



THAILAND

Conservation against customary practices: Criminalization of, and human rights violations against Indigenous peoples in protected areas and forest reserves



**Indigenous Peoples
Rights International**

Championing Indigenous Peoples Rights

Acknowledgement

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Caption photo cover:

(above) Members of the Network of Indigenous Peoples in Thailand (NIPT) and Save-Bangkloy Alliance rally in Bangkok to demand the government to allow the Karen community of Bangkloy to return to their ancestral forest in Kaeng Krachan and practice subsistence agriculture peacefully. (Photo by Phnom Thano – IMN)

(below) The Karen community of Bangkloy village in Kaeng Krachan forest commemorates the 2014 disappearance of the Karen Indigenous activist, Porlajee 'Billy' Rakchoengcharon in January 2020. The murder case against the park rangers who are the alleged perpetrators was dropped in 2020. (Photo by Phnom Thano – IMN)

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Executive summary

The laws on environment and natural resources in Thailand restrict and criminalize the customary practices of resource management of Indigenous Peoples, who are referred to as hill tribes. The implementation of these laws is contributing highly to the weakening of Indigenous Peoples' intergenerational transfer of traditional knowledge and undermining the exercise of their collective rights. The Department of National Park reported that from October 2020 – June 2021, there had been 1 244 legal cases filed for violating Protected Area Laws of 2019. These were charges of encroachment of forest areas, causing forest fire, logging and collecting non-timber forest products, and wildlife poaching in national parks, wildlife sanctuaries and non-hunting areas. Thailand's 133 national parks are home to around 2,000 indigenous communities who face higher risk of criminalization and the general abuse of power by park authorities.

Aside from the Protected Area Laws of 2019, the other laws in force on the management of environment and natural resources in Thailand that are affecting Indigenous Peoples' land rights are: National Land Policy Committee Law of 2019, National Forest Reserve Law of 2016 and Community Forestry law of 2019, National Park Law of 2019, and Wildlife Preservation and Protection Act on 24 May 2019.

The National Park Law of 2019 was meant to address the ongoing conflicts between communities living within these areas and the government's conservation efforts. Stiff penalties are imposed where those convicted of encroachment and other offences could face up to 20 years in prison and two million THB (around US\$ 66,000) in fines. The same law has provisions on the documentation and demarcation of community land use for traditional practices even outside the forest areas and allows communities to live in national parks. The enactment of said law is seen by indigenous communities as an opportunity to get access to electricity, water, and roads which are currently needed but are non-existent in their areas. However, the full and effective participation of Indigenous Peoples and other subsistence farmers are not guaranteed throughout the demarcation process. Moreover, the state will decide who from the communities will be allowed to live and use the land and natural resources in these areas for up to 20 years and can be extended as long as no rules and regulations were violated. Leaving this decision with the state affects Indigenous Peoples in Thailand who

are not legally recognized and without citizenship, which is one of the many issues they face. The government of Thailand considers them as aliens from other countries such as Burma/Myanmar and China.

In general, these laws do not recognize the roles of Indigenous Peoples as crucial partners in the sustainable management of the environment and natural resources. They also disregard the socio-cultural significance of these lands and territories to Indigenous Peoples, and the interdependence of natural resource use and management to their traditions, spirituality, and survival.

The report elaborated on two cases involving the indigenous Karen communities living in Kaeng Krachan Forest Complex and Omkoi National Forest Reserve. Both cases involve issues of lack of free, prior and informed consent, resettlement in areas with unproductive soil, and restrictions to and criminalization of their subsistence agriculture and occupation. The case of Kaeng Krachan Forest Complex also involves recent incidents where legal power was used to detain 85 and criminalize 22 members of the Karen community in March 2021. There have been previous incidents of violent evictions through burning of houses and properties and the murder of the Karen human rights activist, Porlajee “Billy” Rakchongcharoen. Regrettably, the UNESCO World Heritage Committee ignored these cases of human rights violations and the ongoing protests of Indigenous Peoples when they inscribed the 1.18M-hectare Kaeng Krachan Forest Complex as UNESCO World Heritage Site in July 2021.

The report recommends that the government of Thailand recognize the Indigenous Peoples living within protected areas as crucial partners in effective and sustainable management of environment and natural resources. The Thai government should recognize and protect Indigenous Peoples’ customary practices such as shifting cultivation and other subsistence livelihoods and traditional occupations, and forge sincere and meaningful partnership with them instead of finding ways to drive them out of their lands and territories and criminalizing them. It should also ensure justice and reparation to the families and victims of human rights violations in protected areas and forest reserves. Lastly, the UNESCO World Heritage Committee should adhere to its policies and reconsider its decision to include Kaeng Krachan Forest Complex as World Heritage Site. It should facilitate a process ensuring that justice and reparation be given to the Indigenous Peoples and communities in Kaeng Krachan Forest Complex whose human rights were violated, and to allow them as partners in the conservation of the forest through a human rights based-approach to conservation.

About this report

As part of its work to confront criminalization of, and human rights violations against Indigenous Peoples, Indigenous Peoples Rights International (IPRI) decided to contribute to the ongoing calls for a human rights-based approach to conservation. As a start, we conducted a research study on the issue and commissioned global and country reports covering the Democratic Republic of Congo, Kenya, Tanzania, Nepal, and Thailand. Each report is published independently and can be read as stand-alone publications.

The study aims to contribute in raising awareness and attention to the issue of criminalization and violations of Indigenous Peoples' rights in relation to environmental conservation. We hope that it will be useful for Indigenous Peoples and human rights organizations in their advocacy initiatives at the national, regional, and global levels. We also hope the reports will be useful for states and conservation institutions when developing programs and policies that aim to address human rights violations in conservation, including the access to justice and remedy of the victims of criminalization and human rights violations in conservation areas.

Introduction

The indigenous peoples of Thailand live in different geographical regions of the country. These include indigenous fisher communities (the Chaoley* and small populations of hunter-gatherers in the south (Mani people); small groups on the Korat plateau of the north-east and east; and the many different highland peoples in the north and north-west of the country. The latter group is known as Chao-Khao or hill tribe. Nine so-called “hill tribes” are officially recognized: the Hmong, Karen, Lisu, Mien, Akha, Lahu, Lua, Thin and Khamu.†

The estimated indigenous population in Thailand as noted in the 2015 report of the Council of Indigenous Peoples is around five million people, which accounts for 7.2 percent of the total population. According to the Department of Social Development and Welfare, the total officially-recognized “hill-tribe” population numbers 925,825 and they are distributed across 20 provinces in the north and west of the country. There are approximately 12,000 people of Chaoley descent. There still are no figures available for the other groups, particularly for Indigenous People in the north-east and eastern parts of the country.

Most Indigenous Peoples in the north and west live in the mountainous areas and depend largely on natural resources and forests for their survival and livelihood. They therefore have to sustainably use, manage, and care for the natural resources around them. These time-tested practices became a unique body of knowledge of Indigenous Peoples which they have learned and passed down from one generation to another for hundreds of years. Such traditional knowledge has existed among different indigenous groups.

