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CHILDREN'S LIFE OPPORTUNITIES IN EXCLUDED COMMUNITIES IN  
NORTHERN THAILAND

The case study of Thai Hilltribe Children

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To my mother  
In memory of my father

**Abstract**

In June 2000, the Thai Ministry of Interior, announced that 120,000 hilltribe children were stateless in Thailand, even though they were entitled to citizenship. This was just the 'tip of the iceberg' of a greater problem, which affects approximately half a million people, and the society as a whole. More hilltribe children are making a livelihood from drug dealing, prostitution, and street vending. Hilltribe children and women are one of the most vulnerable groups to trafficking. A study was conducted in order to analyze the structural limitations these children are born into, and how this influences the development of their capabilities.

**Keywords:** Hilltribes, children, citizenship, exclusion, inequality, freedom, education, vulnerability, development, Thailand

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## 1. Introduction

In June 2000, the Thai Ministry of Interior, announced that 120,000 hilltribe children were stateless in Thailand, even though they were entitled to citizenship (Yindee 2001). This was just the ‘tip of the iceberg’ of a greater problem, which affects approximately half a million people, and the whole society. ‘Hilltribe’ is the categorization used to define nine distinctive ethnic minorities who live in Northern Thailand. Tourism has brought attention to them, but only as long as they portray the ‘exotic primitive hill people’<sup>1</sup>. Little is known about the limitation they are subject to. They are aliens in their own territory unless they can prove otherwise to the Thai authorities. Even if they become citizens, they become second class ones.

These 120,000 children are stateless *Thai* children, as they are entitled to citizenship. For them, this means that they might be able to access education, but they are not entitled to any other right that other Thai children have. They are not entitled to benefit from the National health system. They are not entitled to employment. They are not entitled to possess property, to vote, to migrate outside their province without authorization, and so on. On the contrary, they are more vulnerable to exploitation, to forced labour and to trafficking. They are socially, economically, and politically excluded. The lack of citizenship denies an individual full membership in a society (Marshall 1950). This is in itself unfair. It is unjust not only to be born into a discriminative exclusive society, but it is also damaging for the entire society. There is a loss of human capital, which, in turns, hinders the potential development of a country. Unless it is resolved, these children will grow up without enjoying and exerting their political, social and civil rights. Their life opportunities and freedom of choice is clearly restricted by an act of active social exclusion. Their children could even share the same future. This leads to the perpetuation of inequalities.

In order to address the consequences of being born a Thai hilltribe child, especially if lacking citizenship, I will start by analyzing the social transformations and the consequences on the well-being of Thai children. Hence, in chapter 2, I will address the transformation of Thai society; focusing on reduced fertility, greater access and investments in child education, and a consequent change in the value of children. In

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<sup>1</sup> More on the role of Tourism on hill tribes development in Cohen (1996), Prasit (1997) and Toyota (1996)

Chapter 3, I will introduce the hilltribes and I will focus on how the hilltribes have become ‘the hilltribe problem’ and the consequences for the hilltribe children. I will conclude by pointing out how this systematic discrimination against the hilltribes is favouring the widening of inequalities between the Tai-speaking people<sup>2</sup> and the hilltribes in Thailand, and the negative consequences this leads to. It is nothing but a ‘lose-lose’ situation.

### **1.1 Aim and Key Questions**

It is the aim of this thesis to show how Thailand has taken steps in securing Thai children’s well-being but how this has aggravated the inequalities of life opportunities between Thai and hilltribe children.

It is relevant to analyze the structures into which hilltribe children are born. It is within this context that effective measures can be taken in order to put a stop to the discrimination that hilltribes face. It is necessary to understand the process that has made Thailand reach the point when its ‘citizens’ are stateless.

In this study I am trying to provide a new perspective. Hilltribes have traditionally been the object of study of many anthropologists, who were aiming at understanding their cultures and social structures, and of linguists. They are also included in studies related to agricultural practices, and more recently, to prostitution and trafficking. These studies follow a more circumstantial explanatory approach. I am aiming at presenting the structural limitations hilltribe children are born into, the possible reasons behind the process, and the consequences for those suffering the most, namely the hilltribe children. It is within the structure where the limitations are found and the discrimination is exerted. The structure sets the framework of their freedoms as it sets the parameters of the inequalities. Hence, in this case, the structural limitations are impoverishing the people of income opportunities and, even more, of freedoms. My purpose is to show how discriminating against a societal group does not only hinder the potential development of the individual, but also the society as a whole. More

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<sup>2</sup> Tai is not only the standard Thai, which is the national language, but also those named *Kham Muang* (‘language of the principalities’) and the Tai languages of the South. Tai is not exclusive of Thailand; in other countries such as Burma and Laos languages belonging to the Tai or Daic language family are spoken, such as the Shan and Lue.

specifically, what are the children's life opportunities in excluded communities in Northern Thailand?

## 1.2 Analytical Framework

There is one main concept I am dealing with in this paper, namely: inequality. I will use Amartya Sen's definition of inequality, which is embedded in his capability approach, as a theoretical guideline to define and analyze inequality.

The capability approach is a "concentration on freedoms to achieve in general and the capabilities to function in particular" (Sen 1995: 266). A person's freedom represents the real opportunities to have well-being. This relates to the concept of "equality of opportunities" but in a broader sense.

What makes Sen's 'equality of opportunities' different from other scholars in this field, such as Rawls or Dworkin<sup>3</sup>, is that this entitles not only the means but the extent of freedom; "Freedom can be distinguished *both* from the *means* that sustain it and from the *achievements* that it sustains" (Sen 1992: 86). Freedom is concerned with the real opportunity that we have to accomplish.

In order to achieve, it is important to assess not only the means the individual has, but the personal (age, gender, proneness to illness, intellectual capacity, mental and/or physical disability, etc) and social characteristics (infrastructures, policies, social norms, power relations, discriminating practices, etc.) that the person faces.

It is the aim of this thesis to qualitatively assess inequalities, but as Sen puts it, equality of what? In my opinion, those who are stateless face greater difficulties than many other individuals, as they reside in a territory which 'belongs' to a state that does not recognize them. They are born into a systematic deprivation. Their starting point in life is exclusion. Lacking citizenship represents a deprivation of social, political and civic rights of the individual, that is, of a possibility of a full participation in the life of the community. Hence, the focus should be on the "equality of capabilities", that is, on the equality of real opportunities a person has regarding the life she may lead (Sen 1995: 266). As the notion of capability entitles the notion of freedom (Drèze and Sen 1995: 10), then it is the 'equality of freedoms' that I will be

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<sup>3</sup> Rawls focuses on the distribution of 'primary goods' while Dworkin focuses on the 'equality of resources'. Both share the idea of providing resources to equalize opportunities



addressing. However, in this case, it is the individual (a child) within his group that is deprived of basic or substantive freedoms (freedoms to avoid illiteracy, diseases, etc), so the focus of this thesis is not on inequalities between the individuals within the group, but between the groups (Thai holding citizenship vs. Thai non-holding citizenship; Hilltribe child vs. Thai child). For this thesis, freedom will be understood as both positive and negative freedoms. For instance, a person's freedom to be educated is dependant on both conditions that nobody obstructs her legitimate access to education –negative freedom, and that society enables the environment for education –positive freedom.

The fact that this thesis is focusing on children's life opportunities raises the question whether children could be subject to Sen's capability approach or not, as children are restrained by parents and society more than adults. Madoka Saito responded affirmatively to that question by establishing that "as long as we consider a person's capabilities in terms of their life-span, the capability approach seems to be applicable to children" (2003: 26). With almost no exception, one could argue that parents and society (including teachers and authorities) play a fundamental role in deciding the first years of a child's life; hence freedom by Drèze and Sen's definition as the "range of options a person has in deciding what kind of life to lead" (1995:10) is very limited for a child. In my opinion, the earlier a person is exposed to exclusion, the greater inequalities she is most likely to face.

Freedom is important for the individual as "the constitutive role of freedom relates to the importance of substantive freedom in enriching human life" (Sen 1999: 36), but also to the society as a whole, as the entitlement of rights and opportunities to the individual contributes to the expansion of human freedom, and thus to promoting development. According to this line of thought, a country's development should be assessed by the extension of the human freedoms. Both the intrinsic and the instrumental values of freedom are to be considered.

### **1.3 Method**

My research is a case study, which I find most suitable since it has an intrinsic explanatory aim of a contemporary phenomenon of which I have no control (Yin 2003).The research is a qualitative study since I am aiming at understanding the

essence of the phenomenon rather than its quantitative component. Nevertheless, published quantitative data is provided, but only for descriptive purposes.

My empirical material is constructed by the use of mainly two methods: interviews and documents. The interviews have been in depth, semi-structured, yet open-ended. According to Kvale (1996:5) the research interviews are valid methods for scientific purposes. Once in the field, I used the 'snowballing' technique to obtain more interviews. In total, twelve interviews were conducted with key informants, two with respondents, and five were to obtain further contacts and basic guidelines (see appendix I).

Fieldwork was mainly conducted in Bangkok and Chiang Mai. I chose Chiang Mai as it is one of the main cities in the North, attracting hilltribes pursuing education and work.

Few days before my arrival in Thailand, a military coup took place and a new provisional government was 'elected'. Thus, my possibilities of interviewing officials were limited. In order to counterbalance, I have tried to gather all the possible related documents published in English where the official view on hilltribes is stated. To ensure the validity and reliability of the data, triangulation has been fundamental in the analysis.

