

PERSPECTIVE

RESEARCHERS AT ISEAS – YUSOF ISHAK INSTITUTE ANALYSE CURRENT EVENTS

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The Indigenous Peoples' Movement in Thailand Expands

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EXECUTIVE SUMMARY

- Since the early 2000s an expanding coalition of ethnic minorities in Thailand, initially based in the North, has formed under the global banner of “Indigenous Peoples” (hereafter referred to as IPs) to push for state recognition of their distinct identities and rights as well as to empower themselves to address their particular strengths and problems.
- Those claiming IP status in Thailand are pursuing equal rather than special rights relative to other, more full-fledged members of Thai society. They have been lobbying for the passage of a state law governing the “Council of Indigenous Peoples in Thailand” (CIPT), a new, independent quasi-state organ comprised of IP representatives with the central mandate to advise the state on IP-related policies and plans.
- While the Thai government remains steadfast in its official position of non-recognition with respect to IPs in Thailand, especially towards their claim of being “indigenous”, the IP movement has nevertheless continued to develop and expand beyond the North to different parts of the country.
- In recent years the IP movement has shifted its campaign strategy from an earlier focus on public demonstrations to that of lobbying relevant state agencies. The movement has further devoted its limited time and resources to developing the internal administrative structure of their flagship organization, the “Council of Indigenous Peoples in Thailand”.

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INTRODUCTION

Since the early 2000s a coalition of ethnic minorities in Thailand has been promoting a sub-national social movement under the global banner of “Indigenous peoples” (hereafter referred to as IPs). Initially started by leaders of the 10 so-called “hill tribes” in the North, the movement has expanded to include representatives of an additional 30 ethnic groups from within and beyond the North.¹ Recent estimates place Thailand’s populations of “hill tribes” at 1.2 million people and lowland ethnic groups at 4.9 million people.² The expanding IP movement thus has the potential to represent some 6.1 million people, comprising 9 percent of Thailand’s total population of 67,959,359 people.³

The IP movement’s goals are to campaign via public demonstrations, media campaigns, and bureaucratic lobbying for legal recognition as IPs with their own distinct identities by the Thai government in order to gain and protect their basic rights to land, citizenship, and their distinct identities.⁴ IPs are seeking to overcome barriers to their full and meaningful participation in Thai society, particularly in the areas of education, the workforce, and

¹ In this article I follow the Royal Thai General System (RTGS) for transcribing most Thai language terms into English. The ten so-called “hill tribes” from the North that initiated the IP movement are the Akha, Dara’ang, Hmong, Iu-Mien, Kachin, Karen (Pgakenyaw and Pholong), Lahu, Lisu, Lua (Lawa), and Shan (Tai-Yai). The additional 30 ethnic groups that have since joined the IP movement are the Bisu, Bru, Chong, H’tin, Kaloeng, Kayong, Khamu, Kui, Lao-kang, Lao-song, Lao-wiang, Mlabri, Moken, Moklen, Mon, Phalang, Phu-Thai, Saek, Sawng, So, Sothawueng, Tai-ya, Thai-koen, Thai-song-dam, Thai-yong, Thai-yuan, Urak Lawoi’, Yahakun, Yaw, and Yo. With the exception of the H’tin, Khamu, and Mlabri, all of these latter groups are considered lowland ethnic groups.

² These population figures are taken from the Ministry of Social Development and Human Security’s (MSDHS) 2015 “Master Plan for the Development of Ethnic Groups in Thailand 2015-2017”. A total of 56 ethnic groups are referenced in the ministry’s master plan.

(กระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์, แผนแม่บทการพัฒนากลุ่มชาติพันธุ์ในประเทศไทย [พ.ศ. 2558-2560], 2015 [2558], pp. 8-9).

³ This 2015 population figure of 67,959,359 people is from The World Bank Group’s online statistical data for Thailand: <http://data.worldbank.org/country/thailand> (accessed 15 November 2016).

⁴ As lowland ethnic groups from other parts of the country joined the IP movement they brought new priorities and agendas to the table. The majority of these groups have been motivated by different experiences of marginalization when compared to IPs from the northern uplands. Most importantly, upland IPs have long been stigmatized as “illegal” or foreign migrants to the country (See Mika Toyota, “Ambivalent Categories: Hill Tribes and Illegal Migrants in Thailand”, In *Borderscapes: Hidden Geographies at Territory’s Edge*, edited by Prem Kumar Rajaram and Carl Grundy-Warr. [Minneapolis: University of Minnesota Press, 2007, pp. 91-116]). In framing the IP movement, upland IPs have foremost asserted the right to be members of the Thai nation with fundamental rights to legal citizenship and land tenure. It is only on the basis of exercising such rights, upland IPs argue, that they may be able to further claim the right to belong as full-fledged and yet culturally distinct members of Thai society. In contrast, the majority of lowland IPs have largely taken for granted their fundamental rights to legal citizenship and land tenure. They have joined the movement because of their experiences of assimilation within the modern Thai nation, which has been framed in an exclusive mono-cultural fashion that denies their distinct identities, languages, and histories. In joining the IP movement, lowland IPs are pursuing the right to be different kinds of members of Thai society in comparison to the majority Thai.

