

## Open Letter

19 September 2014

Subject: Suspension of Mr. Chaiwat Limlikitaksorn

ATT: Director General of the Department of National Parks, Wildlife and Plant Conservation

Dear Sir,

Against the background of a number of conflicts arising out of the management of forest and natural resources in the Kaeng Krachan National Park which has led to the burning of houses, barns and paddy fields belonging to the ethnic Karen dwellers, including the very worrying case of the “disappearance” of Mr. Pholachi Rakchongcharoen, who was apprehended by the Kaeng Krachan National Park Chief, Mr. Chaiwat Limlikitaksorn, and three other officials of the Kaeng Krachan National Park, and has been held in custody by them since 17 April 2014 - he was last seen on that day - the undersigned organizations would like to bring the following matters to your attention and demand the suspension of Mr. Chaiwat Limlikitaksorn from his office:

1. Mr. Chaiwat Limlikitaksorn is an accused in criminal case no. 380/2554 for allegedly masterminding the murder of Mr. Thatkamol Ob-om, core member of a group which demanded the rights of Ban Pong Luk Bang Kloy. The case rests with the Provincial Court of Phetchaburi and is pending trial before the Court.
2. Mr. Chaiwat Limlikitaksorn is alleged a defendant in an administrative case no. S58/2555. On 19 May 2014, the Administrative Court conducted a hearing to hear more from the parties. In this case, traditional Karens who live in Ban Pong Luk Bang Kloy were threatened with eviction. Their houses and properties were allegedly burned down by a forestry team led by Mr. Chaiwat Limlikitaksorn. As a result, they brought a case against the Department of National Parks, Wildlife and Plant Conservation and Mr. Chaiwat Limlikitaksorn in the Administrative Court asking for remedies and recognition of their traditional community as provided for by the Thai Constitution.
3. Mr. Chaiwat Limlikitaksorn has been reported to the police by a conservation group in Ratchaburi Province led by Ms. Jintana Kaewkhao. The Provincial Police Region 7 was urged to take legal action against Mr. Chaiwat Limlikitaksorn, Kaeng Krachan National Park Chief, and other officials for allegedly evicting and burning down the houses of the Karens in Tambon Huay Mae Priang, Kaeng Krachan District, Phetchaburi Province as per the petition dated 3 May 2012 and the case is being investigated by an inquiry official of the Kaeng Krachan Police Station.

4. Mr. Chaiwat Limlikitaksorn, as Kaeng Krachan National Park Chief, and three other officials, allegedly is holding in custody Mr. Pholachi Rakchongcharoen and denied whereabouts he is. According to the verdict of the Provincial Court of Phetchaburi, it is clear that Mr. Pholachi was held in custody by the officials on 17 April 2014. But Mr. Chaiwat Limlikitaksorn, the official in charge of the apprehension team, and the Kaeng Krachan National Park Chief, denied that he still had Mr. Pholachi in his custody. In his defense, he relied on his own testimony and evidence given by those under his charge including his officials and student internees, without any other concrete evidence. The evidence he presented to the Court was, in our view, obviously inconsistent and lacking in credibility. Mr. Pholachi has thus become a victim of enforced disappearance, an act which is prohibited and treated as a heinous crime, even though it is yet to be criminalized by Thai law. By denying having Mr. Pholachi in his custody and by claiming Mr. Pholachi had been released it is alleged that he attempted to conceal the fate of Mr. Pholachi. Therefore, Mr. Pholachi's relatives asked the Court to conduct a habeas corpus hearing invoking Article 90 of the Penal Code. But later the Court dismissed the case which is tantamount to impeding the exercise of the rights of relatives of victims of enforced disappearance by making it impossible for them to learn about the fate of Mr. Pholachi. It does not, however, clear Mr. Chaiwat Limlikitaksorn and other officials of an allegation that they were allegedly involved with the disappearance of Mr. Pholachi. Meanwhile, Mr. Pholachi's wife submitted a motion of appeal to the Provincial Court of Phetchaburi on 16 September 2014.
5. Mr. Chaiwat Limlikitaksorn faces a criminal charge relating to his alleged malfeasance as per Article 157 of the Penal Code as he had apprehended Mr. Pholachi for illegally having in possession wild honey on 17 April 2014, but failed to bring him to the inquiry official, and did not write a report regarding the arrest or the discharge. The case is pending in the Office of Public Sector Anti-Corruption Commission (PACC), Ministry of Justice. PACC found there was prima facie evidence to support a charge and decided to review it and set up an inquiry subcommittee to look into the case.
6. Mr. Chaiwat Limlikitaksorn, while being the Kaeng Krachan National Park Chief, allegedly had in his possession still pictures and video of the processing of wood inside the Kaeng Krachan National Park. According to an inquiry by a committee set up by the Department of National Parks, Wildlife and Plant Conservation, the wood processing was carried out by officials of the Kaeng Krachan National Park. Later, the fact-finding team, led by Pol Col Surasak Sawaengkarn of the Deputy Commander of Phetchaburi Provincial Police and other authorities from the province, found 26 trees had been cut down and wood pressing was taking place with the use of chainsaws at the Mae Sariang Unit (KJ10).

