

Our Response to the Thai Government's Rebuttal to the Letter of Allegation

May 18, 2011
To the Special Rapporteur

Dear Professor James Anaya:

In the document below I have pasted a number of documents in order to bring our correspondence together in one place for you to easily review and in order to understand our response to the Thai Government rebuttal to the Letter of Allegation in the Akha land case.

Our second concern is the removal of Akha children by American and other missionaries under the guise that they are in one form of danger or another or orphans, separating them from their families, villages, language and culture. The number of children removed is in the thousands, and in numerous cases these children are not being protected adequately from sexual abuse at these residential schools in Thailand. While the process is very profitable for the missionaries involved and allows them to gather large quantities of donations, the parents are not aware of the money that is being made off their children, which in most cases is adequate to care for the entire family in the village context. Donors do not know this side of the story either. The long term damage to Akha villages is significant with tradition villages shrinking from 70% of the Akha villages to 30% at this current time by best estimates coming from the Akha community. The loss of traditional knowledge and the decrease in transmission to the children is significant.

We ask for your urgent assistance in addressing these two issues.

Brief Summary:

Here is the Thailand response to the Letter of Allegation. In the text below you will also find the original allegations. We have made comments on the Thai response in *italics*. The Thai Government has outright denied most of the facts of the case. It is also worthwhile to note that the Thai Government does not consider any indigenous people to be living in Thailand.

All Docs:

http://ap.ohchr.org/documents/dpage_s.aspx?c=133&su=136

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/150/81/PDF/G0815081.pdf?OpenElement>

Observations

463. The Special Rapporteur thanks the Government of Thailand for its prompt initial response and looks forward to receiving additional information from the Government once that is available.

464. Allegation letter concerning the Akha indigenous peoples living in the Hooh Yoh, Pah Nmm and Pai ah Pai villages

465. On 8 October 2007, the Special Rapporteur, together with the Special Rapporteur on the right to food, brought to the attention of the Government information received concerning the situation of the alleged seizure of the ancestral lands of the Akha indigenous people living in the Hooh Yoh, Pah Nmm and Pai ah Pai villages, in the Chiangrai Province.

466. According to the information received, Hooh Yoh is made up of five villages, all traditionally inhabited by the Akha indigenous people: Hooh Yoh Pah Soh (upper), Middle Hooh Yoh, Hooh Yoh proper, Akha and Lahu, located in the Haen Taek area of Ampur Mae Fah Luang, Chiangrai Province. The Hooh Yoh village, which has been occupied by the Akha for generations, used to be the home of more than 1,500 people until their lands allegedly started to be seized in 2003 as a result of the Highland Development Station project.

467. According to the official information, the Highland Development Station was conceived in 2002 as a Royal Project of the Queen of Thailand, in cooperation with the Department of Agriculture, the National Park, Wildlife and Plant Conservation Department, the Department of Land Development, the Royal Irrigation Department and the Department of Agriculture

Extension. The objective of the station was to serve as a “center of knowledge on agriculture for the hill tribe people,” allowing these people to “absorb the knowledge and develop proper occupational skills, as well as an understanding of the need to conserve the natural resources”. According to information supplied by the Royal Commission for Hill Tribes Communities, the project reportedly affects areas that had been “cleared and abandoned at Doi Bae Lae, Baan Khun Om Had Nok, Moo 5, Sob Kong Subdistrict, Om Koi District, Chiang Mai Province.”

A/HRC/9/9/Add.1

Page 85

The land certainly had not been abandoned and the first evidence that there was a project afoot was the fact that the Thai Army built a helicopter pad in fields which had just been hand tilled for the planting of rice.

468. According to the reports that were received, since the implementation of the project started in 2003, the establishment of the Highland Development Station has involved the forceful seizure of a total 8,500 rai (1,600 hectares) of the traditional lands of the Hooh Yoh village. The seizure of the land allegedly led to the massive dispossession of the Akha community members, leaving them with a few land plots around the village, and to the loss of their traditional livelihoods. The implementation of the project has further involved the destruction of standing crops on which Hooh Yoh villagers relied for their subsistence economies. All these actions were reportedly carried out by Thai army and forestry armed police. Hooh Yoh Akha villagers were not reportedly consulted before the establishment of the project in their traditional lands, nor did they consent to it, and it is reported that they have not yet been compensated for their loss.

The farm land at Hooh Yoh included all the land of a valley that extended upward towards the ridge. Three villages were on the lower left side of the valley and two villages were on the lower right ridge of the valley. Each village had a section of the valley that they either had terraced for rice or on which they did hillside dry farming of rice, corn, ginger and other crops. The terraces require a huge labor investment. Both hillside land and terraces were seized at the beginning of the planting season. As the seizure was spread and enforced over a years time in 2003 and into 2004 the Akha continued to try and protect some of their land by going to farm it. Villagers were chased off their land and the Royal Project brought in a number of dogs which were kept in cages at a project camp above the three villages. We have video testimony from villagers about this. Further, there was also a sixth village on the left side of the valley, closer to the very top, a very popular destination of trekkers who traveled the ridge around this section of Thailand visiting hill tribe villages. The village benefited with cultural exchanges as well as income from these visits to their beautiful location. A documentary for RAI TV Italy named “Where the Wind Blows” which we worked on documents the tragedy of this village when it was forcibly relocated to the lowlands by the Thai Forestry. Villagers in the remaining villages took over the lands, and some of the original Hooh Yoh Lisu village members moved into the lower three villages and did their best to protect these farm lands. That effort got very difficult after 2003 including the fact that the Royal Project began rerouting water that the villagers used in one way or another to the blueprint the Royal Project had. Vast regions of the valley were slightly terraced and made into a farm for the project. During this time 8 villagers were rounded up at random during a lunch break from their fields and arrested, taken to a jail at Ampur Mae Faluang, which we also have photographic documentation of as we were there when the event took place. As means of intimidation, each farmer was fined several years pay for farming on land the Army had allocated to them, for “damaging the environment”. These arrests and charges were done in order to intimidate the rest of the villagers into compliance. The 8 villagers asked for legal assistance but were held for 30 days in small cells before being given “court documents and charges” and being released. There were four men and four women. Two of the women were 8 months pregnant and had their babies within one or two days of being released. The villagers all had to borrow large sums of money to pay part of the “fine” before they were released. We also have copies of these documents. We have also filed this case with the Human Rights Commission of Thailand.