politics.⁵ The IP movement is working from the grassroots level to challenge the dominant mono-cultural framing of Thailand and promote multicultural policies that better reflect the country's ethnic diversity.⁶ In its grassroots efforts on behalf of IP recognition and rights the IP movement has been both supported and obstructed by the Thai state; supported because of the state's new multicultural rhetoric and yet obstructed because of the state's top-down approach to multiculturalism.⁷ In addition, while IPs in Thailand have continued to develop a sense of solidarity with IPs in other parts of Asia and beyond, they have realized that to make any domestic political headway they must speak first and foremost to the Thai state and public.⁸

In claiming IP status, IPs in Thailand are claiming the right to define themselves as IPs rather than be defined by others, particularly the state, as either "hill tribes" or "upland ethnic groups".⁹ The IP movement is careful, moreover, to stress that it is pursuing equal rather than special rights relative to other, more full-fledged members of Thai society.¹⁰ The leadership has translated "Indigenous peoples" (IPs) into Thai as "Chon phao phuenmueang",¹¹ which it defines as:

⁵ While IPs in Thailand generally face much greater obstacles relative to the majority Thai in accessing quality education, entering the domestic workforce, and participating in politics, these obstacles are most acute among IPs lacking Thai citizenship who face additional barriers to their mobility and access to quality healthcare. See Amanda Flaim, "Problems of Evidence, Evidence of Problems: Expanding Citizenship and Reproducing Statelessness among Highlanders in Northern Thailand", In *Citizenship in Question: Evidentiary Birthright and Statelessness*, edited by B. N. Lawrence and J. Stevens (Durham: Duke University Press, 2017, pp. 147-164); Joseph Harris, "Uneven Inclusion: Consequences of Universal Healthcare in Thailand". *Citizenship Studies* 17, no. 1 (2013): 111-27; and Mukdawan Sakboon, "Controlling Bad Drugs, Creating Good Citizens: Citizenship and Social Immobility for Thailand's Hill Ethnic Minorities", In *Rights to Culture: Culture, Heritage and Community in Thailand*, edited by Coeli Barry. (Chiang Mai: Silkworm Books, 2013, pp. 223-225).

⁶ See Prasit Leepreecha, "พหุวัฒนธรรมนิยมจากรากหญ้า:

กระบวนการเคลื่อนไหวของเครือข่ายชนเผ่าพื้นเมืองและชาติพันธุ์ในประเทศไทย" ("Multiculturalism from Below: The Movement of the Network of Indigenous and Ethnic Peoples in Thailand"), *สังคมศาสตร์ (Social Sciences Journal)* 25, no. 2 (2013): 59-106.

⁷ See Anan Ganjanaphan, *รัฐชาติและชาติพันธุ์: พหุวัฒนธรรมในบริบทของการเปลี่ยนผ่านทางสังคมและวัฒนธรรม (The Nation and Ethnicity: Multiculturalism in the Context of Societal and Cultural Changes)* (Bangkok: Ministry for Social Development and Human Welfare, 2012 [2555]); Sirijit Sunanta, "Negotiating with the Center: Diversity and Local Cultures in Thailand", In *Rights to Culture: Culture, Heritage and Community in Thailand*, edited by Coeli Barry (Chiang Mai: Silkworm Books, 2013, pp. 163-88); and Alexander Horstmann, "Diversity, Space Levels and Approaches to Multiculturalism in Thailand", *สังคมศาสตร์ (Social Sciences Journal)* 25, no. 2 (2013): 29-56.

⁸ Chutima Morlaeku, personal communication, 7 October 2016. Mrs. Morlaeku is an executive committee member of the "Council of Indigenous Peoples of Thailand" (CIPT).

⁹ In the Thai language, these state imposed labels are "ชาวเขา" ("hill tribes") and "ชาติพันธุ์บนพื้นที่สูง" ("upland ethnic groups").

¹⁰ In claiming IP status, IPs in Thailand are claiming recognition of their *special* status as culturally distinct and yet marginalized groups in order to overcome their marginalization and obtain more *equal* status in relation to the Thai majority. These claims of special rights in the pursuit of greater equality, moreover, make the IP movement in Thailand distinct when compared to older IP movements in the Americas, Australia, and New Zealand where the emphasis has been on claiming special rights relative to the majority white settler populations.

¹¹ "ชนเผ่าพื้นเมือง". This literally translates as "Indigenous tribal peoples".