Indigenous peoples in Thailand are now faced with various issues due to external forces which could weaken their knowledge and system. For example, the government’s economic development and centralized policy on natural resource management has restricted indigenous communities from gaining access and using natural resources. In some cases, there have been arrests and/or eviction

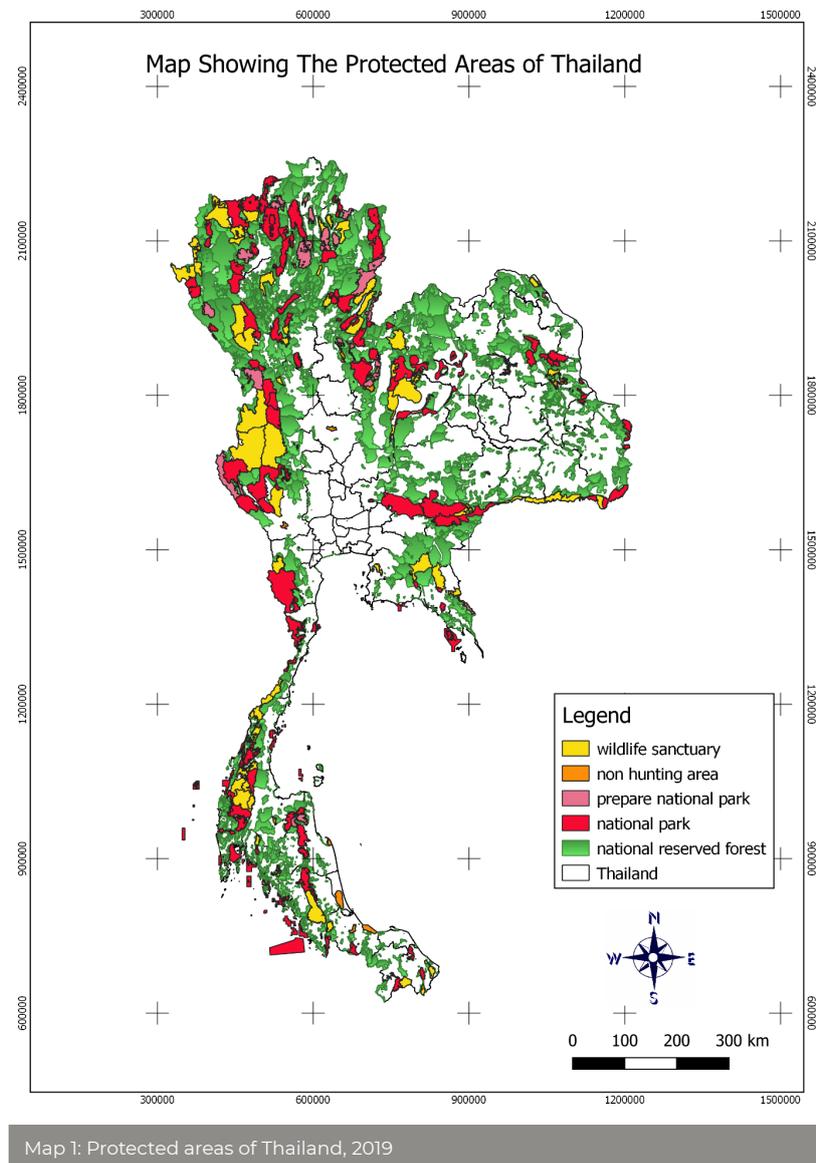
* Chaoley is a generic name for Moken, Moklan and Urak-rawoy people living in the south of Thailand.

† Ten groups are sometimes mentioned, with the Palaung also included in some official documents. The Department of Social Development and Welfare’s 2002 Directory of Ethnic Communities in 20 northern and western provinces also includes the Mlabri and Padong.

from the forests where they have been living for a long time, such as the eviction of Karen people in Kaeng Krachan forest complex, Phetchaburi province, by national park officers. This area was enlisted as a new World Natural Heritage site on July 26, 2021.

Also, there have been more cases of human rights violations associated with the Thai government's conservation policies and programs which will be further elaborated in the subsequent sections. Such problems and conflict over natural resource management and use between the state and communities have increased over the years and remain a challenge.

Types of Conservation Areas



The Kingdom of Thailand started to take control of natural resource management particularly forests in the late 19th century during the reign of King Rama V (1853 - 1910). The power of local rulers was taken over by the central government in Bangkok, such as the power to grant logging concessions to European timber companies and to collect taxes from concessionaires. This was undertaken through the establishment of the Royal Forestry Department (RFD) in 1896 upon the advice of Mr. H. Slade who was later appointed and served as the first general director of the RFD from 1896 -1923. The main task of the RFD at that time therefore, was overseeing logging concessions rather than conservation.

From the 1960s onwards, state policy shifted more on conservation applying western concepts and laws as tools to take control and management of natural resources. Various forestry laws were enacted such as the Forestry Law in 1941, National Park Act in 1961, National Reserved Forest Act in 1964, Wildlife Sanctuary Act in 1992, Forest Park Act in 1992, etc.

As a result, large tracts of land were declared protected areas and national forest reserves without demarcating community lands out of the conservation areas. Some of the protected areas' boundaries therefore overlapped with Indigenous Peoples' traditional lands and territories causing subsequent conflict over lands and resources management.

The total area of Thailand is 514 000 km² (320 700 000 rai*) comprising of 511 770 km² of land and 2 230 km² of water. Like many other developing countries, it has gone through rapid economic development marked by accelerated depletion of natural resources and degradation of the environment. By year 2000, forest cover was about 172 111 km² or about 33.14 percent of total country area compared to the 1961 forest cover estimated to be 273 628.50 km² or 53.33 percent of the total area of the country.¹

Conservation areas with a total area of 338 493.91 km² are classified into different categories namely: national forest reserves, national park, wildlife sanctuary, non-hunting area, forest park, botanical garden, and arboretum. The largest of protected areas are national forest reserves with an area of 230 280.65 km² (see details in the table below). A large number of protected areas are found in the north of Thailand where majority of highland Indigenous Peoples live.

Categories of Protected Areas	Unit	Areas (Km ²)	Areas (Rai)
Areas of Thailand (Boundary)	-	514 000	320 700 000
National Forest Reserves	1 221	230 280.65	143 925 406.25
National Park	133	63 532.49	39 707 805.00
Wildlife Sanctuary	60	37 377.12	23 360 697.25
Non-Hunting Area	75	6 070.48	3 794 047.95
Forest Park	91	1 143.06	714 410.22
Botanical Garden	18	49.44	30 900.00
Arboretum	53	40.67	25 417.00
Total	1 651	338 493.91	211 558 683.67

2019 Statistical data of the protected areas in Thailand, Department of National Parks, Wildlife and Plant Conservation.

* One hectare is equivalent to 6.3 rai.

Indigenous Peoples in conservation areas

Indigenous Peoples dwell in all four sub-regions of Thailand. Each group has distinctive identities, languages, ways of living, and vital roles in the management of natural resources and environment. Their lifeways and practices have persisted with continuous oral transmission from one generation to the next. Sources of information in terms of evidence-based written scripts are limited, as most of Indigenous Peoples more or less communicate only through verbal memory and without written records. Hence, handing-over and transferring of knowledge and wisdom are done mostly through traditional practices and spoken languages only.

