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Human rights situations that require the Council's attention

Written statement* submitted by 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.

[21 August 2019]

* Issued as received, in the language(s) of submission only.



The continuing genocidal situation of the Hmong people

International Educational Development, Inc. and the Association of Humanitarian Lawyers continue to be deeply concerned about the genocidal situation of the Hmong people in the Lao People's Democratic Republic (hereinafter Laos). We have submitted a number of written statements and urgent action appeals, including to the Special Advisor to the Secretary-General on the Prevention of Genocide and Mass Atrocities and have maintained that the situation invokes the "Responsibility to Protect (R2P)" principles as the Hmong people are at risk of extermination. At the Council's 39th and 41st sessions we addressed the Special Advisor and stressed directly to him the Lao authority's intention to eradicate the Hmong in their traditional territory by 2020. Given both the history of the Hmong people and their more than 40-year-long grave situation, we urge that they have the right to self-determination as the only way to realize their basic human rights.

We have repeatedly raised the intention of the Laotian authorities to eliminate the Hmong people before the Council can take measures. For example, as the 37th the session was ending, the Laotian Army attacked and killed a group of Hmong who they claimed were trying to communicate with the Hmong people in the jungle. The authorities apparently stated that this was a warning to all traitors of Miao behavior (note that the term Miao" is disrespectful) and that they shall be killed to terminate them from this land. This type of action takes place after every session of the Council, in keeping with their intention of meeting their deadline of 2020 to rid Laos of all Hmong in the traditional territories, and before there is any action by the Council or the international community as a whole. We fear what the Lao authorities may do to the Hmong in the long period between the 42nd and 43rd sessions. As members are aware, the number of Hmong in Laos are catastrophically reduced with hundreds of thousands living in exile.

In exercising the right of reply following our statements at earlier sessions of the Council, the Laotian representative asserted to the Council that under Laotian law, all groups enjoy the same basic rights, and all live in harmony. They stress that this includes the Hmong. But they are referring to the Hmong people who came to Laos from Vietnam to support the Patet Lao during the Vietnam War, not the Hmong people in their traditional territories in Laos who supported the United States during the Vietnam War. These Hmong, as we have shown in our many written and oral statements, have been subjected to genocidal conditions since the end of the Vietnam War. At the Council's 39th, 40th, and 41st sessions, the government again exercised the right of reply to our statements, again reiterating its views about the Hmong people. In their statement at the 41st session, they referred to our claims as "bogus." This, however, has not been verified by an impartial investigation, which we most strongly urge. We note that the authorities have denied requests by international actors to investigate properly what is occurring in the Hmong traditional territory.

As we stated in one of our oral statements at the 41st session, the Laotian authorities are restricting Hmong farmers from reaching their farms in the Xaysombourne Special Zone causing serious food shortages. As we have stressed in earlier submissions, denying food to the civilian population is an element of the crime of extermination under the Rome Statute. We also note that the authorities continue to send troops into the Hmong areas.

We have proposed, as an interim measure before the Hmong people are granted their right to self-determination, that the international community establish a special protected area in the Hmong traditional area guarded by international actors. 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 continue their hostile actions against the surviving Hmong.

Conclusions and recommendations

It is patently clear that the Laotian authorities have no intention adequately to address the situation of the Hmong people in their traditional territory. It is also clear that action by United Nations bodies to date continues to be grossly inadequate to address their genocidal situation. Laos continues to refuse on-site investigations. While the treaty bodies have addressed the situation, they can only issue early warnings and urgent actions. We have urged 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 again recommend that the following actions be undertaken:

- The High Commissioner should undertake to establish a safe haven for the Hmong people in their traditional territory as soon as possible. Alternatively, the High Commissioner could request the Secretary-General to act in this regard. The Council should support such action.
- The international community should invoke the Responsibility to Protect (R2P) mechanisms as soon as possible due to the genocidal situation and should recognize the right to self-determination of the Hmong people.
- The Secretary-General should consider other action on this situation such as encouraging or instigating independent investigation, including the issue of unexploded ordnance in the Hmong areas.
- The relevant mandate holders of the Council, including those addressing summary execution, disappearances, torture, internally displaced persons, health, housing, food, water and sanitation, arbitrary detention, human rights defenders, truth, and minority issues should insist on site visits to the Hmong areas in Laos, either alone or in concert.
- 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 such as establishing a commission of inquiry as has been established in other situations. In the alternative, the Council should establish its own commission of inquiry or appoint a special rapporteur or independent expert.

The Association of Humanitarian Lawyers NGO(s) without consultative status, also share the views expressed in this statement.