale for this target is that *“[p]rotected areas should also be established and managed in close collaboration with, and through participatory and equitable processes that recognize and respect the rights of indigenous and local communities, and vulnerable populations.”*³

Decision VII/28 also reinforces the need to secure the free, prior and informed consent of indigenous peoples before they are excluded from protected areas, requesting states to *“[e]nsure that any resettlement of 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.”*⁴ Article 19 of the UN Declaration on the Rights of Indigenous Peoples provides that : *“States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them”*.

The decisions made under the CBD also emphasise the role to be played by indigenous peoples and local communities in conservation, and, in particular, support the promotion, diversification and strengthening of alternative governance types for protected areas, including areas conserved by indigenous and local communities, and co-managed protected areas.⁵

With regards to equity and benefit sharing, the CBD decisions on protected areas (most recently Decision X/31), invite the Parties to establish mechanisms to guarantee equitable sharing of benefits and costs from the creation of national parks, and ensuring that these benefits promote

¹ This is reinforced by Decision X/31 on Protected Areas of COP 10 at para 32(c). See also the ‘Programme of Work’, annexed to Decision VII/28 paras 2.1.5; and in particular the target of Goal 2.2 which includes ‘participation of relevant stakeholders, in the management of existing, and the establishment and management of new, protected areas’, and associated suggested activities (2.2.2) to (2.2.5) which included an emphasis on removing barriers to effective participation and taking steps to create an enabling environment for participation in terms of legislation, policies, capacities, and resources.

² Decision X/31, para 31.

³ See also Target 18: *“By 2020, the traditional knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biodiversity, and their customary use of biological resources, are respected, subject to national legislation and relevant international obligations, and fully integrated and reflected in the implementation of the Convention with the full and effective participation of indigenous and local communities, at all relevant levels.”*

⁴ Para 2.2.5 of the Programme of Work annexed to Decision VII/28.

⁵ See the ‘Programme of Work’, annexed to Decision VII/28 and paras 2.1.2 and 32 (a) and (b); and Decision X/31 paras 31(b) and (32(a) and (b).

poverty alleviation and sustainable development and livelihoods.⁶

Finally, with regards to impact assessment, Decision VII/28 asks states to “[a]ssess the economic and socio-cultural costs, benefits and impacts arising from the establishment and maintenance of protected areas, particularly for indigenous and local communities, and adjust policies to avoid and mitigate negative impacts, and where appropriate compensate costs and equitably share benefits in accordance with the national legislation.”⁷ In terms of assessing social and cultural impacts, state parties to the CBD are encouraged to adopt the best practice set out in the Akwé: Kon Guidelines (the ‘*Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessment regarding Developments Proposed to Take Place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities*’).⁸

Taking all these provisions into consideration, it is clear that the actions taken by the Kaeng Krachan National Park authorities against the Karen villagers are in violation of the international obligations of the government of Thailand under the Convention on Biological Diversity and international law on various grounds, including the failure to:

- ensure the full and effective participation of indigenous peoples and local communities in the management of the national park;
- promote the role of indigenous peoples and local communities in conservation;
- respect the right of indigenous peoples to free prior and informed consent as guaranteed under international law, especially in the case of forced resettlement;
- protect and encourage customary use of resources and traditional activities;
- implement principles of equity and benefit sharing;
- respect and protect the right to livelihoods;
- undertake impact assessment; and
- protect private property (houses and rice stores).

The actions taken by the park authorities and the military are also of great concern to us as they involved the unlawful arrest of people and intimidation and use of force.

In addition to violating international law, these actions are also in violation of domestic law, as reviewed above.

In light of these events, we strongly urge you, as head of government, to take immediate action to:

1. Urgently cease all threats, harassment, arrests and all other forms of human rights violations against the villagers in the National Park;

⁶ See the Target to Goal 2.1 of the Programme of Work annexed to Decision VII/28, particularly suggested activities at paras 2.1.1 and 2.1.4; and Decision X/31 paras. 30(b), 31(1) and 32(d).

⁷ Para 2.1.1 of the Programme of Work annexed to Decision VII/28.

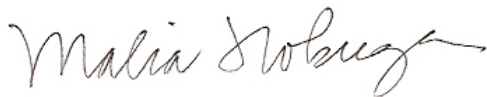
⁸ See Decision X/31 para 30(a). The Akwé: Kon Guidelines are at www.cbd.int/doc/publications/akwe-brochure-en.pdf.