Communities, peoples and nations which, by way of historical and social continuity from the time of the establishment of contemporary state boundaries, consider themselves to have a cultural identity that is different from that of the mainstream society. They are a non-dominant group and are determined to preserve, develop and transmit to future generations their ancestral territories and ethnic identity, inclusive of their own language, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems, while peacefully and happily coexisting with other members of the nation state.¹²

To date, however, the Thai state has been adamant in its stance of non-recognition, insisting that while there are no IPs in Thailand, the so-called “hill tribes” are “migrants... who by nature and historical background are not indigenous to the country”.¹³ Indeed, the Thai state and largely Sino-Thai Bangkok elite have constructed the “Thai” national identity in opposition to IPs, particularly the “hill tribes”, which have long been stigmatized as alien, uncivilized, dangerous, and yet exotic “internal Others”.¹⁴ The Thai

¹² Network of Indigenous Peoples of Thailand (NIPT),

“เอกสารประกอบการจัดงานวันชนเผ่าพื้นเมืองแห่งประเทศไทยประจำปี 2559” (“Documents for Organizing Thailand’s Indigenous Peoples Day 2016”) (Chiang Mai: NIPT, 2016, pp. 15-19). IP representatives from throughout Thailand negotiated this definition of IPs during a meeting hosted by Chulalongkorn University in Bangkok in August 2015 in conjunction with their ninth annual observance of the “Festival of Indigenous Peoples in Thailand”. The definition draws on and slightly modifies a widely cited definition of IPs provided by former UN Special Rapporteur José R. Martínez Cobo. See José R. Martínez Cobo. 1986. “Study of the problem of discrimination against indigenous populations, Volume I”. United Nations Commission on Human Rights, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1986/7).

¹³ S. James Anaya, “Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, S. James Anaya - Summary of cases transmitted to Governments and replies received”, HRC 9a 9/10/2008 A/HRC/9/9/Add.1/Corr.1, United Nations Office of the High Commissioner for Human Rights, 10 September 2008. The reasons the Thai state has long viewed upland IPs as illegal migrants are numerous and complex. In brief, many upland IPs and the mountainous border regions where they have long resided in the North and Northwest were only directly incorporated into the central Thai state as recently as the 1980s. As a result, upland IPs were largely excluded from the Thai state’s earlier administrative efforts to identify, document and regulate its national population. On these matters see Pitch Pongsawat, *Border Partial Citizenship, Border Towns, and Thai-Myanmar Cross-border Development: Case Studies at the Thai Border Towns*. (Ph.D. dissertation, University of California-Berkeley, 2008, pp. 160, 178); Thongchai Winichakul, *Siam Mapped: A History of the Geo-body of a Nation*. (Honolulu: University of Hawai’i Press, 1994, p.166); and Janet C. Sturgeon, *Border Landscapes: The Politics of Akha Land Use in China and Thailand*. (Seattle: University of Washington Press, 2005, p.10). During the Cold War, moreover, the Thai state came to view upland IPs as prime suspects of divided loyalties as a result of their cross-border movements and ties of ethnic kinship. Finally, the disenfranchisement of upland IPs in terms of legal citizenship and land tenure has long served the intertwined political and economic interests of the Thai state and Bangkok elite in promoting the capitalist accumulation of IP lands and natural resources by way of their state-enforced legal dispossession.

¹⁴ See Pinkaew Laungaramsi, “วาทกรรมว่าด้วย ‘ชาวเขา’” (“On the Discourse of ‘Hill Tribes’”) *วารสารสังคมศาสตร์ (Social Sciences Journal)*, 11, no. 1 (1998): 92-125; and Thongchai Winichakul, “The others within: Travel and ethno-spatial differentiation of Siamese subjects 1885-1910”, In

state appears even more reluctant to legally recognize and grant certain powers to any IP-specific institutions, as has been proposed by the IP movement and is further discussed below. Thailand, like many Asian governments, adheres to the “salt water theory”,¹⁵ which holds that while the global concept of indigeneity is valid in areas with widespread European settler colonization such as the Americas, Australia, and New Zealand, it does not apply to Asia, since all Asians can be considered “indigenous” to Asia.¹⁶

IPs in Asia and Thailand, however, have reframed the concept of indigeneity to not only highlight their distinctive identities, but to also point to their experiences of *internal* colonialism and marginalization at the hands of modern state administrators and global capitalists.¹⁷ This new conception of indigeneity refutes the “salt water theory” and challenges many Asian governments’ claims of the irrelevance of the concept of indigeneity to Asia. This particular framing of indigeneity further avoids making the claim of first or original peoples’ status as is generally associated with the global discourse of indigeneity.¹⁸

Civility and Savagery: Social Identity in Tai States, edited by Andrew Turton (London: Curzon, 2000, pp. 38-62).

¹⁵ “Salt-water” here refers to the vast oceans of “salt-water” that early European settlers traversed in invading and colonizing the Americas, Australia, and New Zealand.

