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Human rights situations that require the Council's attention

Written statement* submitted by the International Educational Development Inc., non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The situation of the Hmong people in the Lao People's Democratic Republic*

International Educational Development, Inc. and the Association of Humanitarian Lawyers have been concerned for some time about the dire situation of the Hmong people in the Lao People's Democratic Republic (hereinafter Laos). To that end, we have submitted a number of written statements and urgent action appeals, including a recent submission to the Special Advisor to the Secretary-General on the Prevention of Genocide and Mass Atrocities. The situation invokes the "Responsibility to Protect (R2P) principles -- the Hmong people are at risk of extermination.

The Hmong people, especially those now in the Phou Bia area, face constant military actions against them as they are still considered enemies of the State. As a consequence they are forced to relocate and hide on a continual basis. Food and medicine are in short supply as the Laotian authorities have continued to block these items. Because of the constant moving there are no stable places of residence and even temporary structures are destroyed by the Lao forces. Agriculture is difficult if not impossible, compounding the serious food shortages due to the blockades and when the Lao forces find fruit trees or crops they destroy them. This is a crime against humanity as set out in Article 7 (1)(b) and (2)(b) of the Rome Statute that identify creating conditions of life that are extremely difficult and the denial of food and medicine as elements of the crime of extermination.¹

From 1975 to 2015 the Laotian government concentrated its intentions to exterminate or ethnically cleanse the Hmong people to the Hmong traditional areas. Beginning in September 2015 to the present they have also focused on ordinary Hmong in the cities, with a reported hundreds of Hmong killed and scores more wounded. Killings also take place on their farms, inside their homes, and on the roads ways to and from their farms. Many Hmong have been arrested or disappeared after the incidents and no one can ask any questions. The Laotian authorities foster the idea that Hmong from the jungle areas are doing the killing but contact with Hmong people in the area indicate that clearly the Laotian authorities are to blame.²

Reports since our last written statement indicate murders and disappearances are still on-going. Hmong children continue at risk. The Laotian authorities show no intention of bettering the situation. There is no outside source of aid for the. This supports our view that the Laotian authorities are hoping to essentially eliminate the Hmong people before there is any international action.

We believe it is imperative for the international community to act forthwith and establish a special protected area guarded by international actors in the Hmong traditional area. This type of "safe haven" would allow the surviving Hmong people to congregate, to receive humanitarian aid and to communicate with the outside world unfettered by the Laotian authorities. The safe haven should be located near an international border to facilitate entrance and egress of interested parties such as humanitarian aid workers, the media and, of course, relatives. Failure to establish such an area is likely to encourage the Laotian authorities to carry out massive killings of the Hmong.

As we indicated in our oral statement in September 2016, the United States government has pledged money to help clean up the unexploded ordnance left over from the Vietnam War. We note that the US sent Deputy-Assistant Secretary of State W. Patrick Murphy to Laos, where he inspected a clean-up site in Xieng Khouang. There is no further information about the clean-ups, including any about clean-up in the Hmong traditional territories. We are gravely concerned that the Laotian authorities will use the unexploded ordnance project to the detriment of the Hmong peoples. The international community should also address this situation.

Conclusions and recommendations

¹ The Lao People's Democratic Republic has not ratified the Rome Statute or Regulations, but we refer to its provisions to underscore the gravity of the offenses by the authorities against the Hmong people.

² We have the names and particulars of many of the persons killed but for security reasons cannot mention them.

It is patently clear that the Laotian authorities have no intention adequately to address the situation of the Hmong people. It is also clear that action by United Nations bodies to date continues to be grossly inadequate to address their extremely serious situation. Laos has not allowed on-site investigations. While the treaty bodies have addressed the situation, they can only issue early warnings and urgent actions and hope that the Council, the General Assembly or the Security Council take affirmative action, which to date has not occurred. The UPR process served to illustrate or identify violations, even serious ones, but it alone is not an action procedure. The International Committee of the Red Cross can undertake relief efforts, but in this case are restrained from doing so by the relevant authorities.

As a result of the urgency of this situation, we recommend that the following actions be undertaken:

1. The High Commissioner should undertake to establish a safe haven for the Hmong people as soon as possible. Alternatively, the High Commissioner could request the Secretary-General to act in this regard. The Council should support such action.
2. The international community should invoke the Responsibility to Protect (R2P) mechanisms as soon as possible.
3. The Secretary-General should consider other action on this situation such as encouraging or instigating independent investigation, including the situation of unexploded ordnance in the Hmong areas.
4. The relevant mandate holders of the Council, including those addressing summary execution, disappearances, torture, internally displaced persons, health, food, water and sanitation, arbitrary detention, human rights defenders, truth, and minority issues should request on site visits to the Hmong areas in Laos, either alone or in concert.
5. Given that nearly all special procedures are highly relevant to the situation in the Hmong areas of Laos, the Council should consider requesting the High Commissioner to undertake action, including establishing a team of inquiry as has been established in other situations. In the alternative, the Council should establish its own committee of inquiry or appoint a special rapporteur or independent expert.

*Association of Humanitarian Lawyers, NGO without consultative status, also shares the views expressed in this statement.