469. The seizure of the Hooh Yoh village land has allegedly contributed to deteriorating the socio-economic situation of the Akha community, including their food security. According to the information received, as a single alternative for their lost livelihoods, local villagers have been offered employment by the project in order to perform agricultural work in the lands they previously possessed, in exchange for salaries that fail to meet the national minimum wage. The information available also indicates that, as a result of the seizure of the traditional land, many

young Akha women have been compelled to work as prostitutes in order to support their families and replace income loss.

Villagers stated that many young women and men had to leave the village looking for work, either in construction or in other jobs for the women described as "unfavorable". After the bulk of the Akha land was seized, the Akha were offered as their only choice to be able to work for the project. But the project did not have work for everyone every day and rather than being able to plant an entire crop for their year's rice supply and a surplus for sale for their income, the Akha were paid a couple dollars a day which could not buy the same quantity of food that they had when they worked food crops for themselves. The vegetable crops that the project grew were in fact for other markets, not for the villagers.

470. The seizure of the land of the Hooh Yoh village was reportedly accompanied by widespread harassment of local Akha villagers by members of the military and forestry personnel involved in the Highland Development Station project. Villagers were reportedly threatened with arrest if they continued to work their lands. In November 2003, several forestry trucks came to Hooh Yoh with armed forestry officials who arrested eight villagers, including pregnant women, working in or near their fields. The villagers were taken at Ampur Mae Fah Luang police station, and were requested to pay a fine of 100,000 baht (\$2,500). In March 2004 two foreign volunteers were reportedly arrested by the military and later released without charges. Similarly, in April 2004, a foreign advocate was jailed for nine days with no formal charges before being deported from the country.

See section 468 for a description on this arrest of these 8 villagers.

471. According to the reports, since the land seizure started occurring in 2003, other Akha villages' land has been seized as the project has been increasingly expanding in the same area. In particular, the reports document the seizure of lands and water resources belonging to the villages of Pah Nmm Akha or Pai a Pai, across from the Hooh Yoh Akha valley, as well as the destruction of standing tea crops. Concern was also expressed that the situation of landlessness and dispossession currently faced by the Hooh Yoh village may spread to other neighbouring Akha communities.

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/155/29/PDF/G0815529.pdf?OpenElement>

**UNITED
NATIONS**

A

General Assembly

Distr.

GENERAL

A/HRC/9/9/Add.1/Corr.1

10 September 2008

ENGLISH ONLY

HUMAN RIGHTS COUNCIL

Ninth session

Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
INCLUDING THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on the situation of human rights and
fundamental freedoms of indigenous people, S. James Anaya**

Addendum

Summary of cases transmitted to Governments and replies received

Corrigendum

Paragraph 472

For the existing text *substitute* the following, renumbering subsequent paragraphs accordingly

Response of the Government

GE.08-15529

472. In a letter dated 11 April 2008, the Royal Thai Government responded to the allegations regarding the seizure of ancestral lands of the Akha indigenous people living in the Hooch Yoh villages in Chiangrai Province, Thailand. The Government stated that it categorically denies all the allegations contained in the 8 October 2007 letter. It noted that it attaches great importance to community rights and participation of local people in the management of natural resources and environment. The Government stated that it has consistently pursued effective measures and activities to develop the highland areas and upgrade the living conditions of all highlanders, including through projects to ensure that highlanders possess sufficient lands and by promoting natural resource development and conservation. The Government stated that it has not received any complaints whatsoever from the Akha communities.

In fact we can go to the Akha villages of Doi Tung if we want to see what a previous Royal Project was able to produce for the Akha on land that had once been farmed by them for their own enterprise. The project at Doi Tung, while it is a major tourist destination and has a Royal Palace, in fact only generates labor wages for the Akha and other hill tribes while the profit from projects they work for go to the Royal Project, not the villages. The villagers have no say in these projects but the Royal Project repeatedly portrays itself as a saviour of these people, while villagers state that they get daily wages for buying rice that can not buy the quantity of food that they were able to produce when they they farmed the land independently. Many Akha have been displaced form their traditional farming as a result and forced to look for jobs in the lowlands. How do villagers possess sufficient lands if large quantities of the lands they once had were taken away from them?