This is a sensitive topic and trust is needed if one (a white, young, female Master's student) wants access to respondents. Trust cannot be gained in six weeks, so personal life stories are not given a significant weight in the analysis.

My methodological approach is based on Simon's bounded rationality, which establishes that human rationality is "bounded due to external, social constraints and internal, cognitive limitations" (Sent 2005: 227). It is not within the scope of this research to wonder why parents allow their children to migrate. Child labour, especially in the form of sexual exploitation, has important moral connotations. Nevertheless, the agents involved in child forced labour do not follow moral principles, but economic ones. The agents involved in the exploitation are various, namely local contacts (which can be neighbours, relatives or even officials), traffickers, and clients. As Montgomery puts it (2001: 3) "morality is [not] a single, uncontested category which precludes all further discussion". Even if we assume that the sale or the acceptance of child labour under exploitive conditions is irrational, I

believe there is a bounded rationality behind it. This belief has an ontological repercussion; humans react rationally to the context they are in considering their information limits. Hence, it is fundamental to analyze the context, which includes not only the information that the person has, but also the circumstances she is in. The circumstances as well as the information are set by the structure. Hence, it is the structure that greatly determines the capabilities of the individual.

#### **1.4 Delimiting Remarks**

It is not my aim to extrapolate my findings to all hilltribes' children, but to establish the structural limitations they could be born into.

I have deliberately excluded from my research those Burmese children born in refugee camps. In my opinion they deserve all possible attention but Thai authorities could rightly argue that it is not their full responsibility how Myanmar is dealing with its conflict. Thai authorities could also argue that the country lacks the resources to deal with that issue and as a sign of goodwill they are allowed to stay in Thailand in refugee camps. Therefore it could be seen as a Burmese problem on Thai soil. On the other hand, Thai hilltribes' people, who could have the right to citizenship as they have been living in Thailand for long, are indeed a Thai problem.

A very important remark should be made regarding the name used to define tribal people. Scholars and authorities use different names to define this group of people. In the related literature one mainly finds the following terms: highlanders, uplanders, hilltribes, mountain people, tribal people, and indigenous people. The former four terms have a common root, *Chao Khao*, which literally means mountain or hill people, those living above 500 m elevation, up to 2.500 metres. This term is, however, full of pejorative connotations. Scholars state that this categorization of these ethnic minorities has connotations of wild (*chao pa*), uncivilised, uneducated, and it is used as the means for differentiating Thais against non-Thais. *Chao Khao* was officially coined in 1959, when the Central Hilltribe Committee replaced the Hilltribe Welfare Committee. It is not unlikely to find that the term *chao khao* is placed along with *chao rao* ('us people') or with *chao muang* ('urban people', with connotations of civilized and moral) in official usage. The use of these dichotomies (us vs. them; civilized vs. wild; upland vs. lowland) is found in both the discourse on the building of a modern nation state and in official discourse on 'hilltribes' (more in Chayan 2005; Pinkaew

2003; Toyota 2005). Not only the use of these pejorative connotations should be taken into account but also that the term hill or mountain is problematic, as not all ethnic groups which fall under this categorization are uplanders. The Karen people, for instance, “perceive their own places as not being within the highland sphere and who feel no affinity with hill people of the higher slopes, and put into the same gross ethnic category as other highland tribes” (Kammerer in Laungaramsri 2003). Hence the use of hilltribes is not an accurate one.

One possible option would be to group them under ethnic minorities. This, on the other hand, would end up being problematic as well; according to Wanat (1989:6), of the 23 tribal ethnic groups found in Thailand, only nine are recognized under the categorization of “hilltribe”<sup>4</sup>. Thus the use of the ethnic minorities in this paper would be misleading as I am only referring to those officially recognized. ‘Tribal people’ is a term which does not lack pejorative connotations either; according to McCaskill (1997:50), “...the concept of “tribal” connotes a relatively homogeneous, non-modern people isolated from the nation state”. He states that ‘ethnic group’ would be a more adequate term as it suggests contact and interrelationship, which is true for these peoples as they have relatively recently become Thai authorities’ concern. In McCaskill and Kampe’s book (1997:5), they refer to this group of peoples as indigenous. This, I believe, is a problematic approach as not all of hilltribes are indigenous to Thailand. Which Thailand, as a territory, are we referring to?

It is not within the scope of this study to analyze the discourse on hilltribes, but it is important to note that it exists, and how it denotes a dichotomy where these ethnic minorities are considered ‘the others’, ‘wild’, ‘uncivilized’, even servants (*kha*), and are owed to be brought into development and modernization. For the sake of this paper, I will indistinctly use hilltribes or tribal peoples as I believe it is the clearest way of identifying them. Needless to say, I do not subscribe to any of the connotations mentioned above.

Regarding the quantification of the problem, I would like to state that statistics in Thailand are problematic, especially those related to hilltribes. The figures I am providing are just a means and not an end. In my opinion, in this case, it is not so

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<sup>4</sup> See more on this issue in Schliesinger (2000)

much the numerical magnitude of the problem that counts, but what it represents to the individual and the society.

Throughout the text, I will refer to the country Burma/Myanmar by either name. It is not my intention to make any political statement.

## 2. Economic Development and New Life Opportunities for Children

*“We usually consider the world of children to be one of joy and happiness,  
learning and growing, as well as a world of dreams and hope for the future”*

*Dr. Saisuree Chutikul<sup>5</sup> (1992)*

Children’s role in society has changed considerably throughout history, but one could argue that this past century, by some called “the century of the child” (Prout and James 1997: 1), has represented a landmark in many fields. Different conventions have been ratified by the international community guaranteeing basic rights to children, e.g. in: nutrition, health, shelter, and education. Traditionally, education was only provided for the fortunate ones, leaving the others to work. These days it is stated, at least on paper, that all children, with no discrimination, should be educated at least until they reach the minimum age for employment. Hence education has become compulsory, and free of cost, almost everywhere. Education is clearly fundamental in its role as a means to eliminate child labour (Tomasevski 2003). Consequently, countries that have agreed to consider education a human right have to take the necessary measures to ensure compliance. In this chapter, I will assess how Thailand’s development in the past decades has led to modifications in the family structure and thus in the value of children. Thai children have started to enjoy better access to services, such as health care and especially education. I will assess how education has been conceived as a fundamental tool for Thailand’s development and the structural implications that this has.

### 2.1 Modernization of Family Structures in Thailand

During the past decades, Thailand has presented annual GDP/cap growth rates of between 5 and 10%. This represents a rapid economic development that entails social transformations. Some of these transformations may occur naturally as the result of a process of adjustment, but some could be the result of the authorities’ concern. This is the case of population growth. Thailand’s authorities, like those in many other

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<sup>5</sup> Dr Saisuree Chutikul was Minister for Women and Children attached to the Prime Minister’s Office of Thailand. This quote is part of her opening address at the conference celebrated in Bangkok, March 31 to April 3, 1992 “Children in Prostitution. Victims of Prostitution in Asia. End Child Prostitution in Asian Tourism”.

developing countries, have established active family planning programmes. Unlike other countries in the region such as China and Viet Nam, Thailand has supported voluntary family planning. That is, the government of Thailand has provided modern contraceptive methods, which has resulted in substantial awareness and accessibility to these methods by the population (Knodel, Havanon and Pramualratan 1984:322). However, this policy may have just supported an ongoing transformation within the families. Scholars tend to agree that when economies grow, there will be declines in birth rates and family size, policies aside.

The rapid decline of Thailand's fertility rate has called the attention of demographers. In the 1970s, the marital fertility fell by approximately 40% and contraceptive prevalence increased from 25 to 60% (ibid: 297). This is extremely remarkable, not only for the high rate of the change but also for the fact that Thailand was mainly a rural, agricultural society.

## **2.2 Fertility Decline and the Value of Children**

There are two main approaches to explaining fertility: normative or culturally-based, and rational choice or economic explanations. Independently of the cultural context, families have usually had the means to control the number of births, either by abortion or abstinence, and recently also by contraceptives. Availability of, and accessibility to more means, have given more room to an efficient decision-making. In order to understand the motivations behind the decision of having children, it is essential to focus on the attachment of value that parents give to children, that is, the benefits and costs of childbearing and parenting.

According to the 'Theory of Value of Children' postulated by Friedman, Hechter and Kanazawa (1994), models based on the instrumental<sup>6</sup> value of children are effective in explaining the fertility decline. One of those models was established by Becker (1960), who equals children to consumer goods. Becker found empirical evidence of a negative relationship between fertility and income. Thus, as countries manage to reach a moderate development, the rate of return on investment in children equals the

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<sup>6</sup> In rational choice explanations there are two determinants: constraints and values. Values or utilities are divided in instrumental (serving as a means) and immanent (inherent, they are values in themselves).

discount rate, leading parents to start investing in children, that is, in their education (Becker 1990: 28).