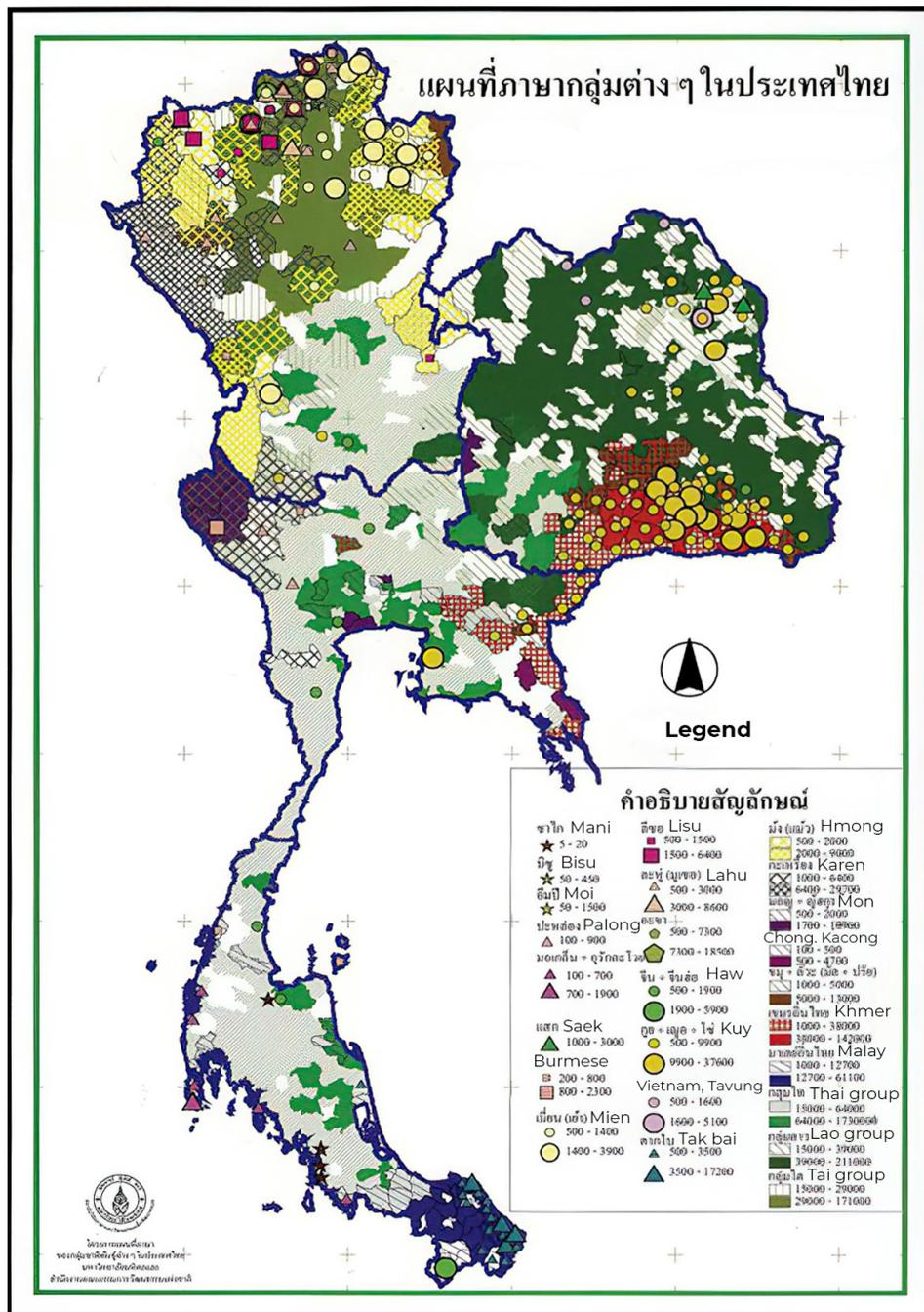
There are more than sixty ethnic groups and races in Thailand of which thirty-six of them self-identify as Indigenous Peoples, they are classified into five main groups ethno-linguistically:

1. Tai (24 groups): Kaleung, Yuan, Tai Dam, Nyaw, Tai Khun, Central Thai, Thai Korat, Thai Takbai, Thai Loei, Tai Lu, Tai Ya, Tai Yai, Southern Thai, Phu Thai, Phuan, Yong, Yoy, Lao Khrang, Lao Ngaew, Lao Ti, Lao Wiang, Lao Lom, Lao Isan, Saek.
2. Austroasiatic (22 groups): Kasong, Kuy, Khmu, Thailand Khmer, Chong, Sa-oc, Mani, Samre, So Thavuang, So, Nyah Kur, Nyeu, Bru, Plang, Paluang, Mon, Mal-Pray, Mlabri, Lamet, Lavua, Wa and Vietnamese.
3. Sino-Tibetan (11 groups): Guong, Karen, Jingpaw, Chinese, Yunnanese Chinese, Bisu, Burmese, Lahu, Lisu, Akha, Mpi.
4. Austronesian (3 groups): Malay, Uruklawoi, Moken/Moklen.
5. Hmong-Mien (2 groups): Hmong and Mien.

If categorized according to settlement, Indigenous Peoples can be grouped into:

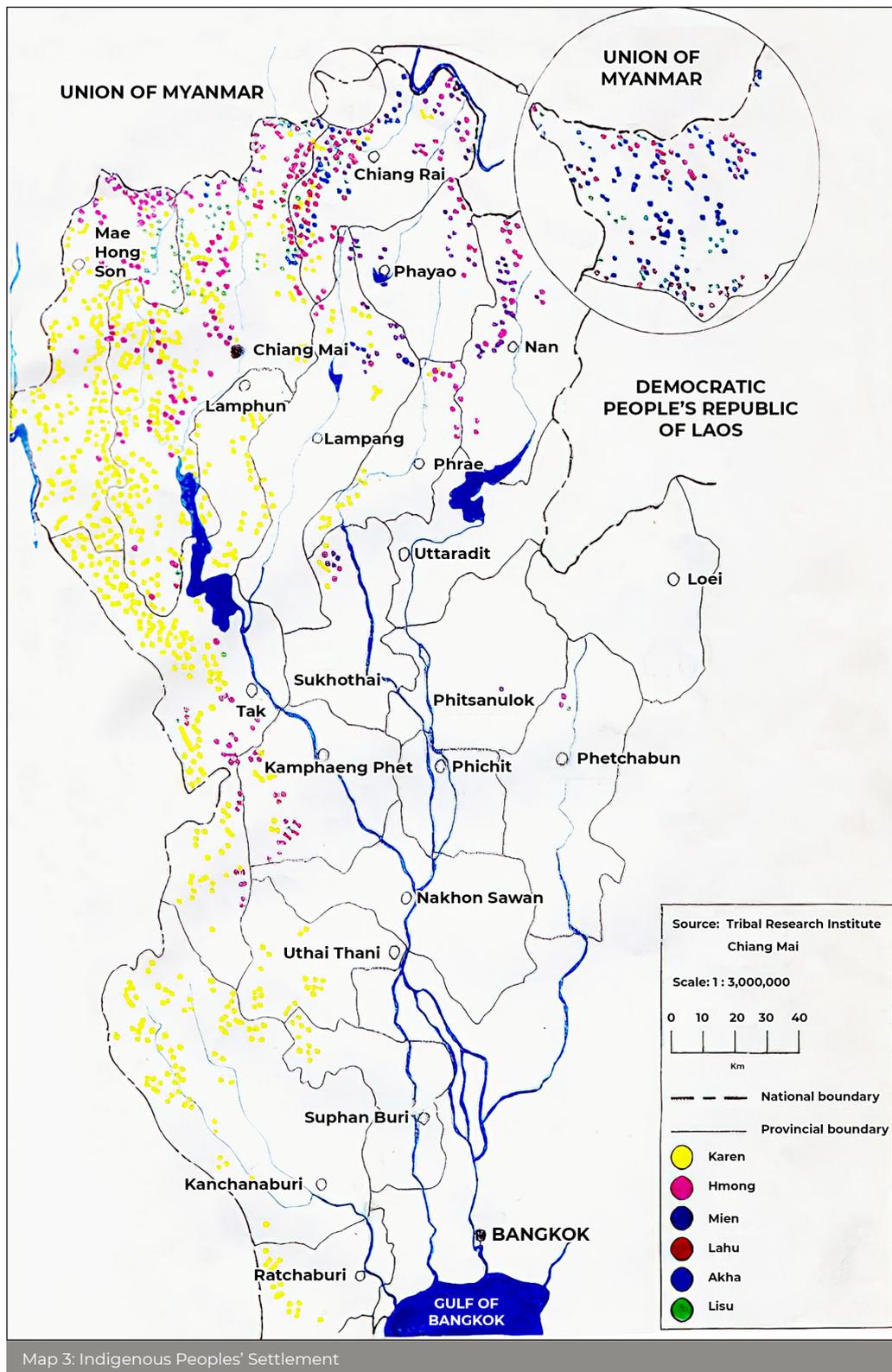
1. The 13 ethnic groups residing in highland areas: Karen, Hmong, Mien, Lisu, Lahu, Akha, Lua, Htin, Khmu, Yunnanese Chinese, Tong Su, Kachin and Palong or Dara Ang;