A/HRC/9/9/Add.1/Corr.1

page 2

473. The Royal Thai Government stated that it does not recognize the existence of indigenous peoples in Thailand. It maintains that the Hill Tribes peoples in Thailand are migrants to the country, who by nature and historical background are not indigenous to the country. **The Government noted that, since there are no indigenous peoples in Thailand,** it is under no obligation to make clarifications pertaining to indigenous issues, but since the allegations presented, according to the Government, defame and tarnish the reputation and noble image of the royally-sponsored Project, which has been recognized worldwide as a model for sustainable alternative development and community empowerment, the Government considered it necessary to respond.

There is a very long history of hill people living in this region, and the limited number of Thais in the region was often at remote mountain top temples. Until the building of roads in the late 1980's and 1990's there was not a population of Thai people living in this region, the only people were hill tribe, some Shan from Myanmar and some Chinese immigrants. The hill tribe people are the indigenous people to this region for more than 100 years, few records go back before that time.

474. With respect to the information concerning the alleged forceful seizure of a total of 8500 rai (1600 hectares) of the traditional lands of the Hooch Yoh village leading to the alleged massive dispossession of land of the Akha community members, as well as the allegation that Hooch Yoh Akha villagers were not consulted before the establishment of the project in their traditional lands, the Government categorically denied the veracity of all of these allegations. The Government stated that the land “traditionally owned and occupied by the Akha communities” is situated within an area designated as National Reserved Forest. According to Thailand’s National Reserve Forest Act, BE 2501 (1964), no person shall occupy, possess, exploit and inhabit the land unless they are granted official permission. On 30 June 1998, the Cabinet issued a resolution on land utilization in the national forest reserve that allows local people who have long inhabited the reserved area to continue living on the land. The

Government noted that further encroachment on nearby reserved areas is strictly prohibited.

These forestry laws passed from the central location of Bangkok are heavily disputed and challenged all over Thailand by both hill tribe peoples and Thai farmers. While Bangkok may have passed a law that identified the land as national Reserved Forest the hill tribe in fact already lived on vast areas of this land. Further, the destruction of forests and replacement with commercial pine contradicts the Government's own position. In the meanwhile many low land Thai agricultural projects that place a heavy demand on land, scarce water resources and which require polluting use of chemicals such as herbicide and pesticides have seen no restrictions in their rapid expansion in this area under observations of "development". The question becomes who gets to live there and who gets to "exploit" the resources, rather than whether or not it will happen.

475. The Government stated that on 14 January 2003, it authorized the royally-sponsored Highland Research and Development Institute to use a certain part of the land within the national forest reserve to launch the Highland Development Station project. It noted that, at this time, few Akha households were located within the project area. Prior to the establishment of the project in 2003, the Akha people had used the forest lands for farming. In so doing, they were engaged in unsustainable practices, such as forest encroachment, crop rotation and slash and burn farming, all of which posed a threat to the natural environment. The Government noted that the communities' engagement in opium poppy cultivation has also led to serious problems related to drug trafficking.

The hilltribe of these six villages and the neighboring village of Hooh Mah Akha had clearly demarked forest land and farm land. The central valley was farmed, the mountains and forest around it were not. The resource demands of these villages was finite. The villagers could only farm so much land, and could only travel so far to do so. The Royal Project demanded that more be extracted from these lands, that villagers be shoved off the valley land they farmed, increasing the pressure on the surrounding land. Little to no opium has been grown in this region for at least a decade. The valley is easily accessible by ridge roads and trails and easy to inspect. But in fact, methamphetamine use in the villages has grown substantially as conditions in the villages have become more stressful and depressing. Repeated "forced detox" and imprisonment programs on the part of the Thai police and army have not stopped the wave of meth addiction in villages or in Thai towns faced with similar collapsing economies. Imprisonment of villagers has naturally increased. Apply a stress, arrest the villager for the results.

476. The Government mentioned that the Highland Research and Development Institute's Project was initiated for the following reasons: (1) to provide training to local Akha people so that they may gain knowledge of various agricultural techniques and apply them in their own lands;

The Akha are excellent farmers and farmed a wide variety of crops on these lands with extensive labor investment from terraces to orchards. These crops were favorable to their needs and served solely as a means of income for the villagers doing the work. They did not request that the Royal Project come to their village or take their land. They did not volunteer to give up their traditional farming.

(2) to increase the living standards of the local Akha people by providing assistance on agricultural and vocational training, education healthcare services, basic infrastructure, and alternative employment opportunities;

The villagers were in fact fully employed and had substantial agricultural holdings. A good crop of corn or ginger could raise substantial cash. The village already had a nearby clinic and a concrete road and electricity and a school. Yes, the Royal Project did "encourage" alternative employment opportunities as the loss of land caused a loss of income that the villagers had to replace. One of the replacements for this lost income was villagers going to Chiangrai or Chiangmai to sell trinkets to tourists, having to live on the streets with their children. This reality continues at both Hooh Yoh village cluster and Pah Nmm village cluster to this day. Villagers range as far as Bangkok and the south of Thailand to try and replace their income lost with the loss of their land to the Royal Project. While at Pah Nmm the Royal Project staff has said it may return some of the land, this has in fact not happened yet.

(3) to raise local Akha people's awareness of environmental conservation and to restore and conserve national reserved forests;

As mentioned, the establishment of the project for the increased export of goods increased the pressures on the land in the local region. Villagers stated they had to put together "secret" plots here and there.

(4) to tackle the problem of drugs; and

The problem of drugs has grown, not reduced.

(5) to strengthen local communities through self-sufficient and sustainable development while preserving their cultures and traditional livelihoods.