¹⁶ Christian Erni, ed. *The Concept of Indigenous Peoples in Asia: A Resource Book*. (Copenhagen and Chiang Mai: IWGIA and AIPP, 2008). There are, however, some exceptions to these claims in certain parts of Asia. For example, since the mid-1990s the governments of Taiwan, the Philippines, Cambodia and Japan have officially recognized certain ethnic minorities in their respective countries as IPs. There is also the particular case of Malaysia where the majority “Malay” are recognized and afforded special rights as “Bumiputera” or “Sons of the soil”. The official category of “Bumiputera” also includes minorities such as the Orang Asli of Peninsular Malaysia. In practice, however, the Orang Asli have long experienced discrimination in exercising their rights to land tenure and their own distinct languages and cultures (See Rusaslina Idrus, “From Wards to Citizens: Indigenous Rights and Citizenship in Malaysia”, *PoLAR: Political and Legal Anthropology Review* 33, no. 1 [2010]:89-108).

¹⁷ See Andrew Gray, “The Indigenous movement in Asia”, In *Indigenous Peoples in Asia*, edited by R.H. Barnes, Andrew Gray and Benedict Kingsbury. (Ann Arbor, Michigan: Association of Asian Studies, 1995, p. 37.); Ian G. Baird, “Translocal assemblages and the circulation of the concept of ‘indigenous peoples’ in Laos”, *Political Geography* 46 (2015):55; and Micah F. Morton, Jianhua Wang (Aryoeq Nyawrbyeivq), and Haiying Li (Miqsawr Pyawqganr), “Decolonizing Methods: Akha Articulations of Indigeneity in the Upper Mekong Region”, *Asian Ethnicity* 17, no. 4 (2016): 581.

¹⁸ The dominant global discourse of indigeneity has been framed in reference to the Americas, Australia and New Zealand where IPs have long been perceived and, to some extent essentialized, as “rooted, stable and unchanging from time immemorial” (See Morton et al., “Decolonizing Methods”, p. 580.). Claims of first or original peoples’ status, however, are especially problematic in Asia where mobility and cultural diffusion have long been the norm. On the problematic nature of claims of indigeneity in Asia, more generally, and Thailand, in particular, see Benedict B. Kingsbury, “The Applicability of the International Legal Concept of ‘Indigenous Peoples’ in Asia”, In *The East Asian Challenge for Human Rights*, edited by J. R. Bauer and D. A. Bell. (London: Cambridge University Press, 1999, pp. 336-78); and Mika Toyota, “Subjects of the Nation without Citizenship: The Case of ‘Hill Tribes’ in Thailand”, In *Multiculturalism in Asia*, edited by W. Kymlicka and H. Baogang. (Oxford: Oxford University Press, 2005, pp. 130-133.).

A BRIEF HISTORY OF THE MOVEMENT

The IP movement in Thailand officially came into being in August 2007 when a coalition of grassroots organizations representing 24 ethnic groups organized Thailand's first annual "Festival of Indigenous Peoples in Thailand".¹⁹ At a follow-up event to the festival on 11 September 2007, Mr. Joni Odochai, an ethnic Karen leader from Northern Thailand, officially announced the establishment of the "Network of Indigenous Peoples of Thailand" (NIPT) as he publicly read a document entitled, "The Declaration of Intentions of the NIPT".²⁰ In the declaration's final clause Mr. Odochai announced that the NIPT would begin working to establish a "Council of Indigenous Peoples in Thailand" (CIPT) to "safeguard the rights, dignity and humanity of (IPs in Thailand)".²¹ As discussed below, the NIPT has since worked to establish the CIPT as its flagship organization for claiming a space within the state structure to represent and promote IP rights.

Two days later, on 13 September 2007, the Thai government ratified the "United Nations Declaration on the Rights of Indigenous Peoples" (UNDRIP) alongside 142 countries.²² Earlier, however, during the inaugural IP festival, a government representative had stressed that any benefits flowing from UNDRIP would be based on Thailand's laws and constitution.²³ Thus, in ratifying UNDRIP, Thailand seemed to be showing support in principle for IPs *beyond* Thailand, while maintaining its position of non-recognition *within* Thailand. Despite, or perhaps because of, this non-recognition the IP movement in Thailand has continued to develop and expand since 2007.

Early on in the movement the NIPT promoted awareness of IP-related issues and pushed for state recognition of IPs by way of: first, public awareness campaigns, chief among which has been their annual observance of the "Festival of Indigenous Peoples in Thailand"; second, supportive media outlets such as the Thai Public Broadcasting Service;

¹⁹ Network of Indigenous Peoples of Thailand (NIPT), "เครือข่ายชนเผ่าพื้นเมืองแห่งประเทศไทย" ("The Network of Indigenous Peoples in Thailand"), NIPT Public Relations Document (Chiang Mai: NIPT, 5 May 2012). The inaugural celebration of the festival in Thailand was held on the grounds of Chiang Mai University in North Thailand. The coalition had arranged for the event to coincide with the United Nations' "International Day of the World's Indigenous Peoples", which has been held annually since 1995 on August 9 at the UN Headquarters in New York. Thai scholars from two universities in Thailand, namely Chiang Mai University in the North and Chulalongkorn University in Bangkok, have been especially supportive of the IP movement.