In addition, human rights organizations, inside and outside the country, have expressed their grave concern about the apparent enforced disappearance and have asked for the

rights of Mr. Pholachi, a Karen activist, to be respected. Also, the rights of indigenous and ethnic groups dwelling in the forest are well recognized by the principles upheld by the United Nations and UNESCO, for example.

1. The Committee on the Elimination of All Forms of Racial Discrimination (CERD), a monitoring body of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which Thailand is a state party, stated that in February 2012 it accepted to review urgently a complaint concerning the burning of houses and rice barns against the Thai Karens in the Kaeng Krachan National Park. On 9 March 2012, it submitted a letter to express their concern regarding the situation to the Royal Thai Government asking for detail of what steps have been undertaken to improve the living conditions of the Karens in Kaeng Krachan National Park.
2. The Committee on the Elimination of All Forms of Racial Discrimination (CERD), in its publicized concluding observation CERD/C/THA/Q/1-3 dated 3 July 2012, paragraph 16, states that *“The Committee is concerned that the various forestry and environment protection laws may have a discriminatory effect on ethnic groups living in forests. The Committee is also concerned that it has not been assured how the free and prior informed consent of those groups is guaranteed in decision-making processes affecting them”*.
3. The UN Committee Against Torture (CAT), a monitoring body of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Thailand is a state party in its publicized concluding observation dated 23 May 2014, states that *“The continuing and numerous alleged cases of enforced disappearance, in particular against human rights, anti-corruption and environmental activists as well as witness of human rights violations, as revealed by the recent case of the disappearance of Pholachi Rakcharoen...”*. CAT recommended that *“The State party should take all the necessary measures to prevent enforced disappearances and to combat impunity for the crime of enforced disappearance”*.

In order to uphold fairness and justice among people affected by the state’s policy and personnel management, particularly regarding the management of natural resources to keep them as the nation’s and the world’s heritage, and to uphold the rights of people who have been living in a traditional community inside a protected area according to international human rights standards, as Kaeng Krachan National Park is being proposed to UNESCO as a World Natural Heritage Site which makes us proud as Thai citizens:

The undersigned organizations urge you in your capacity as Director General of the Department of National Parks, Wildlife and Plant Conservation to consider suspending Mr. Chaiwat Limlikitaksorn from his office as he is now accused in a felony case and to carefully recruit another official to take charge and take care of the management of the Kaeng Krachan National Park. The recruitment should be based on the principle that the candidate respects human rights principles and adopts a non-violent approach to solve a problem as well as being able to ensure justice for all people and contribute to the management of a sustainable forest and natural resources.

(Mr. Pairoj Phonpetch)  
President of Human Rights Lawyers Association (HRLA)

(Ms. Pornpen Khongkachonkiet)  
Director of Cross Cultural Foundation (CrCF)

(Mr. Jaturong Boonyarattanasoontorn)  
President of Union for Civil and Liberty (UCL)

#### Other signatories

1. Human Rights Lawyers Association (HRLA)
2. Union for Civil and Liberty (UCL)
3. Cross Cultural Foundation (CrCF)
4. ENLAWTHAI Foundation (EnLAW)
5. Network of Indigenous Peoples of Thailand
6. Network of Indigenous Peoples in Upper Central Plain, West and East of Thailand
7. Network for the Preservation of Kaeng Krachan Forest
8. Karen Network for Culture and Environment (Tenasserim region)
9. Catholic Commission for Justice and Peace
10. Network of Artists for the Environment
11. Network to Promote the Spirit of 14 October 1973
12. Prachuap Khiri Khan Conservation of Nature and the Environment Group
13. Bangsaphan, Prachuap Khiri Khan, Conservation Group
14. Karen Federation of Siam
15. Northern Farmers Federation
16. Highland People Taskforce (HPT)
17. Pestalozzi Children's Foundation
18. Foundation for Applied Linguistics (FAL)
19. Inter Mountain Peoples' Education and Culture in Thailand Association (IMPECT)
20. Indigenous peoples for education and environment Foundation
21. Center for Protection and Revival of Local Community Rights (CPCR)