The local community was sustainable, did practice sustainable agriculture that had already been going on for over a hundred years and was certainly self-sufficient. Their culture and livelihood has been threatened by the invasion of the Royal Project without their consent and the seizure of their lands preventing the villagers from farming their lands.

477. The Government stressed that prior to the establishment of the Project, the Thai authorities concerned had consulted widely with the community leaders and villages living

A/HRC/9/9/Add.1/Corr.1

page 3

within and outside the Project area, and explained the Project to them, in particular the goal of the project to introduce sustainable land use in the reserved area.

Villagers stated clearly that they were placed under fear and intimidation. The Army would gather some sort of party and the villagers would provide food services and this was portrayed as the villagers giving some kind of consent, though the event was set up by the Army and the villagers had no choice in the matter nor say in the removal of their lands. The villagers protested loudly about the seizure of their lands, the intimidations, the arrests and their lost farming year as the situation developed. While the Royal Project told the village head man what was going to be done, neither he nor the villagers had any chance to refuse the project. The headman was brought under considerable pressure when the villagers asked for outside help in protecting the land. He was put in a very difficult position.

478. The Government stated that, while there was some misunderstanding about the Project at the beginning, after a series of consultations, the Akha communities began to have full understanding of the objectives of the Projects and its benefits. On 20 August 2005 an "Agreement on the Allocation and Demarcation of Agricultural Areas" was signed between the Chief of the Highland Development Station, forestry officials, military officers and 55 local Akha. The agreement stated that the villages would stop encroaching and using unsustainable practices within the demarcated areas. The Highland Research and Development Institute agreed that it would not undertake any actions that would have an adverse impact on the interests of the village.

But in fact the land was not returned, the full amount of land, the plantings, the displaced crops, and the Royal Project Buildings remained as it had been.

479. The Government emphasized that there was no forceful seizure of lands or any massive dispossession of the Hooch Yoh villagers by the Project. Instead, a proper demarcation of traditional lands for the purpose of sustainable land use was carried out, with the consolidation of scattered individual holdings into an agricultural zone.

The entire valley was farmed by these villages. The only area not farmed was the surround forest areas. There was nothing "scattered" about the Akha land holdings. Under land tenure the Akha knew exactly where their fields were

and where one family's fields ended another families' fields started. Satellite photography compared with photographs taken at the time of the land seizure will clearly identify the size and scale of the land confiscations and redevelopment to suit the purposes of the Royal Project at both Hooh Yoh and Pah Nmm.

480. The Government stated that, at the time the letter was written, the local Akha people were still living on their lands and engaging in agricultural work in the zone area. Hooh Yoh villagers possess an average of 2 hectares of lands per household, which is consistent with an average plot of arable land owned by hill tribes in Thailand. The Government stated that they are also learning to appreciate and enjoy the benefits from the Project, which has raised their well being, particularly through increased crop productivity and discouraging them from being involved in narcotic drugs and promoting environmental conservation.

Villager holdings were much larger than this and a plot of this size might represent how much they planted in just one crop such as rice or corn or ginger. Reduction in farm land has not reduced the use of drugs in the villages. The use of methamphetamine has significantly increased since the land seizures.

481. Regarding the allegation that the villagers have not been compensated for their loss, and have been offered employment by the project in order to perform agricultural work in the lands that they previously possessed, in exchange for salaries that fail to meet the minimum wage, the Government stated, because of the tremendous success of royally sponsored projects and the belief of the villagers that these initiatives would benefit them, some villagers willingly offered their lands to the Project and were compensated by new plots totally 150 acres. Some donated parts of the land which they had previously occupied and became local employees of the Project in exchange for salaries at a rate higher than other agricultural workers in the area.

Current Akha wages on the Royal Project still do not reflect the national minimum. In many cases only women are called to work, and on many days there is not enough work for even all of the women. Usually only one family member is called, leaving numerous family members with no work at all. Replacing the seized land which was already cleared would require that the Akha clear other forest and natural areas. So rather than protecting the land, the Royal Project increased the stress on the land by increasing the area that was used by both villagers and the Royal Project as compared to when the Royal Project had not yet arrived in the region. In no case did we document where any villager had ever donated their land to the Royal Project though the Royal Project staff has claimed this for years.

482. With respect to the allegation that the Project led to the loss of the Akha's traditional livelihoods, and that the implementation of the Project has further involved the destruction of standing crops on which Hooh You villagers relied for subsistence economies, the Government stated that this information was inaccurate. On the contrary, under the Project, crop yields have increased and the quality of life of the Akra has improved. The Government stated that the Akha people have been encouraged to participate in various activities under the Project such as agricultural, fishery, livestock and forestry so that they could apply these skills to their land use. The Project also assisted with the supplying of seedlings, fish for fish farming, and cattle and pigs for their farms, so the villagers do not have to rely on standing crops. With their increased income, the Akha have started to build new houses and a school and nursery in the Hooh Yoh village has been set up.