²⁰ At the time, however, only 14 of the 24 ethnic groups involved in the inaugural IP festival were aligned with the NIPT. Chonpaoforum, "งานมหกรรมชนเผ่าพื้นเมืองแห่งประเทศไทย: ประกาศตั้ง 'เครือข่ายชนเผ่าพื้นเมืองแห่งประเทศไทย' ขับเคลื่อนสิทธิชนเผ่า" ("The Festival of Indigenous Peoples in Thailand: Announcing the establishment of the 'Network of Indigenous Peoples in Thailand' in order to work on behalf of indigenous peoples' rights"), *Chonpaoforum*, 12 September 2007, <https://chonpaoforum.wordpress.com/2007/09/12/ประกาศตั้ง-เครือข่ายชน/> (accessed 15 November 2016).

²¹ *Ibid.* In the Thai language the CIPT is referred to as: "สภาชนเผ่าพื้นเมืองแห่งประเทศไทย" ("Sapha Chonphao phuenmueang haeng Prathet Thai").

²² United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, Resolution adopted by the General Assembly, 2 October 2007, A/RES/61/295, <http://www.refworld.org/docid/471355a82.html> (accessed 15 November 2016).

²³ Kalpalata Dutta and Pornpen Khongkachonkiet, *Reclaiming Rights in Forests: Struggles of Indigenous Peoples in Thailand*. (Bangkok: IWGIA and Highland Peoples Taskforce, 2008, p. 9).

third, public demonstrations in Chiang Mai and Bangkok, a number of which IPs joined in solidarity with non-IPs;²⁴ and, lastly, collaborations with state agencies such as the Ministry of Culture and the Office of Ethnic Affairs (OEA) of the Ministry of Social Development and Human Security (MSDHS).²⁵

The NIPT began working with the OEA in 2007, when the MSDHS funded the inaugural “Festival of Indigenous Peoples in Thailand” in spite of the state’s official stance of non-recognition of IPs. Thereafter, the NIPT began working with OEA and MSDHS officials in planning its annual festivals and, in their understanding, building relationships that would promote real policy changes favorable to IPs. Meanwhile, the NIPT had been working via an expanding urban-rural grassroots coalition of IPs to shape the CIPT into its flagship organization representing IPs nationally and pushing for their legal recognition as IPs.

By July 2011 the NIPT had prepared its first complete draft of a legislative act for legally establishing the CIPT as an independent, quasi-state organ with advisory status regarding IP-related issues. In the legislation the NIPT identifies the core duties of the CIPT as promoting and protecting the rights of IPs by ensuring their participation in the creation of state policies and plans that truly address their problems and promote their strengths as defined by IPs. More specifically, the NIPT delineates the CIPT’s key duties in relation to the state as follows:

- 1) To serve as a core institution in promoting IP relevant policies to the state;
- 2) To serve as a centre for the coordination, exchange, study, and public dissemination of information and media related to IPs’ economies, societies, and cultures;
- 3) To advise, follow up on, assess and report to the state and private sector on policies, activities, and programs that negatively impact IPs;
- 4) To organize and develop country reports on IPs for the Thai government and various international organizations.

Early on in its engagements with the state, the NIPT was hopeful that its contacts in the OEA and MSDHS would help persuade the Thai Parliament to consider its draft legislation governing the CIPT. At the time, however, MSDHS officials were busy

²⁴ The majority of public demonstrations that IPs have joined in solidarity with non-IPs have been primarily framed around the issue of land rights. In joining these demonstrations, moreover, IPs have sought to promote their own distinct agendas in terms of campaigning for legal citizenship rights, cultural rights, and the right to define themselves and be recognized by the state and public as IPs with their own distinct identities. For example, in March 2011 some 60 IP representatives from the North joined an ongoing demonstration in Bangkok calling for the government to make better progress in processing and issuing community land titles. The grassroots organization PMOVE (“Peoples’ Movement for a Just Society”) was the main organizer of the demonstration. (See Chularat Saengpassa and Jeerapong Prasertpolkrang, “Villagers elated over MOU on land”, *The Nation*, 10 March 2011.)

²⁵ The OEA (สำนักกิจการชาติพันธุ์) was first established in 2006 under the MSDHS (กระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์) to deal across the board with Thailand’s “ethnic” issues, including the so-called “hill tribes” reframed as “upland ethnic groups” (ชาติพันธุ์บนพื้นที่สูง) and the Malay of the deep south. See Anan, op.cit., p. 3.

developing their own “Draft Strategic Plan for the Development of Indigenous and Ethnic Peoples in Thailand”, a process in which IP representatives played a mere pseudo-participatory role.²⁶ Nevertheless, the NIPT was hopeful that the strategic plan, if approved by the Thai Cabinet, would open a new avenue for promoting IPs’ rights and gaining their official recognition as IPs, especially given that the plan referred to IPs as one of its main target groups.²⁷