2. The 38 ethnic groups residing in the lowlands: Mon, Tai Lu, Tai Song Dam (Black Tai), Tai Khoen, Tai Yong, Tai Ya, Tai Yuan, Phu Tai, Lao Khang, Lao Ngaew, Lao Ka, Lao Ti, Lao Wiang, Saek, Khmer, Prang, Bru (Soa), Hsong, So, Tavuang, Mpi, Khong, Kula, Sa-oc, Kuy. Nyah Kur, Hoaw, Yhoi, Khmer, Htin Tia, Vietnamese, Cher, Bisu, Chong, Kachong, Malay, Kaloeng and Lao Song (Tai Dam);
3. The three ethnic groups residing on costal and marine-based areas or “Chao Lay (Sea Gypsies)”: Moken, Moklen and Uruklawoi;
4. The two ethnic groups residing or relying on the forest: Mlabri and Mani.

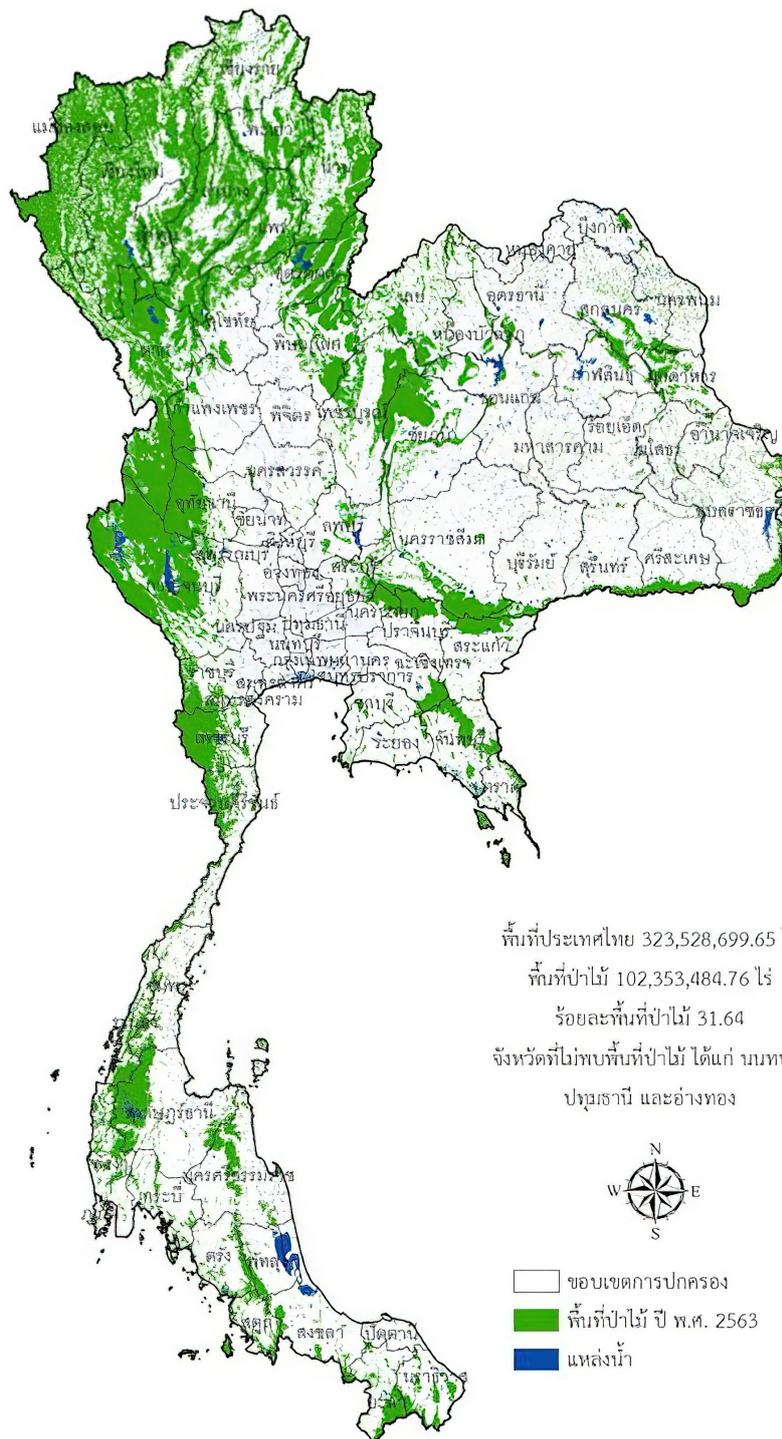


Map 2: Ethno-linguistic Groups in Thailand. (Source: Office of the National Culture Committee, 2004)

If the Map of Protected Areas in Thailand (see Map 1) is overlaid with the Map of Ethno-linguistic Groups (see Map 2), it will indicate that within the protected areas (65.96 percent of all areas of Thailand), indigenous communities are dispersedly located in the forest areas. The map below is a comparison of indigenous settlement areas and the remaining forest cover of Thailand.



แผนที่สภาพพื้นที่ป่าไม้ของประเทศไทย ปี พ.ศ. 2563



Map 4: Forest Cover in Thailand, 2020

The Map of Forest Cover (see Map 4) indicates that the remaining forest covers in the country are found in Indigenous Peoples' settlement areas. The 2019 survey by the Department of National Parks, Wildlife and Plant Conservation (DNP) found that there are 3,906 communities living in three types of protected areas namely, national parks, wildlife sanctuaries, and non-hunting areas.² Of these, approximately 2,000 communities are indigenous.