The Akha depend primarily on vegetables and rice crops for their food. They already had water buffalo, pigs, chickens, ducks and cattle or goats for their protein needs as it suited them. But the bulk of their investment was in farm land that they rotated in these valleys. In the case of Pah Nmm, they had already been relocated once from the Thai side of the ridge along the border, and had to walk two hours to get to their fields. After coping with this huge drain on human energy of the village for more than a decade, the Royal Project that set up at Pah Nmm then went in and seized tea crops, rice, corn and ginger root lands equaling 85% of all village holdings. Drug use in Pah Nmm increased. The number of villagers who had to go to foreign countries to work increased. In many cases they lost out when the economy fell and they ended up back in the village in heavy debt for their air tickets and "job fees".

page 4

483. Regarding the allegation that as a result of the seizure of the traditional lands, many young Akha women have been compelled to work as prostitutes to support their families, the Government stated that the Akha actually now have more income, and that no women have been compelled to work as prostitutes. On the contrary, the Project has implemented activities specifically geared towards women, including handicraft marketing. The Government stressed that this has helped empower women and helped them to be more self-reliant.

Both the project at Hooh Yoh and Pah Nmm predominantly produce product and money for the project. The Akha who are underpaid, must see the bulk of the product they work to produce go to someone else. The math of the Royal Project and the Thai government that they have increased the income of the Akha by taking their land away and simultaneously making a profit for the Royal Project is hard to support.

484. With respect to the allegation that the seizure of the land of the Hooh Yoh village was reportedly accompanied by widespread harassment of local Akha villagers by members of the military and forestry personnel involved in the Highland Development Station project; villagers were threatened with arrest if they continued to work their lands; in November 2003, several forestry trucks came to Hooh Yoh with armed forestry officials who arrested eight villagers, including pregnant women, working in or near their fields; and that the villagers were taken at Ampur Mae Fah Luang police station, and were requested to pay a fine of 100,000 baht (\$2,500), the Government clarified that in May 2003, 8 villagers were charged with encroaching, slashing and burning, and exploiting the forest reserve by forestry officials. Following examination of the case by the Chiangrai Provincial Court, each villager was found guilty and charged and sentenced with 6 months imprisonment and a fine of 5,000 baht (\$125), sentence suspended for 2 years. The Government stated that, first; the forestry officials were acting under their duties and not harassing the villagers. Second, the Project gives the right to villagers to work within demarcated lands, and the Project is applying an approach of consultation, not threats. Third, not forestry trucks or armed officials have ever come to Hooh Yoh village to arrest the villagers. Finally, the villagers were not charged a fine of 100,000 baht (\$2,500), which would be considered an unreasonable fine to charge to poor Akha villagers.

In our possession we have both photographs of the arrests, as well as copies of documents that the Akha were given in court that itemize the size of the fines which are in excess of \$4,000 US dollars. The villagers who were arrested spoke how they had to borrow large quantities of money, approximately \$2,000 dollars, just to get out of jail.

485. Regarding the allegations that in March 2004 two foreign volunteers were reportedly arrested by the military and later released without charges, and in April 2004, a foreign advocate was jailed for nine days with no formal charges before being deported from the country, the Government clarified that two female tourists, one of Australian nationality, and one of Canadian nationality, visited Hooh Yoh village, and were caught trying to remove flags marking the boundary of the Project. After review, it was determined that there were misunderstandings, and that they had no intention of destroying the boundary. The Government stressed that the tourists were not threatened in any way, nor were they under a state of arrest.

The Canadian and Australian detailed that they had been arrested trying to protect Akha land at Hooh Yoh. The "Flags" were in fact sticks which had a purple piece of cloth tied to them, the initial attempts of soldiers in small huts trying to enforce the first parts of the land seizure. The two women were removed from Hooh Yoh by Thai soldiers assigned to the project and taken to Haen Taek in a blue truck, where the Jailer refused to accept them. They were then taken to Ampur Mae Faluang where the Jailer also refused to accept them. The soldiers then took the two women many kilometers away to the town of Maesai where the Jailer refused to accept them, so at that point the soldiers dumped the women out beside the road on the edge of town and left them to fend for themselves to get back to their camp in the village.

With respect to the second case, the Government noted that the foreign advocate in question, an American, was deported from Thailand on 24 April 2004 for engaging in a pattern of aggressive and offensive behaviour

that the Government deemed to pose a danger to public safety and national security pursuant to the 1979 Immigration Act. In its letter, the Government detailed the actions of the foreign advocate in question that related to her deportation from Thailand and stressed that Akha leaders have repeatedly disassociated themselves from the alleged advocate in question.

In fact, we only acted to assist the Akha of Hooh Yoh upon direct and specific request of the Akha villagers of Hooh Yoh who came to our residence at Pah Nmm Akha and requested that assistance, despite the fact that we had known of the Royal Project beginning to seize the land in May of 2003. We informed the villagers of that fact at that time but were not asked to assist and did not. It was not until Oct. or Nov. of 2003 that villagers became increasingly distressed at the extent of what they saw unfolding and came to Pah Nmm Akha to ask for help to protect their land from being taken. It has always been our policy as volunteers and as an organization (The Akha Heritage Foundation US 501-c Non Profit) to ONLY supply assistance or aid of any kind to Akha villagers upon direct request of headmen or villagers. We will not work under any other conditions. In the case of Hooh Yoh we were requested to help and held extensive meetings in the village consulting with the villagers about what was occurring and what could be done about it. The villagers offered one hut for volunteers to increase an observant presence in the village for documentation. Aggressive behaviour could be described as coming to a village as often as the villagers requested it in response to actions by military or police that the villagers found threatening. In 2003 scores of Akha villagers were murdered under the title of "drug war" in northern Thailand and we have photographic documentation of these killings. We consider THAT aggressive and dangerous behaviour, our only behaviour was to protect the safety of villagers and ensure they had due process. We never attempted to interfere with a scheduled arrest, only that the prisoner was not abused, was housed in a jail where his family had access and was not tortured or otherwise abused. On numerous occasions we assisted Akha with their cases in court. Due to the fact that there are more than 300 large and small Akha villages in Thailand, there were a large number of calls for assistance including first aid help, and we had to travel extensively at all hours of day and night in any weather conditions. In some cases such as the case of the 8 villagers arrested, we were called by phone and arrived as the case was still in progress. In some cases we were asked to move bodies of villagers who had been killed or document the bodies of villagers who had been killed in what appeared to be extra-judicial killings. We worked to educate the Akha as to what their rights were and connect the documentation to the outside world via the internet so that more people would know the suffering that was inflicted widely and severely on the Akha people.