Eventually, however, the NIPT realized that in working with the MSDHS, it was being constrained more than supported in its work and typecast in the customary role of de-politicized ethnic performers for the gaze of Thai and foreign audiences, while MSDHS officials justified taking increasing amounts of the state budget in the name of managing Thailand’s ethnic affairs.²⁸ As a result of these tensions the NIPT eventually decided to work more independently of the MSDHS. From August 2013 onward the NIPT and MSDHS have organized separate celebrations of the annual festival of IPs in Thailand.²⁹

RECENT DEVELOPMENTS WITHIN THE IP MOVEMENT

In recent years the IP movement has largely shifted its strategies away from public demonstrations towards independent media productions and bureaucratic lobbying. The movement has especially worked to establish direct ties with state agencies overseeing the review of national legislation and the constitutional reform process initiated by the current military regime or NCPO.³⁰ The shift from demonstrations to lobbying can be partially explained by the NCPO’s May 2014 order prohibiting political assemblies of more than five people.³¹

Another reason is that the IP movement has decided to focus its limited time and resources on the CIPT’s internal administrative development and expansion to include more IP groups nationally. Most significantly, the NIPT has finalized a draft constitution and legislation for legally establishing the CIPT. In refining the CIPT’s internal administration in a participatory manner the NIPT has sought to promote the CIPT as a legitimate

²⁶ Office of Ethnic Affairs, “เอกสารร่างยุทธศาสตร์เพื่อการพัฒนากลุ่มชาติพันธุ์และชนเผ่าพื้นเมืองแห่งประเทศไทย”, (Bangkok: Ministry of Social Development and Human Security, 2011).

²⁷ Kittisak Rattanakrajangsri, “Update 2011 – Thailand”, (Copenhagen: IWGIA, 2011), <http://www.iwgia.org/regions/asia/thailand/898-update-2011-thailand> (accessed 15 November 2013). The final version of this particular draft, however, was referred to as the “Master Plan for the Development of *Ethnic Groups* in Thailand (2015-2017)” (Ministry of Social Development and Human Security, op.cit.)

²⁸ Mrs. Chutima Morlaeku, personal communication, 5 March 2012.

²⁹ As of 2014 the MSDHS had dropped the label of IPs from the title of its annual festival, signaling its withdrawal of support for IP specific issues and lumping of IPs into the larger state-defined category of “ethnic groups”. The official title of the 2014 festival hosted by the MSDHS was, “Thailand’s 2014 Annual Festival of Ethnic Lifestyles” (“มหกรรมวิถีชีวิตชาติพันธุ์ แห่งประเทศไทย ประจำปี 2557”).

³⁰ The current military regime led by Prime Minister General Prayut Chan-o-cha came to power in May 2014 under the title of the “National Council for Peace and Order” (NCPO).

³¹ See “คำสั่ง คณะรักษาความสงบแห่งชาติ คสช. ฉบับที่ 7/2557 เรื่อง ห้ามชุมนุมทางการเมือง” (“NCPO Order No. 7/2557 Prohibition of Political Assemblies”), <http://www.knhong.org/ncpo-announce7-2557.pdf> (accessed 30 November 2016).

organization in the eyes of the state and thus potentially eligible for state benefits and opportunities, albeit largely on the state's terms.

These developments have been carried on the shoulders of a leadership representing the first generation of upland IPs from the North to have not only gone through the national educational system but also participated in the founding of some of the earliest nongovernmental organizations in the North. As a result, the IP leadership has acquired ever-increasing competency in the language and culture of the Central Thai bureaucracy. It is only by exercising these linguistic and cultural competencies that the IP movement has made any headway in their bureaucratic engagements.

Since November 2014 the NIPT has lobbied several state agencies, including the Prime Minister's Office, for advice and support in its efforts to have the NCPO-appointed National Legislative Assembly (NLA) review its draft legislation governing the CIPT.³² The NIPT was eventually successful in having the draft legislation forwarded to the NLA in July 2015.³³ As of early October 2016, however, the NLA had yet to actually review the legislation due to its concern with other matters deemed more pressing.³⁴

Between November 2014 and March 2016, the NIPT further lobbied for, first, official recognition of IPs in Thailand, and, second, legal recognition of the CIPT in each of the two successive constitutional drafts drawn up by different NCPO-appointed Constitutional Drafting Committees.³⁵ The NIPT was eventually successful in gaining official recognition of IPs in the first constitutional draft released to the public in April 2015.³⁶ Its success was, however, short-lived, as just five months later, on 6 September 2015, the NCPO-appointed National Reform Council rejected that first draft.³⁷ Regardless, the

³² The NLA was established by the NCPO in place of the now defunct National Assembly (NAT) as the only parliamentary body of Thailand following its ratification of the 2014 interim constitution on 23 July 2014.

³³ In July 2015 the now defunct Law Reform Commission of Thailand (LRCT) endorsed the NIPT's draft legislation and forwarded it to the NLA, Prime Minister's Cabinet, and National Reform Council for further review.

