

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

www.lrwc.org; lrwc@portal.ca; Tel: +1 604 738 0338; Fax: +1 604 736 1175

3220 West 13th Avenue, Vancouver, B.C. CANADA V6K 2V5

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Ms. Yingluck Shinawatra,
Prime Minister
Office of the Prime Minister
Government House, Pitsanulok Road
Dusit, Bangkok, 10399 Thailand
Fax: +66 2 280 0858, Webmaster@opm.go.th

Mr. Jarupong Ruangsuan
Minister of Interior
Office of the Ministry of Interior
Atsadang Road, Ratchabophit Pranakorn
Bangkok 10200, THAILAND
Fax: +66 2 226 4371/ 222 8866, om@moi.go.th

Mr. Pracha Promnok
Minister of Justice
Office of the Ministry of Justice
Ministry of Justice Building
22nd Floor Software Park Building, Chaeng Wattana Road, Pakkred
Nonthaburi 11120, THAILAND
Fax: +662 502 6699/ 6734 / 6884, om@moj.go.th

Dear Prime Minister and Ministers,

RE: Allegation of Enforced Disappearance of Mr. Porlagee Rakcharoen (also known as Billy Rakchongcharoen), a human rights defender

I am writing on behalf of Lawyers' Rights Watch Canada (LRWC), a committee of Canadian lawyers that provides support for human rights defenders in danger and promotes enforcement of international human rights standards and the rule of law.

LRWC is alarmed about the disappearance of Mr. Porlagee Rakcharoen, age approximately 30, on 17 April 2014 after being reportedly arrested in Kaengkrachan National Park in Petchaburi province and released. His current whereabouts are unknown, and he is believed to be a victim of enforced disappearance. On 18 April 2014, the Kaengkrachan National Park Office Park Chief, Mr. Chaiwat Limlikitaksor, reportedly advised local activists that Mr. Porlagee had been detained at a checkpoint on the afternoon of 17 April 2014 and was released after being questioned about alleged unlawful possession of a wild bee honeycomb and six bottles of honey. Mr. Porlagee has not been seen since. This gives rise to grave concerns about his safety.

Re: Thailand: Allegation of Enforced Disappearance of Mr. Porlagee Rakcharoen, human rights defender

At the time of his disappearance, Mr. Porlagee was travelling from his mountain village in Kaengkrachan district, Petchaburi province, to meet with ethnic Karen villagers and activists to prepare for a court hearing in a lawsuit filed by the villagers against the National Park Wildlife and Plant Conservation Department, the Ministry of Natural Resources and Environment and the Kaengkrachan National Park Park Chief, Mr. Chaiwat. The law suit alleges that in July 2011, the authorities destroyed and burned houses and property of more than 20 Karen families who had been residing in Bangkloybon villages in the National Park. Mr. Porlagee was also planning to collect signatures for a royal petition concerning Mr. Chaiwat's alleged abuse of power. At the time of his disappearance, he was carrying files relating to the law suit.

Attempts to contact Mr. Porlagee by villagers, local activists and family members have been unsuccessful, and on 19 April, Mr. Porlagee's family filed a complaint with the local police regarding his disappearance.

It was reported on 23 April 2014 that police had questioned Mr. Chaiwat Limlikitsorn, after which Mr. Chaiwat told news reporters that he believed Mr. Porlagee to be "still alive and still in the national park area." A search of the area by 200 police and military personnel has not uncovered the whereabouts of Mr. Porlagee. It is reported that Parks officials and the Kaeng Krachan Police have been investigating the matter. On 26 April 2014 it was reported that the Chairperson of the National Human Rights Commission asked the National Police Chief General Adul Saengsingkaew to order an investigation into Mr. Porlagee's disappearance as soon as possible.

In January 2012, Mr. Chaiwat was charged with organizing the 10 September 2011 murder of another activist from Mr. Porlagee's network, Mr. Tatkamol Ob-om, after Mr. Takamol had assisted Karen villagers to report allegations of violence, illegal logging and poaching committed by park officials. However, Mr. Chaiwat has not been suspended from duty as the Kaeng Krachan National Park Chief, as required under disciplinary regulations regarding officials under criminal investigation.

Under these circumstances, LRWC is gravely concerned about the safety of Porlagee Rakcharoen and about continued failure by appropriate authorities to act quickly and effectively to determine his whereabouts.

Immediate and effective action by state authorities is required to:

- locate and secure the safe release of Porlagee Rakcharoen;
- conduct a thorough, impartial and prompt investigation;
- ensure appropriate civil and criminal remedies;
- provide protection to other human rights and environmental activists and advocates, their families and their staff.

Thailand has a legal duty to prevent and punish enforced disappearance as part of its obligation to ensure life and liberty and other rights. These duties arise from many international instruments including the *Universal Declaration of Human Rights* (UDHR) and the *International Covenant on Civil and Political Rights* (ICCPR). Thailand became a member of the United Nations on 16 December 1946 and acceded to the ICCPR on 29 Oct 1996.