The Akha people clearly stated as late as January of 2011 in face to face meetings that they were under significant government pressure to deny publically at meetings that they wanted any outside help on these two land cases. They stated that while the advocacy had already helped slow the further seizure of lands, at meetings they were told to denounce the assistance and when prompted they were all obligated to raise their hands and say they did not want any such help. Meanwhile by email and other communications the Akha continue to say privately that they want their land back, that they want to control the income that comes off of it and that they are extensively impoverished by the actions of the Royal Project, Forestry, Police and Army. The villagers also say that they receive threats not to allow any foreigners with an interest in the case to stay in their homes or document what is going on by written, photographic or video methods. The Ampur's Office at Ampur Mae Faluang has also repeatedly threatened the villagers regarding communicating any of these problems to outside people.

486. With respect to the question of the Special Rapporteurs regarding the measures that have been taken to ensure that the affected communities are consulted and provide their free and informed consent to any development projects affecting their traditional lands, the Government stated that it is now implementing its 10th National Economic and Social Development Plan, which attaches great importance to community rights and participation regarding land initiatives. It noted that zoning and land management initiatives must be carried out through agreement with

A/HRC/9/9/Add.1/Corr.1

page 5

the local people. It further noted that part 12 of the Thailand's 2007 Constitution recognizes the rights of traditional local communities to preserve their customs and local community culture.

Accepted international opinions clearly indicate that traditional local peoples also have a right to their traditional lands. These rights in both the case of Hooh Yoh and Pah Nmm were violated. The land of Pah Nmm Akha was confiscated after my deportation from Thailand and occurred in 2004 and 2005.

487. Any project that might affect the quality of life of a community is not permitted, unless the affected communities have been consulted. A community has a right to sue a government agency, local government organization or other State authority if a project may seriously affect the quality of the environment or natural resources of people in a community.

Pray tell, how would the Akha people “sue” the Thai Government?

488. The Government clarified that no complaints have been lodged by Akra communities with Thai officials, at the local or national level.

Akha villagers have repeatedly stated that they can not risk the charge of “Les Majeste” by verbally speaking about the Royal Project and their disapproval to it. A charge of “Les Majeste” brings automati arrest and can place a person in prison for more than ten years. Since the Royal Project was used by the Army and Forestry to seize these lands, there is not way that the Akha can be vocal in expressing the truth about what happened to their land holdings and their livelihoods as a result of these detrimental projects.

489. With respect to question of the Special Rapporteurs regard what measures the relevant authorities intend to take to prevent the re-occurrence of similar events as the project expands, the Government stated that this question assumes that the Project has been at fault and is factually misleading. The Government invited the Special Rapporteurs to comment on measures that could be taken to cope with such misinformation so that such allegations will not reoccur in the future.

We ask that the Special Rapporteur speak with the Akha themselves in secure and confidential meetings about the realities of these land seizures and that he document the scale of the land seizures and the revelant impact such a large seizure would have on any small population.

Observations

490. The Special Rapporteur thanks the Government of Thailand for the detailed response it provided to the 8 October 2007 letter, and he takes this response into consideration and will continue to monitor the situation for any possible further action on his part.

We also ask that the Special Rapporteur urgently investigate the removal of Akha children by missionaries and the catastrophic damage that this is doing to the identity and transmission of traditional knowledge of the Akha people.

Sincerely,
 Matthew McDaniel
 The Akha Heritage Foundation
 May 18, 2011

- - - - -

PROCEDURES SPECIALES ASSUMÉES PAR
LE CONSEIL DES DROITS DE L'HOMME
Previous correspondence:

SPECIAL PROCEDURES ASSUMED BY THE
HUMAN RIGHTS COUNCIL

Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people

Téléfax: (41-22)-917 90 06
Télégrammes: UNATIONS, GENEVE
Téléx: 41 29 62
Téléphone: (41-22)-917 9313971-388-7185
Internet www.ohchr.org
E-mail: indigenous@ohchr.org

Address:
Palais des Nations
CH-1211 GENEVE 10



REFERENCE: Indigenous (2001-5)

26 January

2010

Dear Matthew McDaniel ,

Firstly allow me to thank you for the information that you have provided by e-mail dated 14 January 2010 regarding the theft of Akha rice lands by the Thai Government and the removal of Akha children by missionaries.

I and my support staff rely on the important and timely information provided to us by indigenous peoples, non-governmental organizations and other sources. Your information is crucial to the effective functioning of my mandate, assisting me greatly in my communications and consultations with United Nations Member States. I recognize that information is sometimes obtained and transmitted under difficult circumstances, and I take it, and the security of the sender, extremely seriously.