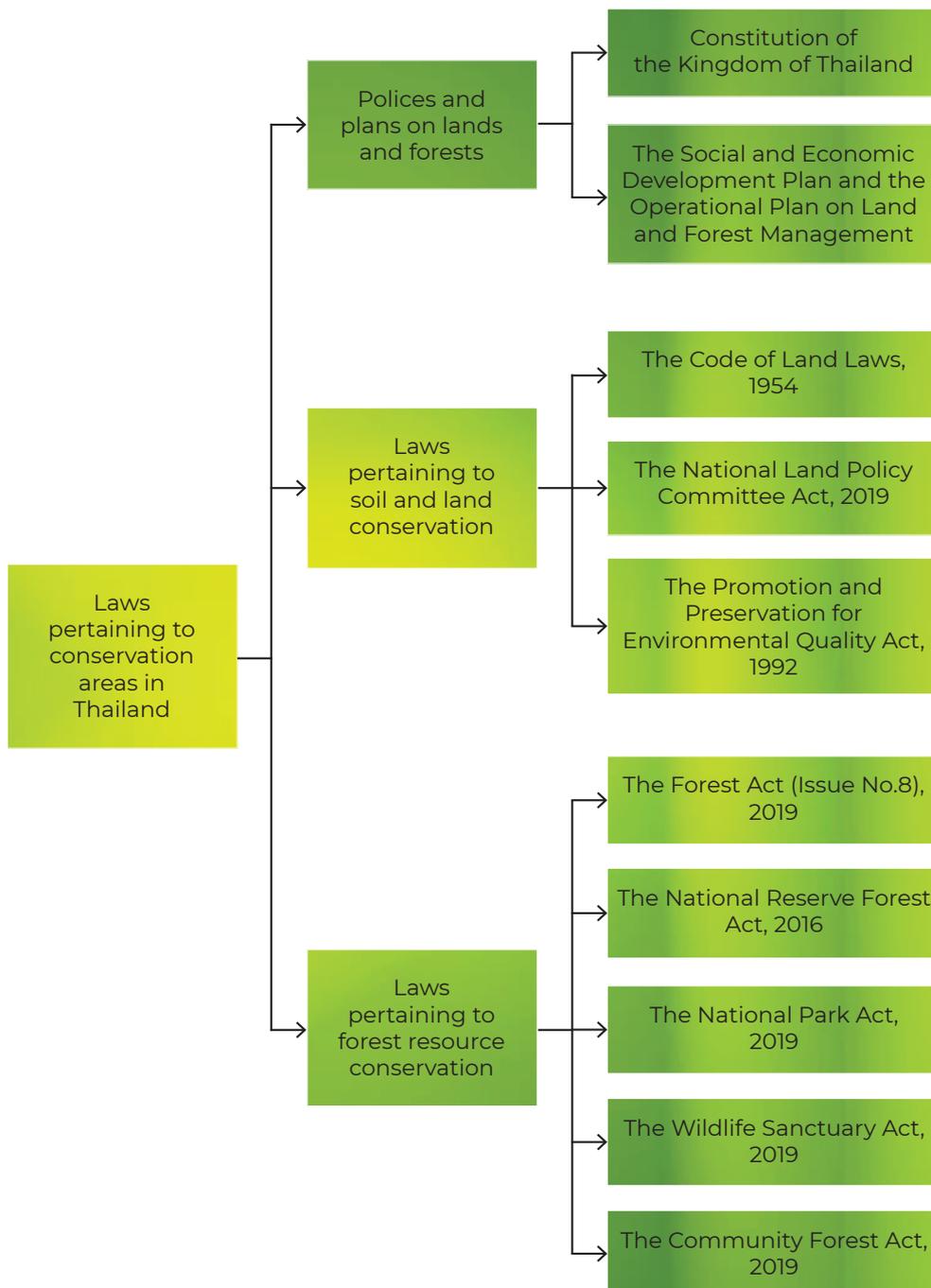
These indigenous communities do not have secure land rights nor access to natural resources, though they have been there for hundreds of years. This has resulted in an increase of human rights violation cases. Statistics on legal cases arising from encroachment of protected areas between October 1, 2020 – June 30, 2021 shows that there are altogether 1 244 cases.³ These include:

Type of cases	Number of cases
Encroachment of forest areas	305
Forest fire	139
Logging and collecting NTFP	495
Wildlife poaching	395
Total	1 244

On 30 June 1998, the Thai government passed a Cabinet Resolution to resolve land conflicts in protected areas. From the Indigenous Peoples' point of view, the criterion used for implementation was not suitable for resolving the problem because only satellite imagery was used as evidence for land claims. Moreover, there was no clear definition of the term 'ecosystem sensitive area' which may cause problems for a community in said area as this will be strictly used for conservation where settlement or farming are not allowed.

Laws and policies relating to conservation areas affecting Indigenous Peoples

The chart below illustrates alignment of laws and policies pertaining to the management of lands and conservation areas in Thailand.



At the top, the constitution of Thailand and the Social and Economic Development Plan and the Operational Plan on Land and Forest Management are the main policies and plans on lands and forest management framework. There are specific laws dealing with lands and forest resource conservation.

The laws most relevant to Indigenous Peoples are:

- National Land Policy Committee (NLPC) Law on April 12, 2019
- Community Forestry Law on May 24, 2019
- National Park Law on May 29, 2019
- Wildlife Preservation and Protection Act on May 24, 2019

In 2019, the Thai government passed several new forestry laws which spelled both positive developments as well as threats to communities. On the positive side, the government under the Ministry of Natural Resources and Environment attempted to resolve the long-standing land conflict between communities and the state in protected areas by documenting and demarcating community land use and traditional livelihood practices outside the forest areas.⁴ Further, it will also allow basic infrastructure development such as road building, installation of electricity, water supply, etc., to be legally undertaken in the communities within protected areas once the registration process is completed. This would help improve the quality of life of community members. These, however, will be carried out under certain conditions.

On the negative side, the National Park Law in particular will impose stricter penalties and further limit the rights of farmers and Indigenous Peoples. Those who are convicted of encroachment and other offences could face up to 20 years in prison and two million Baht (approx. US\$ 66 666) in fines. Moreover, the process and timeframe to document and conduct communities' land-use surveys are very challenging. The newly amended law came into effect on November 25, 2019. Park authorities have to complete the documentation of community land-use and livelihood practice surveys under articles 64 and 65 within 240 days, or 8 months. They have to officially inform communities living in protected areas about the surveys and obtain their approval to participate. However, participation of community members in this process has yet to be clarified, although the landowner normally has to be present to identify the lands. Theoretically, once the survey is completed, a community land-use map will be produced and verified before being sent to the Department of National Parks. There will be no further survey conducted after this deadline.

The main concerns relate to the limited timeframe and process used for conducting the survey. The given timeframe may not be feasible to cover all communities (around 3 973 communities) living in forest areas. Most communities are still not aware of this new law and the full, effective participation of villagers in the process remains unclear. Further, registered communities are allowed to temporarily live and use their land only up to 20 years regardless of how long they have been in existence, although there is an option for renewal if the community is not violating the agreed rules and regulations.

This shows that the state continues to centralize power over natural resources rights and ignores community customary rights. Note that the 2017 Constitution of Thailand, in Article 43, established the right of communities to “manage, maintain and utilize natural resources [...] in a balanced and sustainable manner, in accordance with the procedures as provided by law,” but without mention of ownership. The Constitution allows local communities to participate in state management of natural resources and “obtain the benefit from such undertakings” (Article 57). In short, communities only have the right to collectively manage and use state-owned lands for their livelihoods under the laws.