One of the first empirical projects on the value of children was undertaken by the East-West Institute in Hawaii, which defined the value of children as “the hypothetical net worth of children, with positive values (satisfactions) balanced against negative values (costs). The project identified five positive general values of children to the parents: emotional benefits; economic benefits and security; self-enrichment and development; identification with child; and family cohesiveness and continuity. There were also five negative general values: emotional costs, economic costs, restrictions or opportunity costs, physical demands and family costs” (Croll 2000: 109). This project was a cross-cultural investigation taking place in six countries, and Thailand was among them. The aim of this study was to explore fertility-related causes within three different class groups and two different settings, rural and urban (Buripakdi 1977:1). This study was to complement the view of children as functional for the parents by providing reasons for why people have children. The findings of the project conducted in Thailand, although not aiming at being extrapolative to the entire nation (ibid: 6), proved to be relevant in order to understand the rapid fertility decline that Thailand has witnessed. According to this study (ibid: 105), 62% of the respondents established the financial burden of raising and educating children as the main reason for not wanting another child, and 75% would be worse off with more children. This is especially relevant for the urban lower class, followed by the rural group. What makes Thailand a very interesting case is that the rural group’s establishment of the number of children that would constitute a “heavy financial burden” was only slightly above the average of 3.8 children. This means that the urban-rural gap in fertility terms was diminishing fast.

### **2.3 Development, fertility decline, and Improvement of Services**

The 1980s and 1990s have been no exception to the decline of fertility. By 2004, the national fertility rate in Thailand was 1.9 (UNICEF), which is in line with the fertility of most developed countries. This is no coincidence. According to the economic theory of fertility decline, as structural changes take place in the economy, the cost of child-rearing is altered. As development occurs, there is an accumulation of wealth, which can be allocated in modernizing infrastructures and services. Two of those



services are health and education. Regarding the former, investments in accessibility to health services and research lead to a decrease in death rates, especially those related to infants. The access to health services for the majority of the Thai population was achieved after the populist 30 baht scheme was approved by Thaksin's government, which allowed poorer rural citizens to access health facilities by merely paying 30 baht (approx 80 US cents). Before the passing of this law, the cost of health care was very significant for those less well off.

Better access to health services increases the longevity, along with the increasing abundant labour force in the rural areas as result of industrialization, leads to social transformations. One of these social consequences is that families do not need as many children as previously in order to survive and reduce uncertainty. Another greater and well-studied consequence is migration from rural to urban centres.

With respect to education, as countries undergo the different phases of industrialization, the demand for skilled labour increases; this raises the need of further education, which, in turn, increases the costs of educating children. Investing in education for most families, facing budget constraints, leads to a subsequent reduction of the family size. Even though compulsory education is nowadays provided for free by the Thai authorities (article 43 of the Constitution), the need for a better skilled youth leads to further education and more extracurricular activities, which entail a great cost for the families, not only in economic terms but also in reallocation of resources (time, transportation, etc). According to a study conducted by the sub-committee on Education under the National Human Rights Commission (Bangkok Post, May 12, 2006), 73% of the surveyed parents claimed that they contribute more to education-related expenses now than they did before the enforcement of article 43 of the constitution<sup>7</sup>. Regarding higher education, the awareness of university rankings has risen, along with the offer of new degrees. Parents and children alike face serious challenges to enter one of the top universities in order to get a better-paid job once the degree is obtained. For rural citizens, the accommodation costs and other living expenses of the child who has to move are significant.

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<sup>7</sup> During the period of study, 2002-2005, the main expense parents faced was making donations in exchange for seats (from 50,000 to 100,000 baht/head to the top schools, and 6,000 to 10,000 baht/head to average quality ones).

Therefore Thailand's pattern on economic growth, fertility decline, and investment in education verifies the argument of many family planning advocates. That is, by reducing fertility, families can allocate more resources into their children, especially in education, which favours families and governments alike. Families can invest more in each child and thus, children can have a better education. The value of children progressively changes. What is characteristic of Thailand is that the family planning, as well as the economic costs of child-rearing, including education, relies principally on the couple and not as much onto a wider kinship network (Knodel, Chamrathirong, and Debavalya 1987). Hence, as the labour market demands a more skilled force, Thai couples face more constraints and family is considerably reduced in order to provide children with a necessary education.

## **2.4 Towards a Child-Centred Society?**

*“The ideology of the child-centred society gives ‘the child’ and the ‘interests of the child’ a prominent place in the policy and practices of legal, welfare, medical and educational institutions” (James & Prout 1997: 1).*

It is an arduous, if not impossible task to determine when the people of a country change their attitudes towards children. The protection of children's rights by law could be seen as one step forward to a child-centred society. It is not within the scope of this paper to enter into the existing debate on the construction of childhood. However, one could state that in the past century, children (or their advocates) have gained momentum; the fact that the Convention on the Rights of the Child (CRC) has been the most ratified human rights treaty in history<sup>8</sup> could be an example. Children's rights and well-being are apparently conceived as fundamental by the states. Thailand has been no exception. The CRC is a legally binding convention guaranteeing the rights of children, which are: “right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life” (UNAC). The convention establishes standards in health care, education, and other services. Thailand's authorities have undertaken different reforms to improve children's conditions in the country. Investments in education have been significant (see Table 2.1). Some of these measures are: increase of

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<sup>8</sup> 192 countries have ratified the treaty with the exception of the United States of America and Somalia

compulsory education from 6 to 9 years (The National Education Act, August 1999), which comprises from pre-school to upper primary<sup>9</sup>; increase of the minimum age of work from 13 to 15, and for hazardous jobs to 18 (Sections 44 and 45 of The Labour Protection Act of 1998); and from 1990 universal free education to all resident children in Thailand<sup>10</sup>.

These measures, along with a progressive reduction in the number of children due to the fertility decline, could explain the decrease in child labour; child labour participation rate in Thailand has been reduced from 5% in 1989 to 1% in 2000 (ILO 2006:11). The figure should be problematized as it is based on *registered* children. The child labour participation is established from the labour force survey, which implies that the only considered subjects are those with household registration (personal communication with ILO). Taking into account that not all residents in Thailand are registered, the magnitude of the problem could be underestimated. Thus, one should ask which Thai children are more vulnerable to exploitation and why.

**Table 2.1**

Country	Gross National Income		Government Budget	
	Education	Military	Education	Military
Burma/Myanmar	0,5	7,8	--	93,6
Cambodia	1,1	4,0	8,7	26,0
China	2,1	2,3	--	22,2
Indonesia	1,3	1,1	7,9	8,4
Laos	2,5	2,0	8,7	11,1
Malaysia	6,0	2,3	25,2	9,3
Philippines	4,0	1,4	20,6	7,3
Vietnam	3,0	2,5	7,4	11,6
<b>Thailand</b>	<b>5,2%</b>	<b>1,7%</b>	<b>20,1%</b>	<b>15,1%</b>

Source: *Advancing the Campaign against Child Labor: The Resource Allocations of National Governments and International Financial Institutions*, in Tomasevski (2006: 119)

Thailand is seemingly providing its younger generations with access to basic services, such as education (see Table 2.1) and health care. One could assume that all children born in Thailand would have similar opportunities, but this assumption would be

<sup>9</sup> Compulsory basic education in Thailand comprises pre-school (two years, approx 3 to 5 years of age) to lower secondary (6 years of primary and 3 of lower secondary, ending at age 14 or 15)

<sup>10</sup> Universal education in Thailand was enacted in 1921. However it was in the 1930's when it was fully implemented (Knodel 1997). The difference is that in 1990, in the EFA Conference in Jomtien, Thailand ensured education to all residents, and not only to Thai citizens.

misleading and unrealistic. The improvement in opportunities brought by development for Thai children leads to a widening of the inequalities for those that are excluded. So, who are the excluded?

### **3. Hilltribe children: Born into exclusion**

The hilltribes of Thailand are one of the multiple ethnic groups that exist in the country. They constitute about 1 % of the population. What is characteristic of this group of ethnic minorities in Thailand is that, unlike in the neighbouring countries, they have not been recognized as citizens of the country. They have been subject to exclusion.

In this chapter, I am going to briefly introduce the Thai hilltribes and assess how they have constituted the “hilltribes problem” as a result of the building of the nation-state and modernization. I will carry on by analyzing how they have become subject to a ‘selective integration’ process (Chayan 2005), to finally assess what the consequences, especially regarding education and labour, are for the child born as a member of a hilltribe in comparison with a Thai child.

#### **3.1 Introduction and Brief History**

Under the categorization of hilltribes, one can find a very diverse group of peoples. Officially, nine ethnic minorities are included under that term: Karen, Hmong, Yao, Akha, Lahu, Lisu, Lua, Htin, and Khamu. They all have different languages and cultures which makes them distinctive from each other. However, there are some similarities. A great majority can be found in 8 provinces<sup>11</sup> in Northern Thailand. They rely on agriculture for subsistence and practice slash-and-burn or swidden agriculture. In respect of their political structures, villages are generally autonomous; each has a headman and/or elders running the daily life of the community. In the mountains, one will not find a great number of villages of the same ethnic group together, but rather villages of different ethnic groups in close proximity. Some of these groups are semi-nomads; this is in part due to their agricultural practices. It is also common that if disputes arise, a family or larger community will move and establish themselves elsewhere. However, Thai government restrictions on swidden cultivation have led to more fixed settlements.

The social organization is complex and varies among the groups. They have traditionally been animists, but conversions to Buddhism (especially among tribes with greater contact with the lowlands) and Christianity have taken place.