Your information will be given close and careful consideration. After an initial review of your submission, I or my support staff may request from you additional or clarifying information. Within strict rules regarding confidentiality and security, your information may be disseminated to relevant UN staff dealing with related issues or with country specific responsibility within the Office of the High Commissioner for Human Rights (OHCHR). There are a number of possibilities available regarding how your information is used and what actions may be taken based upon it.

In urgent situations requiring immediate action, communications may be sent to the State in question, for example requesting them to take appropriate action to ensure the security of individuals or communities. In situations of a less urgent nature, communications to States might raise more general concerns regarding indigenous issues, legislation and policy, or request information or response from the State regarding specific allegations.

I must stress to you however that ordinarily all communications with States undertaken by my mandate and support staff remain strictly confidential until they are reported to the Human Rights Council, and

that not all information provided results in such action. We hope you understand that it is therefore not usually possible to update you on actions resulting from your correspondence.

Other actions may also result from your information, which may include consideration of offers of assistance or technical cooperation in my capacity as Special Rapporteur to address ongoing and entrenched problems relating to indigenous issues. Rest assured that your engagement allows me to have a fuller understanding of human rights situations of indigenous peoples, and helps to enable appropriate and considered responses.

I and my support staff remain available to you in regard to all matters pertaining to the work of my mandate. I wish to thank you once again for your information, and I encourage you to continue your correspondence with my office.

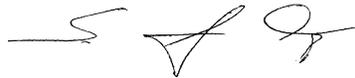
To know more about the communications procedure of the mandate of the Special Rapporteur on indigenous people, please consult the web page:

<http://www2.ohchr.org/english/issues/indigenous/rapporteur/submit.htm>

To access the communications reports of the Special Rapporteur, please consult the following web page:

<http://www2.ohchr.org/english/issues/indigenous/rapporteur/communications.htm>

Yours sincerely,



Mr. James Anaya
Special Rapporteur on the situation of the human rights
and fundamental freedoms
of indigenous people

<http://www.unhcr.org/refworld/category,COI,,,THA,4a66d9a3c,0.html>

State of the World's Minorities and Indigenous Peoples 2009 - Thailand

In January 2008 an elected parliament convened in Bangkok for the first time since the military seized power in September 2006. Yet the calm was relatively short-lived – political unrest as the year drew to a close saw a state of emergency declared in Bangkok, 16 killed and hundreds injured in Thailand's worst anti-government protests in 16 years, suspension of flights from the main airports as protesters blockaded terminal buildings and the occupation by protesters of Bangkok's main government complex. In late December opposition leader Abhisit Vejjajiva secured a coalition within parliament to become Thailand's prime minister and its fourth new leader in just three months.

The highland minorities of Thailand live in the mountainous west and north. As many as 20 different 'hill tribes', totalling 1 million people according to some estimates, live in Thailand and include, among the more numerous, the Akha, Karen, Lahu, Lisu, H'mong and Mien. The government does not recognize the existence of indigenous peoples in Thailand. It maintains that they are migrants and thousands of them continue to be denied registration for an identification card.

Non-citizen hill tribes are among the most vulnerable groups. Without proper political status, they face expulsion when their temporary stay expires. Without nationality and treated as second-class citizens, they suffer multiple discrimination, including lack of access to land and deprivation of basic human rights.

In August 2008 the UN Special Rapporteur highlighted the case of the Akha indigenous people in Chiangrai province, whose land was allegedly seized in 2003 as a result of the Highland Development Station Project. The objective of the station was purportedly to serve as a 'centre of knowledge on agriculture for the hill tribe people'. The Akha claim that the project has left them with only a few small plots around the village, and they have lost their traditional livelihoods. The land seizure was reportedly accompanied by widespread harassment of Akha villagers by members of the military and forestry personnel. Villagers say they were not consulted, nor did they consent to the project, and they have not yet been compensated for their loss. The government has so far not responded to the concerns raised by the Special Rapporteur.

The recent UNESCO Highland Peoples survey studied a sample group of 192 border villages in Chiang Mai, Chiang Rai and Mae Hong Son provinces, to determine the impact of a person's legal status (citizenship and birth registration) on access to social services, education, health care, land tenure and agricultural credit. A study of a sample group revealed that 38 per cent of highland minorities do not have Thai citizenship. Compared to highlanders with Thai citizenship, those lacking citizenship are 73 per cent less likely to enter primary school and 98 per cent less likely to progress to higher education. Similarly, highlanders who lack birth registration are 64 per cent less likely to enter lower primary school and 85 per cent less likely to enter secondary school relative to highlanders with official Thai birth registration.

Highland peoples' lower rates of participation in schooling, are also possibly linked – in addition to poorly equipped and staffed schools – to the almost complete absence of instruction in their mother tongue in state schools.

UNESCO research has also identified 'lack of citizenship' as the greatest risk factor for highland girls and women in Thailand to be trafficked, or otherwise exploited.

There are some 340,000 refugees in Thailand: around 140,000 of them in nine camps along the Thailand-Burma border and about 200,000 more elsewhere. Most are from ethnic groups such as the Karen, Karenni and Shan, fleeing the war in Burma. Some 40,000 children have been born and raised in refugee camps. Refugees have established a parallel education system in the camps with the Karen and Karenni Education Departments acting as de facto ministries of education. Schools are not accredited, which means that students leave school with a certificate that has little value outside of the camps.

