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HUMAN RIGHTS COUNCIL
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**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

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.

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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.

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 Hooh Yoh village leading to the alleged massive dispossession of land of the Akha community members, as well as the allegation that Hooh 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.

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 lead to serious problems related to drug trafficking.

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; (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; (3) to raise local Akha people’s awareness of environmental conservation and to restore and conserve national reserved forests; (4) to tackle the problem of drugs; and (5) to strengthen local communities through self-sufficient and sustainable development while preserving their cultures and traditional livelihoods.

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

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.

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.

479. The Government emphasized that there was no forceful seizure of lands or any massive dispossession of the Hooh 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.

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.

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 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.

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.

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.

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.

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. 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.

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

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.

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.

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

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.

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.

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