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<sup>11</sup> Chiang Rai, Chiang Mai, Mae Hong Son, Lampang, Phayao, Lamphun, Phrae, and Nan

**Table 3.1**

Minority Groups	Linguistic Group	Estimated Settlement	Estimated Number <sup>^</sup>	Agriculture Practices*	Others
Karen (Kariang, Yang)	Tibeto-Burman	3 centuries ago	350.000	Established Swiddeners**	Bilateral Descent and Matrilineages
Hmong (Meo, Miao)	Austro-Thai	1840-1870	153.955	High-dwelling pioneer swiddeners***	Patrilineal clans and lineages
Lahu (Mussur)	Tibeto-Burman	Lahu Sheleh: 1857-1875 Lahu Na: 1920 Lahu Shi: past decades	102.876	High-dwelling pioneer swiddeners	Cognatic kindred of shallow extension
Akha (Ekaw)	Tibeto-Burman	1915	68.653	High-dwelling pioneer swiddeners	Patrilineal clans and lineages
Yao (Mien, Iu Mien)	Miao-Yao	1890s	45.571	High-dwelling pioneer swiddeners	Patrilineal clans and lineages
Lisu (Lisaw)	Tibeto-Burman	1920	38.299	High-dwelling pioneer swiddeners	Patrilineal clans and lineages
Lua (Lawa)	Mon-Khmer	Pre-Tai populations	17.346	Established Swiddeners	Patrilineal clans and lineages
Khamu (Khamu)	Mon-Khmer	Pre-Tai populations	10.198	Established Swiddeners	Patrilineal clans and lineages
Htin (HTin, Mal, Prai)	Mon-Khmer	Pre-Tai populations	48.025	Established Swiddeners	Cognatic kindred of shallow extension

\* There is no absolute correspondence among ethnic group, swidden technology and elevation of village (Walker 1979/80: 423), but there has been a traditional classification: poppy growers Vs. non poppy growers. All groups raise animals, practice wet-rice cultivation

\*\* no poppy cultivation dry hill rice as major crop. Great concern on soil fertility <sup>^</sup> Perve (2006)

\*\*\* poppy growing and subsistence rice crop

### 3.2 Modernization meets the excluded

*At the present time [1963], Thailand has been developing her national economy, it is discovered that those hill tribes have presented many problems. Their illiteracy, ill health, under-development etc. hinder the government's plans for national development and therefore demand the most urgent solutions*

*Central Hilltribe Welfare Committee (1963:2)*

During the last decades of Siam, there was awareness of the existence of the hill tribes but as the Central Hilltribe Welfare Committee (1963:2) puts it: "Since these hill peoples never played any important roles in the public policy of the government nor in the economy of the country, no study has been taken place to gain a fair understanding of the hill tribes".

Why was there in 1963 a sudden need to 'gain a fair understanding of hilltribes'? The Thai Government associated some problems with the existence of the hilltribes in the uplands; hence in 1959 the authorities approved the Hilltribe Development and Welfare Programmes. The problems they found were affecting Thai government in the social, political, economic, and administrative orders. However, this could be summarized as a problematisation of their 'presumed' life styles and means of living; (1) the practice of swidden cultivation techniques was leading to land deterioration

and the destruction of forests watersheds; (2) the fact that some of the hilltribes have traditionally cultivated opium as a cash product led to the categorization of ‘opium raising’ as a hilltribe problem; (3) hilltribes do not adhere to the modern notion of nation and the preponderance of territory as they have traditionally migrate, hence they were a security threat.

### **3.2.1 Nation-building process**

During the end of the 19<sup>th</sup> century and the beginning of the 20<sup>th</sup>, Siam was forced to delimit its territory. This had multiple consequences. One of the greatest was a need to define who was Thai. As Pasuk et al. (1996: 22) explains it, the term Thai has an intrinsic ambiguity due to the fact that it includes two significant connotations: the belonging to a group, such as a nation, and the possession of citizenship. Consequently, the authorities rushed to include in the concept “Thai” all those groups whose identities differed from their own, namely those in the principalities. Siam could not ‘lose’ more territories to the French and British<sup>12</sup>. The hilltribes were left in ambiguity as they did not have similarity with the Thais, but were now part of the territory.

The 1960s and the 1970s were characterized by political instability. Some of the fractions of the Communist Party of Thailand (CPT) found shelter in the northern mountains of Thailand, alongside some tribal people. The difference between these two groups is that the former, though communist, were Thai<sup>13</sup>. The hill peoples, whether they were actively supporting the communist guerrilla or not, were seen as a security threat. In 1963, the Central Hilltribe Welfare Committee established ‘public safety in border province’ as a basic problem presented by the hilltribes.

Several Border Patrol Police were established in different Northern points and as Thongchai (1994: 160) points out, the term ‘border’ should be understood not only in its geographical sense, but as a demarcation delimiting what is to be Thai, that is, ‘Thainess’ from otherness.

The internal conflict in Thailand was resolved, but the problem remained. The hilltribes are now seen as another national security threat as they have become the ‘illegal migrants’ (Toyota 2005)

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<sup>12</sup> See more on Thongchai 1994: 169

<sup>13</sup> This distinction is important (see more on Thongchai 1994: 170). The Thai communists were addressed as ‘The Deceived’

### 3.2.2 Land rights

Prior to the use of *chao khao* as the term to define these ethnic minorities, they were known as *chao pa* ('forest people'). They settled at different altitudes in order to economically exploit an ecological niche; those areas were the forest and the mountains. The lowlands or valleys have traditionally been occupied by a Tai-speaking group, Khon Muang, and by Chinese traders and shopkeepers, the *Haw*.

The forest resources were claimed by the Royal Forest Department (RFD) already by 1896 (Vandergeest 1996: 161), but the commercial exploitation did not start until 1960s, which led to a very rapid deforestation<sup>14</sup>. It was a matter of time before the Ministry of Agriculture identifies the hilltribes as usurpers of Thai resources. This was, for instance, represented by the claim of the RFD Director that Thailand was gradually being given away to 'non-Thai' peoples (*Nation* September 18, 2000). Hence, this identification of the hilltribes brought them 'development'.

One of the first needs was to join those previously considered 'remote areas' with the lowland. In order to do so, roads were constructed. However, roads were not only used to transport their products to the lowland and relocate hilltribes (Central Hilltribe Welfare Committee 1963: 24), but also brought up lowlanders. As land became scarce, lowlanders started to venture into higher altitudes. But pressure on land was not only a problem in the lowlands but, since early 1970s, it also became a threat to subsistence of the hilltribes. Rapid hilltribe population growth<sup>15</sup>, enlarged population density, a growing stress in cash crops, erosion in the hill, and limited access to new technologies, among other factors, were starting to hinder the livelihood for many of the hilltribes (Kunstadter 1983).

Development as well as modernization is a concept of the 'modern world'. Both rest in some interdependent processes that take place in society. Thailand is a developing country, and as mentioned in chapter 2, some transformations have occurred rapidly. However, in order to enjoy the benefits that development and modernization bring along, one has to be entitled to them. Numerous programmes have been conducted in

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<sup>14</sup> In the North, just the expansion of maize cultivation caused the distraction of 4.5 mill rai of forest by the mid-1970s (Bello et al. 1998: 179). That is the equivalent of 7,200 square kilometers (that is, almost 67,000 football fields)

<sup>15</sup> The hilltribes' population growth is due to both natural increase (high birth rates and declining death rates) and increased migration toward the hills, from the lowlands and border-crossing (Kunstadter 1983: 42)



order to ‘solve’ the hilltribe problem, especially to modernize their agricultural practices. In the literature, a common criticism of those programmes is the lack of involvement of hilltribes’ peoples in their design.

Insofar as they are treated as passive ‘other’ subjects that need to be brought into the modern world, the provision of a very specific aid would be helpful undoubtedly, but not as effective as if they (each individual) were entitled to the basic rights which Thai citizenship entitles. The Thai hilltribes are not seen as legitimate to claim the land they live in.

The Thai authorities identified some existing problems as intrinsic to the hilltribes, namely: opium raising, deforestation, and national security threat. Little was known then about them, and so overgeneralizations were made. The hilltribes should be assimilated into ‘Thai-ness’ via education. The fact that they were presenting high illiteracy rates and that they lacked proper health care (just to name some of their difficulties) was only circumstantial and was not seen as problems per se but as part and parcel of their negative consequences in the economic development of Thailand. This is paradoxical as the exclusion of groups of society per se hinders the development of a society as this may result in waste of valuable human capital. As Sommart (1997:71) recollects and expresses the view shared by some:

*We had always seen them [hill tribes] entirely as farmers and it seemed we would view them as such for all of their lives. They couldn’t do anything else. Academic and non-government organizations, small and large alike, felt the only tribal occupations were in agriculture. If anyone were to suggest that the hilltribes could become engineers, lawyers, merchants or government officials, they would be termed mentally deficient*

### **3.3 Attempts to include?**

Thai authorities have established that in order to overcome the problems that this group of peoples represent for Thailand, they should be brought in line with mainstream society; this means that they need to be assimilated into the economic and social life of the larger society. However, the process of assimilation has not reached all the residents of the hills, instead they have been subject to a process of ‘selective integration’, which means that not all, but some, were provided with citizenship when the first (and for that matter, consecutive) attempts to integrate were taking place in the 1970s and onwards. That was the beginning of a difficult, complex, bureaucratic

and ongoing process, which I will try to summarize in this section. The fact that the process of assimilation has resulted in such an intricate situation is very much a reflection of the intermingling of the different authorities in charge of dealing with this ‘problem’ (i.e. the Department of Welfare, the Human Rights Commission, the National Security Council, the Ministry of Agriculture) and their different objectives (see more on Aran 1976). As years have gone by, the ‘problem’ has not been resolved, but rather has evolved.

In the table 3.2, I am gathering data on difference census undertaken by different institutions in different years. In appendix III, more detailed information/data is provided.