In addition, the conservation laws were enacted mainly to preserve natural areas for education and recreational activities, to conserve habitat in which wildlife can breed and expand in a natural setting, to protect illegal hunting and capture of animals, to be dedicated to conserving specific wildlife species, and to collect and plant native and exotic rare and economically valuable plant species. The social aspect of forests is totally lacking such as the relationship between humans and nature in terms of foods, medicine, shelter and spirituality which many Indigenous Peoples and forest dependent people have long been inter-dependent with.

Incidents of criminalization and rights infringement against Indigenous Peoples



The Karen community of Bangkloy village in Kaeng Krachan forest commemorates the 2014 disappearance of the Karen Indigenous activist, Porlajee 'Billy' Rakchoengcharon in January 2020. The murder case against the park rangers who are the alleged perpetrators was dropped in 2020. (Photo by Phnom Thano – IMN)

The Royal Thai Government (RTG) has principally undertaken natural resources management over the lands and arable areas through means and ways of conservation. Since 1985, the RTG has reclaimed more than 40 percent of the country's forest areas through the National Forest Policy. Government authorities, in collaboration with the Ministry of Natural Resources and Environment, exercise utmost powers to strictly control and supervise acts of encroachment in all types of conservation areas, and defend provisions stipulated in various laws by arresting and litigating wrongdoers. These somehow threaten and cause rights infringement to Indigenous Peoples dwelling in the conserved areas. A case in point are the Karen people living in Kaengkrachan Forest Complex, Phetchaburi province in the north of Thailand. Below are a few human rights violation cases resulting from the state conservation policy.



Homes of Indigenous Karen communities in Kaeng Krachan Forest Complex were set on fire during an eviction.

Kaeng Krachan Forest Complex

The Kaeng Krachan Forest Complex (KKFC) includes the four forest conservation areas: Kaeng Krachan National Park, Kui Buri National Park, Chaloem Phrakiat Thai Prachan National Park, and Mae Nam Phachi Wildlife Sanctuary. The complex covers a total of 482 225 hectares. They are all located in the Tanesserim mountain range in west Thailand which meanders through the north-south direction bordering Thailand and Myanmar.

The Karen communities had settled and have been living in the KKFC areas for centuries. Their principal and satellite villages are dispersedly located in three provinces namely, Ratchaburi; Petchaburi; and Prachubkirkhan. The Karen Indigenous People have been practicing environmentally friendly and sustainable ways such as hunting and gathering and rotational farming (shifting cultivation). There are twenty villages of Karen Indigenous Peoples living inside and around the KKFC, and three principal villages and six satellite villages located within the conserved forest areas (see Table No. 1).

Table No. 1: Villages and households living inside KKFC

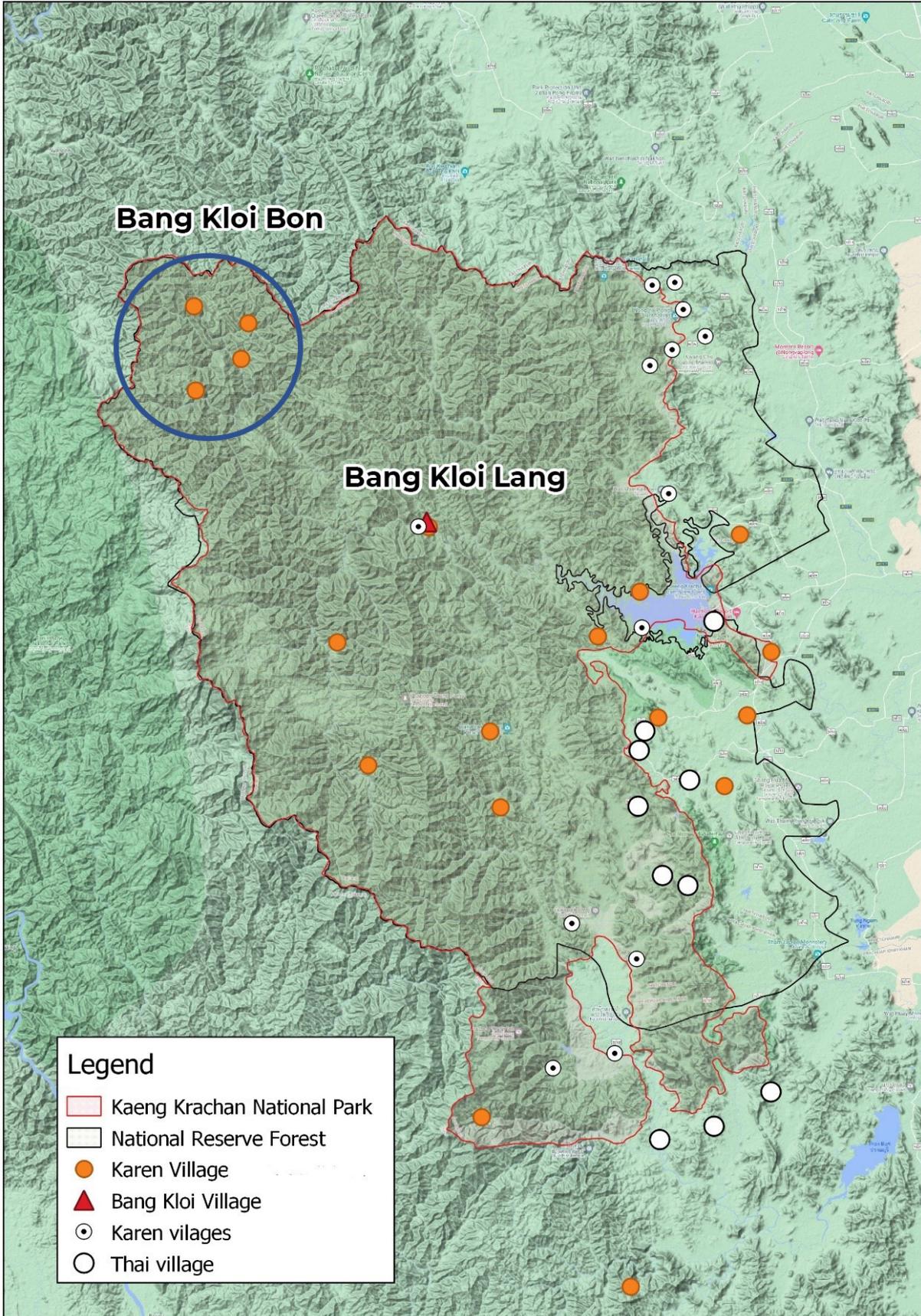
Villages located in conserved forest areas		Status	Karen Households		Principal village's name
			Total Households	Households Surveyed	
1	Nhong Ta Dang-Pu Ra Kham	Satellite village	572	27	Huay Nam Nak
2	Bang Kloy	Principal village	154	54	Bang Kloy
3	Pong Luek	Principal village	113	0	Pong Luek
4	Bang Kah Mah	Satellite village	314	25	Pong Kra Thing
5	Mae Kah Moei	Satellite village	272	13	Tah Salao
6	Salika	Satellite village	143	20	Huay Salika
7	Pakayor	Satellite village	433	82	Pah Deng Tai
8	Pah La-u Noi	Satellite village	305	81	Pah La-u
9	Pah Mak	Principal village	231	96	Pah Mak
			2 537	398	

* Source : Demographic information recorded and provided by the Bureau of Registration Administration, Ministry of Interior of Thailand, as of 31st December 2017.