³⁴ Mr. Kittisak Ratanakrangjangsri (personal communication, 3 October 2016).

³⁵ NIPT, "ข้อเสนอสหภาพชนเผ่าพื้นเมืองประเทศไทยต่อร่างรัฐธรรมนูญและการปฏิรูปประเทศไทย" ("Proposal statement for incorporating the CIPT into the draft constitution and national reformation process") (Chiang Mai: NIPT, 28 November 2014).

³⁶ The first drafting process led by Dr. Borwornsak Uwanno, while criticized for being anti-democratic, was, in relation to the second and final drafting process, nevertheless perceived as more participatory in nature. The following short, but significant, clause was included in the first draft: "Article 83 The State must promote and strengthen local communities in the following matters... (5) protect indigenous and ethnic peoples so that they can maintain their own identities in a dignified manner". Constitutional Drafting Committee (CDC), "ร่างรัฐธรรมนูญแห่งราชอาณาจักรไทย" ("Draft Constitution of the Kingdom of Thailand"), 17 April 2015, p. 27. In the original Thai language the article reads as follows: "มาตรา ๘๓ รัฐต้องส่งเสริมความเข้มแข็งของชุมชนท้องถิ่น ดังต่อไปนี้... (๕)คุ้มครองชนพื้นเมืองและชนชาติพันธุ์ให้ดำรงอัตลักษณ์ของตนได้อย่างมีศักดิ์ศรี". In the original Thai language the term IPs is referred to as "chon phuemueang" (ชนพื้นเมือง) rather than "chon phao phuenmueang" (ชนเผ่าพื้นเมือง) as is generally used by the IP movement.

³⁷ Thai political scientist Prajak Kongkirati suggests that "the junta leaders aborted their own draft in order to prolong their stay in power" (Prajak Kongkirati, "Thailand's Political Future Remains Uncertain", *ISEAS Perspective* 42, 26 July 2016, p. 3.)

NIPT's success in gaining official recognition of IPs in the first draft of the constitution was significant given the Thai government's longstanding stance of non-recognition of IPs.

The second and final constitutional draft, which was released to the public in March 2016 and eventually ratified by a national referendum on 7 August 2016, did not include any reference to "Indigenous peoples" whatsoever.³⁸ Rather, the final version includes one mere reference to "ethnic groups".³⁹ From the perspective of the NIPT, this recognition of IPs as "ethnic groups" amounts to non-recognition. To paraphrase the views of several of their key spokespersons, "The label of ethnic groups can refer to just about anyone; hence it fails to highlight either our distinct identities as IPs or the particular problems we face in Thai society".⁴⁰

Regardless of these constitutional and legal setbacks, however, the NIPT has moved forward independently of the state in bringing its vision of the CIPT to fruition. On 9 August 2015, the NIPT publicly declared the CIPT to be fully functioning with 190 representatives from 38 different IP groups (five representatives per IP group) and two

³⁸ Following the rejection of the first constitutional draft, the NCPO appointed a new CDC under the leadership of the ultraconservative lawyer Meechai Ruchupan (See Prajak, op.cit., p. 3).

³⁹ The specific article in the constitution translates as follows, "Section 6, Article 70. The State shall promote and protect the rights of different Thai ethnic groups to voluntarily and peacefully carry out their way of life without disturbance and according to their traditional culture, customs and way of life, in so far as their way of life is not contrary to the public order or good morals of the people, or does not harm the security of the State or public health". See Constitutional Drafting Committee (CDC), "ร่างรัฐธรรมนูญแห่งราชอาณาจักรไทย" ("Draft Constitution of the Kingdom of Thailand"), 29 March 2016, p. 16; and Office of the United Nations Resident Coordinator in Thailand, *Draft Constitution of the Kingdom of Thailand 2016, Unofficial English Translation* (Bangkok: Office of the UN Resident Coordinator in Thailand, June 2016, p. 25.) http://www.un.or.th/wp-content/uploads/2016/06/2016_Thailand-Draft-Constitution_EnglishTranslation_Full_Formatted_vFina...pdf (accessed 16 November 2016). In

the original Thai language this article reads as: "หมวด ๖ แนวนโยบายแห่งรัฐ มาตรา ๖๗

รัฐพึงส่งเสริมและให้ความคุ้มครองชาวไทยทุกกลุ่มชาติพันธุ์ต่างๆ ให้มีสิทธิดำรงชีวิตในสังคมตามวัฒนธรรม ประเพณี และวิถีชีวิตดั้งเดิมตามความสมัครใจได้อย่างสงบสุข ไม่ถูกรบกวน ทั้งนี้

เท่าที่ไม่เป็นการขัดต่อความสงบเรียบร้อยหรือศีลธรรมอันดีของประชาชนหรือเป็นอันตรายต่อความมั่นคงของรัฐหรือสุขภาพอนามัย".