**Table 3.2**

Year of Survey	Hill Tribe Population		Reference
	Total	Note	
1960	217.000	11% of estimated error	Aran (1976: 5-9)
1965/66	275.249	Including the Haw	
1973	272.794	Excluding the Haw	
1983	310.280		Kunstadter (1983: 17)
1985-88	580.000		Aguettant (1996)
1993	804.726	Toyota	Toyota (2005)
1995	694.720	Tribal Research Institute	Aguettant (1996)
1995	813.024	Ministry of Interior	
1999	842.045	Miyazawa Survey	UNESCO
2003	834.923		Perve (2006)

All these statistics should be read with caution. First, it is implicit in their identification as hilltribes that some reside in remote areas where the access to them could be difficult, especially in the rainy season. Second, some of these hilltribes are semi-nomads, so they might have migrated while the census was taking place. Third, the marginal knowledge of Tai could have hindered the process. Fourth, the increase in the population could be due to multiple factors, among them: opportunistic migration (Chiang Mai-based NGO). Fifth, the statistics have been conducted in different number of provinces and included different minority groups, which hinders the ‘continuity’ of the data.

In June 2000, the Ministry of Interior published the following findings (Yindee 2001): nearly half of the one million hilltribe and minority groups in Thailand have not obtained citizenship; 100.000 are qualified for citizenship, about 90.000 are entitled to permanent residency; approx 120.000 are hilltribe children, who are entitled to

citizenship; and the remaining 190.000 are allowed to stay temporarily for another year until a final government decision is made.

### **3.4 The Right to Belong**

The process of obtaining citizenship is regulated by the Nationality Act of 1965, which was amended in 1992 (see more on Appendix II).

There are at least three important aspects within the law worth exploring. First, having a household registration certificate is a condition of being eligible so its possession is significant. Each household has a household card, *tho ro 13* or *tho ro 14*; the former is yellow and is issued to illegal residents, and the latter is white in colour and for Thai citizens. Once the application for registration is approved, the *tho ro 14* is issued by the local Department of Local Administration (DOLA) officer. This document is necessary to apply for citizenship but also for more practical aspects of the life such as buying land, applying for jobs, enrolling in higher grades of government schools, showing to authorities in road check points, etc.

Second, the requirement regarding drug production has brought controversy, as there are claims of power abuse and human rights violations, which includes extra-judicial killings, after Thaksin proclaimed the 'War on Drugs' in 2003 (Human Rights Watch 2004; The Akha Journal 2003: 121-141). The revocation of citizenship can be used as a coercion tool by corrupt officials, if the family members are suspected of drug dealing or production.

Third, each individual has to prove he or she was born in Thailand. Article 7 of the CRC states that children have the right to be registered immediately after birth, the right to a name from birth, the right to acquire nationality and the implementation of these rights should be ensured in particular where the child would otherwise be stateless. Thailand ratified this convention but it made a reservation to this article by stating that '*shall be subject to the national laws, regulations and prevailing practices in Thailand*'. This note was made partly due to the Nationality Act, in which is stated that children born before 1992 on Thai soil of parents that entered the country legally are to be granted Thai nationality in accordance with the 'state of birth' principle. Since 1992, the principle 'race of birth' determines the process, by which only those born of a Thai mother or father can be granted citizenship, even if their parents are

legally in Thailand (Poona 2001:2). This has just brought more confusion not only to parents but also to officials.

These days, it is more likely that hilltribe children are born in hospitals, but before they were born at home<sup>16</sup>. It is the group of present teens, and older, who finds it problematic to prove their birth in Thailand. This is the case of one of my respondents; he does not have a birth certificate. When he applied for his ID card, he could not prove his birth in Thailand. He, a Lahu teen, was provided with a green card with red rim, which clearly limits his capabilities. He is currently studying Law in Chiang Mai, but unless he gets his citizenship the prospects for recognition of his title are very limited. He is not the only one. In a study conducted by Plan International (2005) in Chiang Rai province, it was found that the older age group (13 to 17) formed the higher proportion of children without the Birth Registration Certificate<sup>17</sup> (70% of all children with no BRC, that is, 1,585 children). Four ethnic groups are highlighted as being worst off: Lua, Lahu, Akha, and Hmong. When asked why the birth of the children was not registered, almost 60% of the parents pointed at ‘obstacles due to official bureaucracy’<sup>18</sup> and 36% said that the child was born at home and the parent did not know or was not aware of what to do.

The Government is trying to bring awareness of the necessity for registering the birth of every child born on Thai soil, while clarifying that the document does not entitle them to citizenship.

Consequently, the process of application for citizenship is complex, costly, lengthy (each application for naturalisation costs approx 5,000 baht plus obtaining the requirement documents and transportation), and subject to flaws. For instance, I was informed that within the same family two out of the four children were registered in the second survey as being born in Burma, while the rest of the members of the family were said to be born in Thailand (NGO in Chiang Mai); the children erroneously registered as born in Burma have not been granted citizenship as their siblings and parents have, bearing the negative consequences this entitles.

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<sup>16</sup> More on birth certification in Appendix II

<sup>17</sup> The loss the document is not uncommon

<sup>18</sup> Registration takes more than one day so one has to travel back and forth; unavailability of local and district authorities to be witness; responsible officials not willing to help

Based on field interviews, it is clear that there are numerous interrelated factors behind the slowness of this process:

- there is a combination of accessibility to the registrar' office and attribution of importance to registration, that is, many hilltribes people, especially those with difficult access to administrative offices, may have not prioritized the registration;
- ignorance of the potential rights and requirements by law, along with a limited knowledge of Thai, hinders the process;
- the complexity of the legal classification of the hilltribes and other minority groups (more in Appendix III), and of the naturalisation process does not exclusively affect the hilltribes people, but also the officials in charge, who may see 'making the wrong decision' as a risk for their careers;
- the hilltribes problem is not the priority of the DOLA or the sub-district (*Amphoe*) authorities as they represent a minority of the population;
- the rotation every few years of the government officials in charge of hilltribe issues, along with a very bureaucratically entrenched paperwork, leads to disruptions in the application process, the demand of new applications for a new official happens frequently;
- announcements of openings for verification are not done with enough time in advanced due partly to fear of excessive migration from neighbouring countries, which is detrimental to those who are legally eligible, and only said to headmen of the villages for them to communicate to others;
- the openings are mainly done in districts that traditionally are highly populated by hilltribes, but that does not necessarily cover all districts so those living in districts that are considered 'Thai' are not favoured;
- corruption is part and parcel of the process. Some officials will resort to their power, but also some hilltribe people may buy id cards from dead people or even parents selling, for instance, their disabled children's citizenship cards.

In the appendix III there is a time line of the process of registration of the highland population proving more detail on the census and their outcomes.

### **3.5 What is available for the children?**

In the previous sections of this chapter, I have aimed at presenting the complexity of the structure the hilltribe children are born into. Needless to say, those children whose parents have become Thai nationals will obtain their Thai id card as any other Thai citizen. However, that does not lead to being considered 'one of us'. Many youngsters, with or without documents, face years of built up discrimination, which is present in the educational system and the labour market. In this section, I will explain what difficulties they can face in order to get an education and how their vulnerability increases by reducing their chances of education and their 'alien' status.

#### **3.5.1 Education**

There has been no systematic research on the level of education of the hilltribes, but some related reports have been published. The first step is to address if hilltribe children are allowed to access public education. Universal education for **all** children on Thai soil was not declared until 1990. In 1992, the Ministry of Education issued a regulation including guidelines to provide education all children and issue a certificate after completion of their studies.

*Yet education personnel and school often do not accept hilltribe children for admission as they do not know about the ministerial regulation. Some schools, although admitting these students, do not provide them with scholarships, food subsidies and quota to continue their education. Without financial and material support, many of them are unable to continue /.../. Equally important, many schools do not issue these students with certificates upon completion of studies.*

*(Nisa & Jirawat 2004: 17)*

In this same article, it is stated that only 19% of hilltribe primary students enrolled in secondary in 2003. In 2004, only 51% and 17% of the enrolled hilltribe students completed primary and secondary education respectively (Save the Children Bangkok, unpublished document). These figures just represent 'the tip of the iceberg' of much greater problem, which perpetuates the existing inequalities between hilltribe and Thai peoples.

According to Khun Chuaruaypon (2005), from the Thai National Commission to UNESCO, 'the government may have left stateless and migrant children out of the Thai education system'. From 400,000 to 800,000 of the primary school aged children were not attending school in the years 2005 and 2006; a very significant portion of these "out of school" children are believed to be from ethnic minorities and migrant children (ibid; Education For All, UNESCO, 2006). However, even if they are attending school, there are problems they will have to face during their academic life. Based on most of the related reports and field interviews, these problems are: scarce number of schools available; long distance to the schools (especially for secondary education); poor quality of education<sup>19</sup>, partly due to the lack of skilled teachers; lack of means and resources; and extra charges (Tomasevski 2006:247). There has not been a significant increase in the budget allocated to education. The distance to the secondary schools, which may explain why some parents, out of fear, do not want to send their daughters to school after 6<sup>th</sup> grade (David Feingold, personal communication) and the risk of not obtaining a certificate after completion of their studies could be incitements for many stateless children to drop out of school. Above all, being discriminated against by teachers and classmates puts further pressure on these students.