Table No. 2: Villages and households settlement around KKFC

Villages located in conserved forest areas		Status	Karen Households		Principal village's name
			Total Households	Households Surveyed	
1	Pah La-u	Principal village	305	25	
2	Pah Deng	Principal village	242	2	
3	Pah Deng Tai	Principal village	433	40	
4	Lin Chang	Principal village	110	57	
5	Huay Sat Yai	Principal village	169	3	
6	Huay Kasem	Principal village	283	15	
7	Puplu	Satellite village	-	6	Lin Chang
8	Tah Salao	Principal village	272	2	
9	Huay Haeng	Satellite village	328	81	Fah Prathan
10	Konom Pattana	Principal village	188	2	
11	Wang Ko	Satellite village	572	25	Huay Nam Nak
			2 902	258	

* Source: Demographic information recorded and provided by the Bureau of Registration Administration, Ministry of Interior of Thailand, as of 31st December 2017.



Map 5: Location of Baan Bang Kloi Bon – original community and Baan Bang Kloi Lang – newly settled community of Karen communities in the KKFC

The first dispute at KKFC occurred in 1995-1996 when several Karen Indigenous Peoples were forcibly relocated to new settlement areas: Baan Pah Mak, Baan Prak Ta Kror and Baan Pah Deng. There was no allocation and management of new plots of land and arable areas. The Karen villagers who were originally settled in those areas had to share their plots of lands and arable areas to all newcomers. In Baan Bang Kloi, all 57 households (391 villagers) were provided lands and arable areas of 5-15 rai (1.97-5.92 acre) each, but no basic infrastructure was provided. In 2009, some villagers decided to move back to their original communities in Baan Jai Pan Din and Baan Bang Kloi Bon. The head and officers of KKFC National Park with military officers operated the Tanintaryi action plan from 2010-2011 to move all villagers from Baan Bang Kloi Bon. The villagers were forcibly relocated while 98 houses were demolished, and properties, rice bans and belongings were burned. There was no clear and systematic plan about allocation of land and arable areas.

Although the RTG adopted Cabinet Resolution dated August 3, 2010⁵ on the policy and operational guidance on the Karen's livelihood revitalization, nothing was implemented yet in the KKFC. The Baan Bang Kloi community, with support from Billy (Mr. Porlajee Rakchongcharoen) and the allies (i.e., Lawyers' Council, human rights organizations, etc.), had heightened their struggle and negotiation for justice from the KKFC authority and the RTG. Then Billy went missing in 2014 and in 2019, five years after his disappearance, the Department of Special Investigation (DSI) found his burned body in an oil container submerged in the reservoir site near the suspension crossing bridge of the KKFC.

On January 14, 2021, villagers from 28 households of Baan Bang Kloi Lang trekked back to cultivate rice fields on their previously occupied farmlands in Baan Bang Kloi Bon.⁶ On March 5, 2021, involuntary relocation and arrests happened again when affected villagers decided to go back to their homeland to farm to sustain their families. When the KKFC authorities were informed, they called various forces such as the military, police, and local administration authorities to control the villagers and move them out from the areas. The Court of Petchaburi province was asked to issue warrants of arrest to 30 Karen villagers with charges of "encroachment, construction, clearance, seizure, possession and other acts of degrading or changing of areas from their original nature in the KKFC without permissions granted," in accordance with Section 19 of the National Park Act, 2019. All the 85 Karen villagers including women, children and men (65 men and 20 women), were detained under the custody of the Kaeng Krachan National Park officers. In this group, 22 persons with warrants of arrest were imprisoned in the central prison of Petchaburi province.

Timeline of recent updates on the case

MARCH 2021

MARCH 7-16, 2021

Villagers from Baan Bang Kloi assembled and joined a gathering with the #SAVEBangKloi partners at Chamai Maruchet bridge near the Government House. A number of negotiations were made with the Members of Parliament and concerned government agencies, and came up with mutually accepted solutions: (i) to suspend the arrest and legal proceedings against all villagers; and (ii) to issue the Order to set up the Land and Arable Areas Dispute Resettlement Committee. This was signed by Prime Minister General Prayuth Chan-ocha with the entrustment of Captain Thammanat Prompao, the Deputy Minister of Agriculture and Cooperatives as Chairperson.

MARCH 24, 2021

All 28 villagers from Baan Bang Kloi received notifications from inquiry officials to present and report themselves at the police station of Kaeng Krachan district. The court of Petchaburi province acknowledged additional accusations made under the Forest Act, B.E. 2484, and the National Forest Act, B.E. 2507.

MARCH 26, 2021

Seven villagers with warrants of arrest (who could not report with the first group of 22 persons) reported to police officers at the police station of Kaeng Krachan district. The Court of Petchaburi province granted an order for temporary release from imprisonment under a condition that: "all alleged persons are prohibited to go back to use and exploit lands and areas where they were arrested and areas in the KKFC without permission granted."

MARCH 7, 2021

All 22 villagers were temporarily released from prison under the condition that: "all persons are prohibited to go back to use and exploit lands and areas where they were arrested and areas in the KKFC without permission granted." This was to prevent the degradation and damages made to the environment and surroundings during the legal proceedings. The headman of village no.1 (Baan Bang Kloi), Huay Mae Prieng sub-district, Kaeng Krachan district, Petchaburi province, is appointed to supervise the 22 persons to strictly act in accordance with conditions made by the Court.

MARCH 25, 2021

The first meeting of the Land and Arable Areas Dispute Resettlement Committee, presided over by Captain Thammanat Prompao, acceded and adopted the resolution to set up five sub-committees: (i) sub-committee on the study of community settlement history and impact of setting-up of national park with community relocation; (ii) sub-committee on legal problem solutions; (iii) sub-committee on legal aids and lawsuits; (iv) sub-committee on the study of operational guidance with impacts to ecosystem, wildlife and ecological services provided, in the case of relocation to the Baan Bang Kloi Bon; and (v) sub-committee on land, arable and residential areas dispute resettlement and livelihood development of Baan Bang Kloi Hlang.

MARCH 28, 2021

The inquiry officials notified and informed all 28 villagers to go see them for court case proceedings with presentation to the public attorney. The next court appearance has yet to be determined.