Thailand also signed the *Convention for the Protection of All Persons from Enforced Disappearance* on 9 January 2012. While Thailand has not yet ratified this Convention, it is expected to respect its provisions. We also remind your government of the *Declaration to Protect all People from Enforced Disappearances*, A/RES/47/133, 18 1992 of the UN General Assembly confirmed that States have a positive duty to prevent and punish enforced disappearance as part of their obligations under the

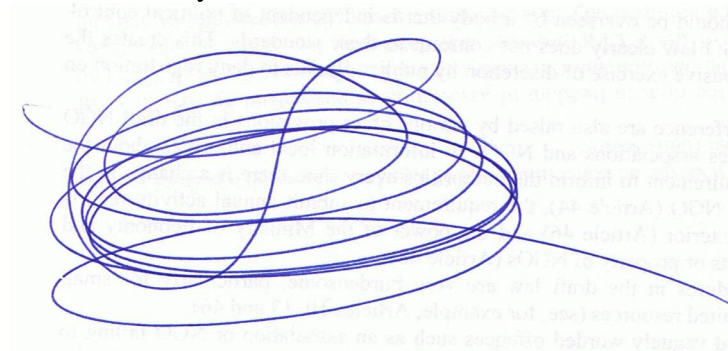
ICCPR and UDHR to ensure rights to liberty and security, freedom from torture and equal protection of the law. The Declaration also confirms that: “No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.”

Failure to act quickly and effectively in these circumstances may itself constitute a violation of the ICCPR.¹ Accordingly, LRWC calls on the Government of Thailand to act immediately to locate and secure the release of Porlagee Rakcharoen.

LRWC has previously drawn to your attention the pattern of impunity in Thailand fostered by the failure to investigate and punish serious crimes against community activists and other human rights defenders. More than 20 human rights defenders have been murdered or disappeared with impunity for the perpetrators over the past two decades. In addition, there are dozens of other reported enforced disappearances. We urge Thailand to investigate, prosecute and redress harm caused by these past violations. We urge Thailand to prevent future such occurrences by enforcing the law and international human rights obligations, and by ratifying the *Convention for the Protection of All Persons from Enforced Disappearance* at the earliest possible opportunity.

We look forward to your response.

Yours sincerely,



Gail Davidson
Executive Director
Lawyers Rights Watch Canada

cc. Dr. Amara Pongsapitch
Chairperson
National Human Rights Commission of Thailand
120 Chaengwattana Road, Laksi District,
Bangkok 10210, THAILAND
Email: interhr@nhrc.or.th

¹ The UN Human Rights Committee stated “There may be circumstances in which a failure to ensure Covenant rights as required by Article 2 would give rise to violations by States Parties of those rights, as a result of *States Parties' permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities*” (emphasis added). Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 8.

- cc. Mr. Attapol Yaisawang
Attorney General
Office of the Attorney General,
Lukmuang Building, Nahuppei Road, Prabaromrachawang, Pranakorn
Bangkok 10200, THAILAND
Fax: +662 224 0162 / 1448 / 221 0858, E-mail : ag@ago.go.th; oag@ago.go.th
- cc Police General Adul Saengsingkaew
Commissioner-General
Royal Thai Police
1st Building, 7th Floor
Rama 1 Road, Pathum Wan Bangkok, 10330, THAILAND
Fax: 66 2 2518702, Email: feedback@police.go.th
- cc. H.E. Mr. Udomphol Ninnad
Ambassador of the Kingdom of Thailand
Royal Thai Embassy, Ottawa, Canada
180 Island Park Drive
Ottawa, Ontario K1Y 0A2
Fax : 613-722-6624, Email contact@thaiembassy.ca
- cc. Mr. Abhisit Vejjajiva
Leader of the Democrat Party
67 Sedsiri Rd. Samsannai Phayathai
Bangkok 10400, THAILAND Fax: +66-2-2796086 E-mail : public@democrat.or.th
- cc. Mr. Jeremy Sarkin
Chairperson-Rapporteur,
Working Group on Enforced or Involuntary Disappearances
c/o OHCHR-UNOG CH-1211
Geneva 10 Switzerland
Fax: +41-22 917 9006 Email: wgeid@ohchr.org
- cc. Mr. Michel Forst
Special Rapporteur on the Situation of Human Rights Defenders
c/o Office of the High Commissioner for Human Rights – Palais Wilson
United Nations Office at Geneva
CH 1211 Geneva 10, Switzerland
Email: defenders@ohchr.org
- cc Mr. Philip Calvert
Ambassador of Canada to Thailand
15th Floor, Abdulrahim Place
P.O. Box 2090
Bangkok 10501, Thailand
Email: Phil.Calvert@international.gc.ca