⁴⁰ Three leading figures within the IP movement expressed this view to me during interviews conducted in Northern Thailand in early October 2016. These figures included Mrs. Chutima Morlaeku (personal communication, 27 September 2016), Mr. Kittisak Ratanakrangiangsri (personal communication, 3 October 2016), and Mr. Sakda Saenmi (personal communication, 2 October 2016). This view seems warranted given the Office of the Royal Society of Thailand's (ราชบัณฑิตยสภา) official all-inclusive definition of "ethnicity" (ชาติพันธุ์) in Thai language issued in February 2011, wherein the following is noted: "... The term ethnic groups can refer to communities that are both a majority and also a minority. The Thai are the largest ethnic group in Thailand. Besides the Thai there are many other ethnic groups such as the Chinese, Mon, Khmer, Karen, and Sakai. The government is trying to promote the equality of all ethnic groups in Thailand and encourage a sense of being a part of one larger nation". (Office of the Royal Society, "ชาติพันธุ์" ["Ethnicity"], 14 February 2011. <http://www.royin.go.th/?knowledge=ชาติพันธุ์-๑๕-ภูมิภาคพันธ์> [accessed 10 November 2016].) Thailand's Office of the Royal Society plays a key role in planning and regulating the official usage of the Thai language. In public discourse, however, it is largely the case that the "ethnic" label is reserved for non-Thai minority groups such as the Hmong, Lisu, Moken, Sakai etc.

sub-national level Councils of IPs.⁴¹ As of early November 2016, 40 different IP groups and three sub-national Councils of IPs were affiliated with the CIPT.⁴² The membership has expanded such that the CIPT has administratively divided its constituents into five geographical regions—the upland North, the lowland North, the Northeast, the east and west of Central Thailand, and the South. At present, however, the movement faces the problem of insufficient funding to take these developments forward in an expeditious manner without losing its current momentum.⁴³

CONCLUSION

Official state recognition of IPs in Thailand seems highly unlikely in the near future given both a long history of non-recognition and the NCPO's renewed focus on nation building, centralization, and national security issues in relation to which upland IPs have long been held suspect.⁴⁴ In this political climate any claims for state recognition as a distinct group within the larger Thai nation are likely to fall on mute ears at best, and, at worst, evoke suspicions of separatism as in the case of the far South and, more recently, the North and Northeast. Nevertheless, the one channel via which state recognition of IPs may yet come is the draft legislation governing the CIPT that the NIPT submitted to the NLA in July 2015.

Meanwhile, the grassroots IP movement has expanded to become a truly national movement potentially representing some 6.1 million people. The Thai government has accordingly paid ever greater attention to the movement and provided certain opportunities for its growth, albeit largely on the state's terms. The IP movement has emerged at a period in Thai history when the state, at least rhetorically speaking, is striving to reframe the nation in a multicultural rather than mono-cultural fashion.⁴⁵ Finally, while the government maintains an official position of non-recognition with

⁴¹ NIPT spokespersons made this announcement at Chulalongkorn University in Bangkok and it was later broadcast to the general public on 14 August 2015 as part of the Thai PBS series, "The Public Stage", under the title, "Opening the council of the marginalized...Indigenous tribal peoples". (Thai Public Broadcasting Service [Thai PBS], "เวทีสาธารณะ: เปิดสภาชายขอบ ชนเผ่าพื้นเมือง" ["The Public Stage: Opening the council of the marginalized...Indigenous tribal peoples"], Thai PBS, 14 August 2015. <https://www.youtube.com/watch?v=wrpJNneFGWk> [accessed 2 November 2016]).

⁴² The three affiliated sub-national level councils of IPs include first, the Kalayaniwattana District Council of IPs in Chiang Mai Province, second, the Mae Hong Song Provincial Council of IPs, and, last, the Southern Regional Council of IPs.

⁴³ Ken Kampe, personal communication, 29 September 2016. The IP movement received an initial year of funding from the European Union to formally develop and establish the CIPT. This period of funding ended in April 2016.

⁴⁴ This has been even more so the case following the passing of King Bhumibol Adulyadej on 13 October 2016. On the rising spectre of ultra-nationalism in Thailand since the king's passing see James Buchanan, "The Darker Side of Thai Royalism", *The Diplomat*, 26 October 2016. <http://thediplomat.com/2016/11/a-new-era-of-intolerance-in-thailand/> (accessed 5 November 2016); and Shawn W. Crispin, "A New Era of Intolerance in Thailand?", *The Diplomat*, 1 November 2016. <http://thediplomat.com/2016/11/a-new-era-of-intolerance-in-thailand/> (accessed 15 November 2016).

⁴⁵ See Anan, *รัฐชาติและชาติพันธุ์* (*The Nation and Ethnicity*); Sirijit, "Negotiating with the Center"; and Horstmann, "Diversity, Space Levels and Approaches to Multiculturalism in Thailand".

respect to IPs in Thailand, the various IP-state collaborations referred to in this brief article suggest that at different points in time, certain state agencies have implicitly recognized IPs as such.

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