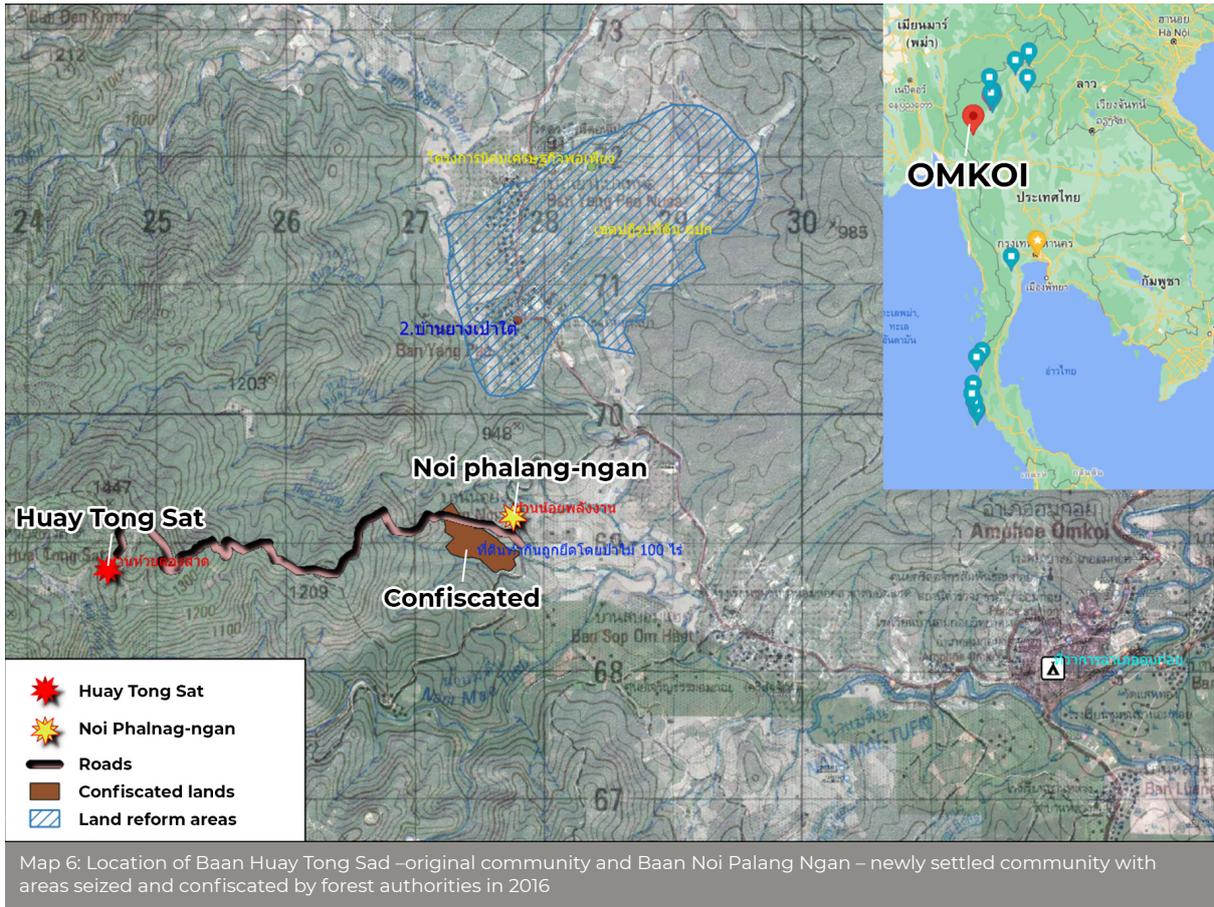


Members of Indigenous Karen community in Om Koi National Forest Reserve submitted a complaint to the House of Representatives and the Sub-committee on the Study and Solution for Human Rights Violation and Public Offence on July 12, 2020. (Photo: Phnom Thano)

Om Koi National Forest Reserve

Omkoï National Forest Reserve covering 226 378 hectares was declared on December 24, 1975. It is located in the north-west of Chiang Mai province and includes three sub-districts, namely Omkoi, Yang Piang and Mae Tuen. There are 128 communities in this national forest reserve which is the traditional homeland of the Karen Indigenous Peoples.

From 2004 – 2006, forest authorities discussed and negotiated with villagers in Baan Huay Tong Sat for them to relocate to the plots of land allotted under the Sufficient Economy Settlement project, supported and supervised by the Agricultural Land Reform Office (ALRO). The Prime Minister at that time, Thaksin Shinawatra, presided over the opening ceremony of the project, on August 14, 2006. But once it was implemented, the project did not allocate enough land to accommodate all the families who participated in the project. Some of them then decided to move back to their previous dwelling and arable lands, while some decided to settle down with their families and relatives in plots of land used for rotational farming in Baan Hyang Pao Tai. This gradually became a cluster of Baan Noi Palang Ngan. In June 2006, forest authorities confiscated the arable areas and accused the villagers of encroaching parts of the Om Koi national forest



measuring 100 rai (39.53 acre) and making this a reforestation project. With the villagers unable to access their forest, they faced starvation.

The figure on next page is a chronology of incidents involving 17 Karen families (46 persons) in Baan Noi Palang Ngan, with 100 rai (39.53 acres) seized and confiscated by forest authorities:

2018-2021

JANUARY 12, 2018

The villagers in Baan Noi Palang Ngan were informed about forest authorities' search and seizure of 100 rai (39.53 acre) of land. A group of forest officers together with the military, police and government officers visited, surveyed and prepared the seizure of lands.

JUNE 26, 2018

A group of officers carried out their operations and put up signposts in areas which prevented 13 households from approaching and using their lands.

JULY 2018

Pibul Tuwamonthon, Chair of Om Koi conservation network, visited the areas to gather information and thereafter lodged a complaint to the National Human Rights Commission of Thailand (NHRCT).

SEPTEMBER 14, 2018

The Forest Management Office No.1 which is the forest protection and conservation unit, Chiang Mai 23 or 37 (Hyang Pao) joined by the Om Koi national forest rehabilitation unit No. 2, the commanding center for security solution in Om Koi, the ranger troop No.3606, the Om Koi police station, the Om Koi sub-district administrative organization, governing officers and heads of sub-districts, together with people residing nearby participated in a meeting on how to deal with the issue of confiscated land in Baan Mhang Poi, Baan Hyang Pao, and Baan Thung Cham Roeng. The meeting proposed to reforest the said confiscated areas for public utilization.

JULY 10-12, 2019

The IPF and the Council of Indigenous Peoples in Thailand (NIPT) presented a case of Baan Noi Palang Ngan to all platforms relating to the rights of Indigenous Peoples and ethnic groups. These included the sub-committee on the study and solution for human rights violation and public offences, the House of Representatives and CSOs. In addition, IPF also accommodated the parties for a site visit with presentation and handing over of a complaint to representatives of the sub-committee.

DECEMBER 11, 2019

The Office of the NHRCT released the final report concluding that the operations undertaken by the Royal Forest Department with the Forest Management Office, No.1, in Chiang Mai province and all participating authorities, were carried out in accordance with laws and regulations stipulated and with criteria and operational guidance. These also proved that there were appropriate solutions made and responded to rights protection of people and community for the management, maintenance and exploitation of natural resources, environment, and biodiversity with balance and sustainability, in accordance with Constitution of the Kingdom of Thailand, B.E. 2560, Section 43(2). The NHRCT opined that this seemed contradictory with the allegations of commission or omission of duties that caused human rights violations. Thus it deemed expedient to terminate the consideration of the case.

JULY-DECEMBER 2019

The Indigenous Peoples' Foundation for Education and Environment (IPF) conducted site visits with survey and gathering of information on rights infringement from villagers of Baan Noi Palang Ngan. The 17 families (46 persons) consented to release information and evidence collected from the search and seizure done by forest authorities, and testify about land demarcation. By then, there were at least 18 children who had stopped their schooling because their parents could not afford the expenses.

DECEMBER 2020-JANUARY 2021

The IPF conducted site visits with survey and data collection from villagers in Baan Noi Palang Ngan during the COVID-19 pandemic. They witnessed that all villagers struggled with hunger, and there was no income generation activity due to the blockage and periodic and specific lockdown of areas and markets. The villagers urged for emergency assistance with allocation of lands and arable areas, so they can earn a living.

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