Recently, the government has considered accreditation of refugee and migrant schools. This would require an alignment of the current curriculum with the official Thai curriculum. While accreditation presents an opportunity, it is also met with some resistance by some refugees who fear losing their cultural identity.

In July 2008 the *Bangkok Post* reported that 11 members of the Padaung community were abducted from the northern province of Mae Hong Son. The Padaung are refugees in Thailand who fled heavy fighting in Burma. The women, who traditionally wear brass rings around their elongated necks, have been placed in 'villages' in tourist hotspots. In return, they receive a modest monthly income. The UN High Commissioner for Refugees is calling for a tourism boycott of the area.

Ethnic H'mong from neighbouring Laos continue to suffer an uncertain future in border area refugee camps. During the Vietnam War, the H'mong fought alongside United States forces and after the war ended many fled Laos. Most entered Thailand in 2005.

Around 78,000 Lao H'mong now live in Huai Nam Khao camp. Following protests by some 5,000 inmates in June, more than 800 were forcibly repatriated. According to Human Rights Watch the whereabouts of many of the repatriated H'mong is unknown and Lao authorities restrict international aid agency access to the resettlement areas. (See also Laos.)

In the Muslim Malay majority provinces of Kala, Narathiwat, Patanni and Sohghkla in Thailand's south, the

insurgency continued unabated throughout 2008. Government statistics reveal that just over half of those killed were Muslims.

Rights groups accuse the elected government, which took office in January 2008, of leaving southern policy to the military. Reports of torture and other ill-treatment at the hands of the security forces increased significantly between mid-2007 and mid-2008. Reconciliation in the region is further complicated by a generalized inability to identify the real leaders of the insurgents. No organization is reported to have claimed responsibility for any of the attacks in the past four years.

Jan. 14, 2010

Dear Special Rapporteur James Anaya:

Once again I would like to congratulate you on your appointment to Special Rapporteur on the Rights and Fundamental Freedoms of Indigenous Peoples.

I contacted your office as we passed through Phoenix on our Horseback "Ride for Freedom" across America to the UN for Akha human rights. The Akha are a hill tribe people in SE Asia, Thailand, Laos, Myanmar, China and Vietnam.

Background:

Michu Uaiyue and our five children are Akha from Chiangrai Province in Thailand. We have been working to protect Akha human rights in Thailand since 1991.

Overview:

Our two foremost concerns are the theft of Akha rice lands by the Thai Government and the removal of Akha children by missionaries, who identify the children as orphans in order to raise money from donors for these children in order to support their own lifestyles and religious agenda. These Akha children, numbering in the thousands, are removed from their Akha families, denied their language and culture and placed in RESIDENTIAL schools in a situation similar to what was done to the Native America people.

Queen of Thailand Confiscates Akha Lands:

In 2003 Queen Sirikit of Thailand seized thousands of acres of land belonging to the people of Hooh Yoh Akha. The Akha of Hooh Yoh requested my assistance in fighting this land seizure. Six months later in April of 2004 I was deported for publicizing the actions of the Queen on Akha.org . I returned to the US and went directly to the UN both in New York and Geneva.

In Sept. of 2007 Special Rapporteur Stavenhagen along with the Special Rapporteur on the Right to Food, filed a Letter of Allegation with the Thai Govt.

The results of that letter can now be seen at:

<http://www.unhcr.org/refworld/category,COL,,THA,4a66d9a3c,0.html>

"In August 2008 the UN Special Rapporteur highlighted the case of the Akha indigenous people in Chiangrai province, whose land was allegedly seized in 2003 as a result of the Highland Development Station Project. The objective of the station was purportedly to serve as a 'centre of knowledge on agriculture for the hill tribe people'. The Akha claim that the project has left them with only a few small plots around the village, and they have lost their traditional livelihoods. The land seizure was reportedly accompanied by widespread harassment of Akha villagers by members of the military and forestry personnel. Villagers say they were not consulted, nor did they consent to the project, and they have not yet been compensated for their loss. The government has so far not responded to the concerns raised by the Special Rapporteur."

Shortly after seizing the land at Hooh Yoh, the Army and Forestry Department began harassing and arresting Akha villagers in order to intimidate them. This included the arrest and imprisonment of two women who were eight months pregnant. We gained their release after 30 days.

Having taken that land, the Queen proceeded to cross the valley and seize all the farm lands of Pah Nmm Akha village, the village of Michu. This seizure also included lands of neighboring villages.

The seizure of these lands has impoverished more than 2,000 people, who have even had to borrow money to send their young men and young women to Bangkok or to overseas jobs, which has left some of them stranded there due to the failing world economy.

Missions and Akha Children

Scores of western missions both Catholic and Protestant have set up residential schools in Thailand and are taking away thousands of Akha children, often with the use of a broker of some kind, who convinces the impoverished parents to “send their children to a private school instead of the local Thai school.” However the parents are not informed that their children will be advertised as orphans and how much money will be raised off their children. Neither are they told that the children will not be taught their language or culture, that the children will be forced to convert and that their children will even be taught that their parents and culture are bad. That being Akha is bad.

<http://www.childrengoldentriangle.org> shows one school with 500 removed Akha children.

We request your assistance in the land case of Hooh Yoh and Pah Nmm Akha and we also urgently request your assistance in an investigation into what is being done to thousands of Akha children. UNICEF needs to become increasingly involved in this issue.

Currently we are in Tennessee on our way to the UN at New York.

Sincerely,
Matthew McDaniel
Michu Uaiyue