



No. 52101/ 513

PERMANENT MISSION OF THAILAND
5, Rue Gustave-Moynier
1202 GENEVA

9 September B.E. 2557 (2014)

Dear Mr. Knox, Mr. La Rue, Mr. Kiai and Mr. Forst,

I wish to refer to your joint letter dated 1 July 2014 requesting the Royal Thai Government to provide clarification on the case of the villagers of Na Nong Bong and members of the Khon Rak Ban Keod Group.

In this connection, I have the honour to transmit herewith the clarification on the above-mentioned case, as received from Loei Provincial Administration and the Department of Rights and Liberties Protection of the Ministry of Justice of Thailand, as prepared by the Ministry of Foreign Affairs of Thailand. I hope that the information provided would address your concerns and be useful for the preparation of your report.

The Permanent Mission of Thailand remains at your disposal should you require additional information.

Yours sincerely,

(Thani Thongphakdi)

Ambassador and Permanent Representative

Mr. John Knox,

Independent Expert on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment,

Mr. Frank La Rue,

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,

Mr. Maina Kiai,

Special Rapporteur on the rights to freedom of peaceful assembly and of association,

Mr. Michel Forst,

Special Rapporteur on the situation of human rights defenders,

GENEVA.

OHCHR REGISTRY

12 SEP 2014

Recipients : SRB
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Clarification by the Royal Thai Government regarding the case of the villagers of Na Nong Bong

1. Details and results of investigation, medical examinations and judicial or other inquiries which have been carried out in relation to this case

Environmental and Health related examinations

- Loei Provincial Administration has set up a Committee to monitor the impact of Mining activities in the area since 2008. The Committee, which comprises government mine engineers and environmental experts, specifically conducted the testing of the quality of surface water, underground water and water in the nearby area surrounding Tung Kum Company Limited facility. The test result showed that the water was contaminated with Cyanide, which can be treated by UV radiation from the sun. The test also found that the water was contaminated with Cadmium and Manganese at the level higher than the specified standard.
- However, the cause of the contamination was unclear as, according to the geologists' opinion, the area is also known to be covered by volcanic activities in the past.
- The Province Authority then issued a warning to villagers accordingly and frequently carried out test on the quality of the water as well as on fresh products from the area. In order to address the issues relating to water sanitation, the Province has been supplying the villagers with clean water regularly. With regard to health issue, the Authority found that food from the area is clean and the effects on the villagers' health condition are not exceeding ordinary level, though there are some noises and smells from mining activity during nighttime.
- According to the law, a Health Impact Assessment (HIA) is required before any concession could be granted for mining activity. With regard to Tung Kum Company, the same process has been applied. However, with respect to the company's plan for expansion of mining area, the request was not permitted due to unsettled disputes with local community and the need for even more thorough HIA.

Investigation on the incident of attacks on villagers in May 2014

- Police investigation has led to the arrest of 2 suspects namely Lieutenant Colonel Poramin Pomnak and Mr. Dolchai Artkaew, who will be further brought before Loei Provincial court. On-going investigation and evidence gathering as related to any other suspects have been undertaken for future relevant legal action.
- Medical evidences show that there were total 13 individuals with minor injuries. None was seriously injured from the incident.

Other inquiries in relation to the case

- Apart from the ongoing lawsuit and police investigation, Khon Rak Ban Keod Group also submitted their request to the National Council for Peace and Order (NCPO) for inquiry into the case.
- As a result from the lawsuit filed against the villagers by Tung Kum Company, villagers sought assistance from the Justice Fund (under the administration of the Rights and Liberties Protection Department, Ministry of Justice) which provided bail for the villagers to be released. The requests from eight individual cases were approved while twenty two are still pending.
- The villagers who were injured from the attack have filed complaints to the Police. Meanwhile, they were also informed of their rights to request for compensation from the Ministry of Justice, in accordance with the Compensation and Expense to Injured Persons and the Accused in Criminal Cases Act B.E. 2544 (2001). At present, no such request has yet been made.
- On the other hand, Tung Kum Company sent a letter to Loei Governor requesting for reopening of the mining operation in the area as their workers have lost their jobs and earnings.

2. Information regarding the two men charged for the attacks, prosecutions and possible disciplinary or administrative sanctions been imposed on the alleged perpetrators.

- As mentioned above, the two suspects namely Lieutenant Colonel Poramin Pomnak and Mr. Dolchai Artkaew will be further brought before Loei Provincial court for criminal cases.
- In the meantime, the Police have also notified the Royal Thai Army's Special Warfare Unit based in Lopburi Province in order to consider further disciplinary actions against Lieutenant Colonel Poramin Pomnak, who is the officer at the Unit.

3. Detailed information concerning measures that have been taken to prevent human rights violations being perpetrated by members of security forces.

- The Loei Governor, the Deputy Commander of the Army Region 2, the Commandant of Loei Military District, the Loei Provincial Police Chief, as well as the Head of Loei Provincial Environmental Office, have visited the area and met with both representatives of Tung Kum Company and the villagers and Khon Rak Ban Keod Group to try to settle the dispute peacefully.
- Consequently, the Loei Military District, in its capacity as the Loei Provincial Armed Force for Peace and Order, has established a committee to resolve the dispute between the villagers and Tung Kum Company with the mandate to ensure that there will be no further violent confrontation between parties concerned. Under the said committee, there are 3 sub committees working on (1) local community's demands and problems (2) Tung Kum Company's inquiries and impacts on its concession resulting from the disputes (3) improvement of standard of living and environment in the area.
- With support from the Army Region 2, security check points have been set up in 4 locations in the area to ensure safety of people living in the community. Mobile medical units also pay regular visits to provide health services to people living in the area.
- In addition, Rights and Liberties Protection Department have been giving Khon Rak Ban Keod Group members assistance concerning their criminal proceedings (e.g. by providing fund for bailing). The Department, once being notified about the matter, has also sought cooperation with relevant agencies to ensure safety of the villagers.

4. Measures taken to ensure that all human rights defenders in Thailand, in particular those working on environmental issues, can operate in a safe and enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

- The civil society in Thailand works actively and are generally protected by law. By comparison with many other countries, Thai human rights defenders operate in a far safer environment. There are, regrettably, cases where human rights defenders are harassed or threatened, but that is an exception not a norms.
- Rights and Liberties Protection Department is the focal point for protection of human rights defenders. The Department is currently considering the possibility to establish a "White List" of human rights defenders in order to effectively ensure their safety and that they are able to carry out their activities without physical danger, harassment or criminalization, in accordance with existing laws and regulations. The pros and cons as well as the practicality of this initiative will have to be further discussed with relevant agencies and NGOs.
- The Department also acts as the Centre to receive complaints of human rights violations from all actors, coordinate and take necessary actions in cooperation with relevant agencies.

Department of International Organizations
Ministry of Foreign Affairs
28 August 2014