As previously mentioned, hilltribe children, and adults for that matter, are being seen by some as 'dirty', 'wild' and 'stupid', but they are also mocked for not being able to properly speak Tai. However, little has been done by the authorities to understand why some hilltribe people have difficulties in learning Tai, and if this, in turns, hinders their academic performance (more on Appendix II).

This said, in the past decade, due to the previously mentioned attempts to naturalise and 'pro-education as a right' policies have had positive impacts on the hilltribes younger generations as can be seen in table 3.3.

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<sup>19</sup> The Office for National Education Standards and Quality Assessment (2006) claimed that 15,000 out of 30,010, that is, 4.5 million students, are substandard, especially small schools in rural areas

**Table 3.3**

<b>Population 15-19 (age) with 6 years of schooling</b>						
	<b>1990</b>			<b>2000</b>		
	Both sexes	Males	Females	Both Sexes	Males	Females
Thailand	<b>88,9</b>	89,1	88,6	<b>95,3</b>	95,3	95,4
North	<b>83,6</b>	84,2	83,0	<b>91,2</b>	91,2	91,2
<b>Hill Tribes</b>	<b>29,7</b>	<b>35,6</b>	<b>24,8</b>	<b>54,2</b>	<b>59,5</b>	<b>47,9</b>

Source: Gray et al (2005)

Thai public school is not the only way of attaining an education. Buddhist temples offer education. This is clearly a very gender discriminating practice, as only Buddhist boys can take advantage of this opportunity. Christianity has also proved to be a source of education. Some hilltribes converted to Christianity a long time ago, but others do it now in exchange of a chance for education. Some NGOs provide scholarships for hilltribe children so they can carry on with their education. Many families with undocumented children see in the pursue of an education a way to obtain a certificate that will help their children prove their stay in Thailand (Plan International 2005).

In conclusion, children of the hilltribes, especially those lacking documentation, face great difficulties in accessing education, but once they have access to it, they could often confront discrimination and poor quality of education. Their situation should also be contextualized as Thai education, especially in rural areas, lacks quality<sup>20</sup>. Insofar as this situation is not greatly improved, hilltribe children will be confronted with discrimination and a very unequal starting point throughout their lives. Furthermore, even if the stateless children receive a certificate after the completion of their studies, their legal status makes them vulnerable to exploitation by businessmen, with the approval of the police. This latter issue is the subject of analysis in the next section.

### **3.5.2 Labour**

Child labour occurs when the work of the children to help their families interferes with their education and then intervention is needed (Kusumal Rachawong, personal communication). It is not an exclusively Asian trait that children help their families earn an income. This is not legally considered child labour or child exploitation, but

<sup>20</sup> According to PISA (2002-03), 37 % of 15-year-old Thai students performed at or below the lowest proficiency level for reading literacy, 74 % were at level 2 or below.



once the child is excluded from attaining an education (formal or vocational), intervention is seen as needed.

From the previous section, we know that hilltribe children are more likely to drop out of school after primary education than other Thai children. The age of completion of primary education is approximately 12 or 13 years. The legal minimum age for working in Thailand is 15 years old, unless the work is considered to be hazardous, which increases the legal age to 18. Hence, there is a gap, from 12 to 15 years of age, where risks of child exploitation can occur. Based on field interviews, children will most likely remain in their village, helping in the fields or with households, until they reach the legal age to work, they will most likely seek in migration the way to earn a livelihood. But will migration constitute a risk for them?

### **3.5.3 Migration and Forced Labour**

In order to answer that question, one should first make a distinction. First of all, their low skills due to their short academic life, and the most likely poor education they have received, limits them and confines them to certain jobs; however, this is not any particular trait of hilltribe children, but actually one shared by those coming from poor Thai communities (such as those from Isaan). It is their legal status that determines how vulnerable to exploitation they are going to be. In Thailand, when children reach the age of 15, they can apply for ID cards. Hilltribe children will do the same but, in general, when they are 12. However, those whose parents are not Thai citizens will not receive a Thai id card, but a coloured id card<sup>21</sup>, either a blue card or a green card with red rim (see more on Appendix III). As previously explained, each card type entitles different rights; one of the greater restrictions is that of movement. Depending on the colour of the card, some will not be able to move beyond their district without consent from their district authorities and others will not be able to go outside their province. Once they are in the city looking for a job, the chances of being exploited by businessmen and by the police are very significant. One of my informants, for instance, took a summer job; he was paid 2.500 baht (approx. 50 euros) a month for working 10 hours a day, 7 days a week. These conditions are per se exploitive, but as he witnessed, breaking one item would cost him a deduction of 500 baht of his salary.

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<sup>21</sup>Thailand is starting to issue 13 digit ID cards, like the ones issued to Thais. However, the numbers they use will immediately identify them as hilltribes.

If their legal status does not change, one could almost guarantee them a lifetime of exploitation.

The demand for labour in Northern Thailand is gender biased. For instance, Chiang Mai has become infamous for a growing sex industry, which includes a small but nevertheless significant paedophile haven. Different studies on the sex sector establish that from 25 to 50% of the prostitutes started working as such when they were less than 18 years old. Prostitution is an illegal but widespread practice, hence it is difficult, if not impossible, to quantify. Much has been written on prostitution in Thailand and the magnitude and its quantification varies substantially from one document to other. Child prostitution is no exception. The estimates vary from 30,000 to up to as much as 800,000 child prostitutes (Lim 1996:172). The quantification of this immense problem is not within the scope of this research. What is significant, and previously unheard of, is that in the past decades more hilltribe girls and women are part of this business (David Feingold, personal communication). As previously stated, land scarcity, the need of family income and almost inexistent job opportunities put pressure on many young women and men to migrate. It is in this process that the risks of being trafficked increase consistently. Some related literature has pointed at the possibility of parents selling their daughters to trafficking networks. David Feingold, among others, claims that this is very unlikely, as the trafficking in hilltribe girls or women usually occurs while they are migrating (personal communication 2006). For instance, in 1993, among 2.890 hilltribe people who sought work outside their village, at least 621 girls (21.5%) were found working as prostitutes and 7% were working as waitress in restaurants (Caye 1995: 34). In this same report (p. 86) it is also mentioned that boys aged 12 to 17 are used to cater paedophiles. Even though this cannot be extrapolated to the entire hilltribe population, it implies a very alarming situation.

Due to the great restrictions on travelling that many hilltribe people suffer still, trafficking is likely to happen. Their starting bargaining position is a very weak one. Their vulnerability to trafficking networks is significant. Trafficking networks are not necessarily very organized, but they do exist. They could, for instance, help avoid police patrols in the road.

Prostitution is not the only form of labour hilltribe children ended up into. Trafficked or not, many children become street beggars and handicraft sellers. Some may do it as 'part time', as an extra to the family income, while the parents for instance work in

constructions sites, but for others this will be their only income. In 1999, it was estimated that Thailand had 17,400 street children (Berger & Van de Glind 1999: 106); there has been a decrease in the number of Thai children, but ethnic minority and foreign children are increasing in number. On average, they are 8 to 9 years old, and may have a basic primary education, if any. There are slightly more boys than girls (53 to 47%). Sometimes they are offered domestic employment or they end up as prostitutes at that early age. They are often harassed by the police. For instance, while I was conducting my fieldwork, street children were taken by the police and warned to stay out of the streets as two important festivities were about to happen and the streets should be cleared (personal communication with two organizations working with street children).

More children are engaging in drug abuse and drug trafficking. The North is one of the areas of greater concern due to the increasing availability of drugs, especially amphetamines. The reduction of opium production in Northern Thailand as a result of crop replacement policies, has led to increases in the demand of amphetamines and heroin. Heroin is brought into Thailand from neighbouring countries; the facility for its transportation and distribution makes it cheap and easily available at the village level. Berger and Van de Glind point at the increasing involvement of young children in consumption (1999:95), which leads to selling to buy and dropping out of school to start working. In the Northern provinces bordering with Myanmar, an average 80% of all boys and young men (aged 14 to 35) are using and most likely selling drugs (ibid: 98). Many children, as young as 4, are being used as drug couriers since, if they are caught, they will not be punished (as they are younger than 7). If they are from 7 to 14, they are not punishable but the guardians/parents may be ordered to take specific action to stop and prevent (ibid).

More research should be conducted as this is a great problem affecting children at a very early age, and clearly hindering their chances in life.

What are the options? A day's pay for an unskilled worker is approximately 150 baht<sup>22</sup>; a child beggar or street child could make from 600 to 1000 baht/day (there are seasons, but even in low season they could make 300 to 400 baht/day); drug trading could be as remunerative and if they consume, big traders can give them 20 tables for

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<sup>22</sup> Minimum wage, as approved in 2005, in Chiang Mai is 149 baht (max 8 hours a day). These workers face intense long working days and about 1 day off a month

every 100 sold (Berger & Van de Glind 1999: 98). If these children are trafficked, especially into prostitution or domestic work, their economic outcome, as their working conditions, will vary. Some will be able to send money back and even come back with some, others will be totally enslaved and working to pay back their debts.