2. Effectively investigate the actions of the staff and authorities of Kaeng Krachan National Park and all others involved in the alleged acts of violence so that the perpetrators are prosecuted in justice;
3. Provide urgent and adequate services for the well-being of the villagers who have suffered distress and trauma, such as mental health support and other necessary health services;
4. Adequately compensate the villagers for the damages and losses they have incurred due to the actions of the National Park authorities and the military. This includes financial compensation and rectification of citizenship status, housing and allocation of land for traditional agriculture;
5. Abide by, and implement, the Cabinet resolution made on August 3rd, 2010 on policies regarding the restoration of the traditional practices and livelihoods of Karen people;
6. Take all necessary measures to effectively implement the provisions of the CBD, in particular Articles 10(c) and 8(j) as well as its Decisions on Protected Areas and the Programme of Work on Protected Areas, especially element II on governance, participation, equity and benefit-sharing;
7. Take all necessary measures to effectively implement Thailand's obligations under international human rights law in relation to the rights of indigenous peoples, which are notably guaranteed under: the International Covenant on Civil and political Rights; the International Covenant on Economic, Social and Cultural Rights; the UN Convention on the Elimination of All Forms of Racial Discrimination; and the United Nations Declaration on the Rights of Indigenous Peoples.

The issues raised in this letter could be addressed through the establishment by the government of a committee (or other appropriate mechanism), with the participation of indigenous peoples and local communities, to address and implement the actions recommended above.

We thank you for your attention and look forward to the actions the government will take to resolve this situation in a manner that benefits both the people and the environment.

Sincerely yours,



Malia Nobrega
Coordinator
International Indigenous Forum on Biodiversity (IIFB)

and

Endorsed by the following non-governmental organizations (NGOs) and individuals-

1. Asia Indigenous Peoples Pact (AIPP), Asia
2. Himalayan indigenous women network, Asia
3. National Network of Indigenous Women, Nepal, Asia
4. Takao Indigenous Makatao Council, Asia
5. TARA-Ping Pu, Asia

6. Tebtebba, Asia
7. African Indigenous Women's Organization, Africa
8. Daniel Kobei of Ogiek Peoples Development Program(OPDP), Africa
9. Indigenous Information Network, Africa
10. Legborsi Saro Pyagbara, Africa
11. Lembulung M. Ole Kosyando of NAADUTARO (Pastoralists' Survival Options), Africa
12. Ligue Nationale des Associations Autochtones Pygmées du Congo' (LINAPYCO), Africa
13. Patrice SAGBO, Africa
14. PIDP SHIRIKA LA BAMBUTI, Joseph ITONGWA MUKUMO, Coordonnateur, Africa
15. Réseau des Populations Autochtones et Locales pour la gestion durable des écosystèmes forestiers d'Afrique Centrale (REPALEAC), Africa
16. The Chibememe Earth Healing Association (CHIEHA), Africa
17. Unissons Nous Pour La Promotion Des Batwa (UNIPROBA), Africa
18. Yiaku Peoples Association, Jennifer Koinante, Director, Africa
19. Saami Council, Gunn-Britt Retter, Executive Secretary, Arctic
20. The Saami Parliament of Norway, Arctic Region
21. ALMACIGA Grupo de Trabajo Intercultural, Latin America and the Caribbean
Asociacion Quechua-Aymara for Holistic Communities (ANDES), Latin America and the Caribbean
22. Caney Orocovis, Latin America and the Caribbean
23. Centro de Estudios Multidisciplinarios Aymara, Latin America and the Caribbean
24. Consejo Autónomo Aymara, Latin America and the Caribbean
25. Consejo Mexicano para el Desarrollo Sustentable (Mexican Council for Sustainable Development), Mindahi Crescencio Bastida Muñoz, Latin America and the Caribbean
26. El Centro de Investigación y Planificación del Desarrollo Maya Sotz'il, Latin America and the Caribbean
27. Fundaciòn para la Promociòn del Conocimiento Indigena (FPCI), Onel Masardule, Executive Director, Latin America and the Caribbean
28. Red de Mujeres Indigenas sobre Biodiversidad, Latin America and the Caribbean
29. Red Indígena de Turismo de Mexico (RITA), Latin America and the Caribbean
30. South and South Central District Toshias Councils, Latin America and the Caribbean
31. Tewa Women United, Latin America and the Caribbean
32. United Confederation of the Taino People (UCTP), Latin America and the Caribbean
33. Indigenous Peoples Council on Biocolonialism, Debra Harry, Executive Director, North America
34. Métis National Council, North America
35. Plenty Canada, Larry McDermott, Executive Director, North America
36. Hawai'i Center for Human Rights Research & Action, Pacific
37. Porgera Alliance, Pacific
38. Na Koa Ikaika o ka Lahui Hawai'i, Pacific
39. The Network of the Indigenous Peoples-Solomons (NIPS), Pacific
40. Baikal Buryat Center for Indigenous Cultures, Erjen Khamaganova, Chair, Russia
41. Legal Informational Center Indigenous peoples of the North Tomsk area "Kogolik", Russia
42. Russian Association of Indigenous Peoples of the North, Siberia and the Far East, Russia
43. Sahilgaan, Petr Ajunov, Council member, Russia

44. SONIA, Vanda Altarelli, Presidente
45. UNINOMAD: Union of Indigenous Nomadic Tribes of Iran
46. Cenesta
47. ICCA Consortium
48. Forest Peoples Programme

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