This is just an overall picture, but it will not be complete if no mention is done to the health risks. Children who lack citizenship are not entitled to public health care. Their access to health information has generally been limited. Some NGOs have been working to reach communities with information on HIV/AIDS in their own language. The first attempts were not as successful as AIDS was seen by some as a lowland disease. Women were not generally allowed to go to meetings. More hilltribe women returned to villages infected. They were outcast from the community. Increasingly infected hilltribe people are being registered, and greater efforts to inform on prevention have been done by authorities and other organizations. However, some very important facts should be noted. HIV/AIDS treatment has been provided by Thai authorities under the 30 baht scheme for only a couple of years, but those lacking citizenship cannot access it, so they have to rely on either their own pockets or the support of NGOs. The cost of first line drugs can be approximately 1,200 to 1,300 baht/month. Once they become resistant, the cost for the second line of drugs can reach 20,000 baht (HPTP, personal communication). The Thai government is trying to make this second line of drugs more available, but if they are not citizens, they will have to pay it entirely or rely on charity from hospitals. The NGO HPTP has had to deal with 30 deaths; if they were citizens, there is usually no problem to transfer the corpses, but when they are not, since they do not exist under official eyes, the movement of the body is illegal. They have always tried to take their dying 'children' (most of them were from 17 to 19 years of age) to a hospital so they could issue a death certificate as an unclaimed body, but if they died at home, they had to ask permission from the authorities. It is not only a matter of how they live, but also how they die.

Consequently, UNESCO, Plan International, UNICEF, among others, point at the lack of citizenship as the main cause behind the exploitation and trafficking in hilltribe children and women.

Some important advances have been achieved, especially in the past decades. Access to education has been granted to all children born on Thai soil. Openings for

registration and verification have happened more frequently in the past decade than when the first censuses were taking place. Education on family planning and some other important health issues, such HIV/AIDS prevention, has reached the hills. However, the insecurity many hilltribe families have to face when trying to secure an income (land scarcity and possible resettlements) leads to greater migration to urban areas. It is in this migration process that many young women and men are at risk of being trafficked. They are vulnerable to trafficking and/or being exploited for one fundamental reason: many of them still lack citizenship. The lack of legal rights leaves many young adults (legally children) in the hands of opportunistic businessmen. More hilltribe children are found drug dealing, and consuming, begging, street-vending, and selling sex. Providing hilltribe children with citizenship will not be the panacea, as they could still face discrimination, but will bring them better life opportunities, and will help reduce the great inequalities between Thai children and 'the other' children.

#### 4. Conclusion

The lack of equal real opportunities a person has to achieve what she values in life is what constitutes the inequality of freedoms. Substantive freedom, defined as the capability of an individual to, for instance, get educated and to be healthy, is fundamental due to both its intrinsic and instrumental value. When the hilltribes are excluded from substantive freedoms, the capability of each one to achieve is unequal to that of a non-stateless person, a Thai citizen. Restricting the substantive freedoms of a person is an act of social exclusion. This, in turn, impoverishes those who are subject to the exclusion and brings them the disadvantages of being excluded from the opportunities enjoyed by the others. When the exclusion is institutional, it becomes structural. It is as an act of active exclusion when the perpetuation of inequalities begins.

The Thai hilltribes are subject to an act of active exclusion. They are not entitled to citizenship. The hilltribes are restricted from quality education, if any, which, in turns, limits their job opportunities in the future. This is not only negative for the development of the individual (intrinsic value), but also of the society (instrumental value).

The development of Thailand has been done while these groups of peoples were simultaneously excluded. The hilltribes were excluded from the opportunities that the Thai have progressively started to enjoy. In the 1960s, they were Thailand's hilltribe problem. Nowadays, it is not only Thailand's problem, as exclusion enriches neither the individual nor the society, but it is the problem of the hilltribes. Consequently, more hilltribes, and their children, are part of the more 'traditional' excluded groups in a society: prostitutes, street children, drug addicts, among others. Their freedom of choice is so limited that the development of their full capability is compromised. As Sen claims: country's development should not be only measured by its economic achievements but in its success in providing greater freedoms to its citizens.

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Human Rights Watch: <http://hrw.org/reports/2004/thailand0704/>

Chuaruaypon, EFA Meeting: <http://www.unescobkk.org/index.php?id=2862>

Ethnologue: [www.ethnologue.com](http://www.ethnologue.com)

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<http://www.onesqa.or.th/en/home/establish.php>

The Program for International Student Assessment (PISA):

<http://nces.ed.gov/surveys/pisa/>

## **6. Appendix I – Key Informants**

### **Bangkok-based NGO working with education-related issues**

This NGO is working with linguistic/education issues, among them, those affecting the hilltribes.

One interview was conducted with the director for External Affairs.

### **Chiang Mai-based NGO helping hilltribes girls and women**

This is a faith-based organization working with Thai hilltribes girls and women for almost two decades. They serve the needs of women at risk of and victims of labour exploitation. They have a very active role in helping them attain citizenship.

One in-depth interview was conducted with the director and one staff member.

### **Chiang Mai University**

Dr Chayan Vaddhanaphuti, director of the Regional Center for Social Science and Sustainable Development (RCSD), Faculty of Social Science, and Dr Prasit Leepreecha from the Social Research Institute

Both have done intensive research on hill tribes. I conducted one in-depth interview each.

### **Health Project for Tribal People (HPTP)**

This is a NGO based in Chiang Mai since 1991. It is formed by Christian tribal workers who are concerned with AIDS and its impact on the Thai hilltribes. They have extended their work to various related fields to AIDS. They are now addressing groups at a higher risk. They are currently providing support to approx 58 AIDS orphans and 35 in the day care centre. They also followed up those who have left the hospice for HIV-infected women and their children. They have an active role in helping them attain their citizenship. More information on:

<http://www.healthprojectsfortribalpeople.com/pages/1/index.htm>

One in-depth interview was conducted with Kim Brown, director.

### **International Labour Organization (ILO-IPEC)**

One interview was conducted with Ms Kusumal Rachawong, who is the National Project Officer. She works in the International Programme on the Elimination of Child Labour. She was then working in the North of Thailand.

One short phone interview was conducted with Alan Dow, member of Communications Office to the ILO's project on trafficking in children and women in the Mekong region.

**Inter Mountain Peoples Education and Culture in Thailand Association (IMPECT)**

IMPECT is indigenous and tribal non-governmental organization founded and staffed entirely by representatives of the indigenous and communities involved in the Association. They have been working since 1993 with seven indigenous and tribal peoples residing in the highlands. It aims at empowering their people by focusing on education, cultural heritage, economics, law and political representation, and resource management by the creation of a forum, support tribal people in many fields and raise funds.

One interview was conducted with two staff members. Translation was needed. They are based in Chiang Mai. More info on [www.impect.org](http://www.impect.org)

**Plan International**

Ms. Amalee McCoy is a Child Rights Advisor at Plan International Country Office in Bangkok. Plan International Bangkok is having a very active role in the birth registration of the hilltribes, among many other projects. One interview on the phone was conducted, along with a short personal meeting in Bangkok and more extensive email exchange. More information on: [www.plan-international.org](http://www.plan-international.org)

**Thai Freedom House**

This is a project in its embryonic state. Lisa Nesser is the alma-máter. She had just started an evening school for street children in Chiang Mai, where they can learn Tai and get a hot meal everyday. More information on:

[www.myspace.com/thaifreedomhouse](http://www.myspace.com/thaifreedomhouse)

**UNESCO Bangkok**

Dr. David Feingold is the Coordinator of Trafficking-HIV/AIDS Programs of the Culture Unit of UNESCO Bangkok. He has also directed over twenty movies on Southeast Asia (Trading Women and A Right to Belong are especially related to the hilltribes), and conducted extensive research on the Akha and Shan peoples of the Thai-Burma border as an anthropologist. One in-depth interview was conducted.

More information on: <http://www.unescobkk.org/index.php?id=507>

Mr. Johan Lindeberg is the Associate Expert on Education and Human Rights. One interview was conducted.

**Respondent F**

She is twenty years old Lahu. She was sent to Chiang Mai as a representative of her village for a Conference. She was approached by an IMPECT staff member and was informed about the possibilities of applying for a scholarship to continue her education. She is currently studying Marketing at a Vocational School in Chiang Mai. She migrated to Chiang Mai when she was about 15 years old. She got her citizenship, along with her family, some years ago. She wants to get a job in order to help her siblings get a better education.

**Respondent M**

He is nineteen years old Lahu. He also migrated to Chiang Mai when he was about 15 years old. He is studying at one of the university in Chiang Mai with IMPECT fundings. Unlike his friend, respondent F, he does not have citizenship as he cannot prove he was born in Thailand (lack of Birth Certificate). He has been waiting over 6 years since he applied. He is a brilliant student as he wishes to get a job in his field to help other hilltribe people regulate their situation in Thailand.

## 7. Appendix II – Hill Tribes: Two Aspects

This appendix is divided into two differentiated sections. It includes two very important aspects affecting the hilltribes. First I will include a brief introduction to the linguistic constitution of the hilltribes within the Thai context. Second I will introduce the Thai Nationality Act and the procedures for birth registration.

### Linguistic Aspects of the Hill Tribes

Following Matisoff, there are three linguistic groups which can be found in Thailand. The classification by group, subgroup, and supergroup is (I am including in italics which hill tribe falls under that category):

1. Sino-Tibetan
  - a. Sinitic (= Chinese )
  - b. Tibeto-Karen
    - i. Karenic (Spaw, Pwo) (*KAREN*)
    - ii. Tibeto-Burman (Kuki-Chin-Naga; Himalayish; Kachinic; Lolo-Burmese) (*LISU, LAHU, AKHA*)
2. Austro-Thai (polysyllabic; atonal)
  - a. Austronesian (=Malayo-Polynesian)
  - b. Monosyllabization; tonogenesis
    - i. Tai-Kai (which includes Tai, that is: Siamese, Lao, Shan)
    - ii. Miao-Yao (*HMONG, YAO*)
3. Austro-Asiatic
  - a. Munda (India)
  - b. Nicobarese
  - c. Mon-Khmer (*H'TIN, LUA, KHAMU, MLABRI*)
  - d. Aslian (Malaya)

According to Ethnologue (2005), 75 languages are in use in Thailand. However, only one is conceived as the national language, the Central Tai. This language is only spoken by less than 40 % of Thai population. According to Kosonen (2005), 13.8% of Thai population speaks a non-related language to Tai, along with 48.5% who speaks a

closely related language to Tai. The apparent denial of this reality by Thai officials when addressing the development of the curricula is not facilitating the incorporation of hilltribe children, among others, into the Thai school system. There is one pilot study, Omkoi project, supported by the Ministry of Education in which bilingual education in a minority language is taught. Since this project is in its preliminary phases (it started in 2003), it is too early to have conclusive data but anecdotal evidence points at the benefits of this approach, those are for instance that children taught in a well-planned bilingual programme do often outperform those taught in mono-lingual programmes (Bangkok-based NGO working with education, personal communication).

### **Legal Aspects affecting the Hill Tribes**

Under the section 10 of the Thai Nationality Act, an alien (a person lacking Thai nationality) can apply for naturalisation as a Thai if possesses the following qualifications:

- (1) becoming *sui juris* in accordance with Thai Law and the law under which he has nationality;
- (2) having good behaviour;
- (3) having regular occupation;
- (4) having a domicile in the Thai Kingdom for a consecutive period of not less than five years till the day of filing the application of naturalisation;
- (5) having knowledge of Thai language as prescribed in the Regulations

On 15 September 1993, the Ministry of Interior issued a directive stating the criteria that a hilltribe individual has to meet in order to be *eligible* to become a Thai citizen. The individual must (Aguettant 1996; Toyota 2006: 120): (a) be under the supervision of a governmental office such as the Public Welfare Department, Border Patrol Police, Internal Security Department or the Army, or (b) have been verified and registered during the period 1969-1970, or (c) have been registered on a house registration certificate by the ID Project approved by the Cabinet on 10 July 1982, or (d) likewise have been registered during the period March-August 1985 by one of the projects approved by the Cabinet on 24 April 1984, or (e) have been eligible during the period 1985-1988 for the Survey of the Hilltribe People in Thailand, approved by the Cabinet on 24 April 1984, or (f) during the period 1990-1991, have been registered and issued an ID card for highlanders by the project approved on 5 June



1990. Once they are eligible, they will be granted citizenship and their names are included in a household registration certificate, only if they have been:

- (1) born in Thailand and reached the age of maturity, or is legally married
- (2) occupying a permanent residence with his name on a household registration certificate, or has maintained his or her status regarding one item of evidence on Rule 5 for more than five years in the same district, or if having moved to a new permanent duration of stay at both places is not less than five years, or
- (3) earning a living honestly and is harmless to society and the nation, and not growing any narcotic plants, or has given up such a practice

In relation to the birth registration, if a child is born in a hospital, a doctor or a nurse will use a letter of delivery (Tor. Ror. 1/1), in this certificate the person issuing it should mark if the child falls under the category of 'Thai' or 'others'<sup>23</sup>. Once this is issued, if the Amphoe or the headman is notified, he or she will issue a letter of birth notification (Tor. Ror. 3), which can also be issued when the baby is delivered by others than doctors or nurses. This letter will be used by the registrar to issue a birth certificate (Tor Ror 1). Minority people have 15 days to notify the district or the local registrar of the birth. It is within the discretion of the registrar to register accordingly to what appears in the birth notification or birth delivery certificate.

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<sup>23</sup> Father or mother are illegal immigrants or aliens residing temporarily in the Kingdom

## 8. Appendix III

### Time Line

1969-70	Dec 1974	1985-1988	2 January 1975 to 20 March 1992	1990-91	1992/1996
First census on highland population 120,000 covered 16 provinces	Decision to register their citizenship	Second Census 580,000 people covered 18 provinces Register personal record certificates and issue a highland identity card	182,065 registered as Thai Nationals in 20 provinces	250,000 registered and given a blue card	46,555 registered as Thai Nationals
1999	June 2000	28 August 2001	2002		
Miyazawa Survey 188,000 people surveyed 20 provinces They are given green cards with red rim Includes hill tribes and other minorities	Ministry of Interior Approx 1 mill hilltribes and minority people of which: - Nearly half have Thai citizenship - 100,000 are qualified - 90,000 are entitled to permanent residency - 120,000 are hilltribe children entitled to citizenship - 190,000 are tribal and minority people are permitted to stay temporarily	Thaksin government Citizenship to all hill tribe children of parents registered as 'alien' with permanent residence	Verification process A total of 377,677 people went through the verification process, of which: - Hill tribes people who have already applied: 90,731 - Hill tribe people who entered before 3 October 1985 and are eligible to apply for alien status: 37,296 - Hill tribes people entering after 3 October 1985, which are facing deportation: 220,527 All these people are allowed to stay for one more year, pending resolution		

THAI ETHNIC MINORITY GROUPS					
Group	Minority Groups	Description	Type of Card	Legal Status	
G.1	Yuan Oppayop	Vietnamese Migrants	Fled in 1945-6	White card with blue rim	Alien Card and Thai citizenship
G.2	Adeet Thaharn Jeen Kana Chart	Former Kupintang Soldiers	Fled in 1950-54	White card	Refugees and then Thai citizen
G.3	Jeen Haw Oppayop	Haw Chinese Migrants	Family members of former KMT Soldiers (Group 2) who fled into Thailand in 1950-61	Orange card	Alien Card and Thai citizenship
G.4	Jeen Haw Issara	Haw Chinese Individuals	Related to groups 2 and 3 but fled in 1962-78	Orange card	Temporary Status, Aliend card (if entered before 3 October 1985), and Thai citizenship to their children if born (14-12-1972 to 25 February 1992)
G.5	Adeet Jone Jeen Communist Malaya	Former Chinese Communist Insurgents of Malaya	Fled into Thailand's southern Yala, Narathiwat and Songkhala	Green card	Alien card holders and Thai citizenship to their children born in Thailand
G.6	Tai Lue	Tai from Sipsongbanna (Yunnan)	Migrated into Thailand 300 years ago	Orange card	Alien card holders and Thai citizenship to their children born in Thailand
G.7	Lao Oppayop	Lao migrants	Migrated due to political change in Laos	Blue card with deep blue rim	After 26 February 1992, children born to a Lao migrant married to a Thai get Thai citizenship
G.8	Nepal Oppayop	Nepali Migrants	Nepali living in Burma before WWII, and then migrated when expelled from Burma	Green card	Alien card holders and Thai citizenship to their children if born (14-12-1972 to 25 February 1992) in Thailand
G.9	Phu Phad Thin Phama	Burmese Migrants from Burma	Different ethnic groups who entered Thailand before 9 March, 1976	Pink card	Alien card holders and Thai citizenship to their children if born (14-12-1972 to 25 February 1992) in Thailand
G.10	Phu Lop Ni Khao Muang Jaak Phama	Illegal Migrants from Burma	Burmese migrants after 9 March, 1976	Orange card if the have their own residence, purple card if they with their employers.	Temporary Status with district movement restrictions
G.11	Phu Phad Thin Sanchart Phama Chuea Sai Thai	Burmese Migrants of Thai Origin	Thai living in annexed by Bristish to Burma, and migrated to Thailand after 1948	Yellow card with blue rim	On 27 May, 1997, Thai government granted them Thai citizenship
G.13	Phu Oppayop Chuea Sai Thai Jaak Koh Kong Kampuchea	Khmer Migrants of Thai Origin	Thai living in Koh Kong when this belonged to Thailand, fled into Thailand in 1974	Green card	Thai citizenship
G.14	Phu Lop Ni Khao Muang Jaak Kampuchea	Migrants from Cambodia	Khmer who fled to Thailand after 15 November 1977	White card with red rim	Illegant Migrants, Registered and with restricted stay and movement to Trat province
G.15	Phao Tong Lueng	Mrabi or Spirit of the Yellow Leaves	Highland minority people, nomads	Blue card	Indigenous of Thailand, to be registered as Thai citizens after 1 June 2000
G.17	Raeng Ngan Tang Dao Phid Kodmai	Illegal Migrant Workers	Migrants from neighbouring countries who entered and worked illegally	-	Different provinces and types of activities have been decided by law
G.12	Book Khon Bon Pheun Thi Soong	Highland People			
	Chao Khao Dang Deum	Indigenous Hill Tribe People	They are Thai but failed to be registered in the first census survey of 1956	-	On 3 October 1995, the Cabinet recognized as hill tribe people nine ethnic groups
	Chao Khao Nok	Alien Hill Tribe People	They come from countries such as China, Laos and Burma	Blue card if they entered before 3 October 1985	Citizenship (if entered before 3 October 1985), and Thai citizenship to their children if born (14-12-1972 to 25 February 1992). In 2001 all children are subject to citizenship if their parents are 'alien' with permanent residency
G.17	Chum Chon Bon Pheun Thi Soong	Highland Population Communities	Different surveys have been conducted. The latest show 187.326 people with no cards	Green card with red rim	These 187.326 has to prove in which status they claimed to belong -indigenous highland Thai or other

Source: Toyota (2005),UNESCO Unpublished document