

**Alternative Report submitted to the
UN Committee on the Elimination of Racial Discrimination
at the 80th Session during the consideration of the 10th to 14th Periodic Reports of
the Socialist Republic of Viet Nam**



Unrepresented Nations and Peoples Organization

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**UNPO International Secretariat
Laan van Meerdervoort 70
2517 AN The Hague
The Netherlands**

www.unpo.org

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Section A: Introduction to the Report

This alternative report is submitted by the Unrepresented Nations and Peoples Organization (UNPO) on the occasion of the 80th Session of the United Nations Committee on the Elimination of Racial Discrimination (henceforth, “the Committee”) during which the tenth through the fourteenth Periodic Reports of Viet Nam will be considered.

This report is structured to comment upon the articles of the International Convention on the Elimination of all Forms of Racial Discrimination thematically. The final section of the report raises questions that should be posed and recommendations that should be made to the Vietnamese delegation at the 80th Session.

This alternative report will focus on the situation of indigenous and ethnic minority peoples in Viet Nam, looking specifically at the experiences of the Khmer Krom, the Degar Montagnards, and the Hmong, and the Vietnamese government’s compliance with and implementation of the provisions in the International Convention on the Elimination of all Forms of Racial Discrimination (henceforth, “ICERD” or “the Convention”) as it affects these particular groups. This report recognizes the ethnic, cultural, linguistic and religious distinctions of groups including the Khmer Krom, the Degar Montagnards and the Hmong from the Vietnamese or Kinh majority. The Khmer Krom and Degar Montagnards as indigenous ethnicities of Viet Nam with specific rights will be referred as such in this report. The Hmong, who are considered a distinct indigenous ethnicity from Laos, constitute a sizable minority population within Viet Nam and face challenges similar to the Khmer Krom and the Degar Montagnards. All three groups are disenfranchised within Viet Nam, where they experience systematic discrimination at political, social and economic levels.

The Concluding Observations of the Committee following the sixth to ninth Periodic Reports of Viet Nam express concern regarding the equal protection of rights of ethnic groups. The Committee has previously been made aware of reported instances of forced sterilization, discrimination in the exercise of religious freedom, forced population transfer, and poor education opportunities affecting indigenous and minority communities.

The Hague, January 2012

Section B: Introduction to Khmer Krom, Degar Montagnard, and Hmong populations in Viet Nam

Khmer Krom

The Khmer Krom traditionally reside in southwest Viet Nam, primarily in the Mekong Delta (Kampuchea Krom in the Khmer language), where approximately 80% of the 8 million Khmer Krom people currently live. They have lived in present-day Viet Nam since the beginning of the 1st century and rose to prominence under the Khmer Empire in the 9th century. During the 13th – 15th centuries, the Khmer Krom Empire declined and its people were displaced by south-moving Chinese and Vietnamese which ultimately resulted in the scattering of Khmer Krom people throughout the rural Mekong Delta. Up until the departure of the French from Viet Nam, intermarriage was used as a tactic by the Vietnamese to continually diminish the empire and its people. Under the Presidency of Ngo Dinh Diem (1955-1963), all Khmer names were changed to Vietnamese and the Khmer Krom experienced further displacement, including from their traditional center of commerce, Prey Nokor which is currently known as Ho Chi Minh City. Viet Nam continues to refuse recognition of the Khmer Krom as indigenous peoples of the Mekong Delta.

Degar Montagnard

The Degar Montagnard people, around 1 million in total, inhabit the central western mountains of Viet Nam. Over 2,000 years ago they resided in northern Viet Nam and the eastern coastal plain, where their communities were characterized by shared resources, strong kinship and developed systems of education and justice. The Degar people were eventually pushed into the central highlands by waves of Vietnamese and Cham peoples up to the late 1600s. After the arrival of the French, the Vietnamese began venturing into the highlands where they had not previously exerted their influence due to beliefs that the region was inauspicious. By the mid 20th century, various agreements were signed acknowledging the Degar people's right to self-determination via the protected right of "free evolution" in accordance with their customs and traditions. Ultimately, the Degar Montagnard people's way of life, historical struggle for autonomy and alliances with the French and the United States during the Viet Nam War has resulted in their being regarded by the Vietnamese as "moi," or savages, and as a threat to national security. Since the reunification of Viet Nam, the Degar Montagnard people have experienced gross violations of their human and indigenous rights.

Hmong

The indigenous Hmong ChaoFa people live in the ChaoFa region of Northern Laos and have been historically subject to forced repatriation, targeted killings and discrimination. Many have fled Laos' repressive policies towards them, resulting in large concentrations of Hmong communities in Viet Nam. Yet due to Hmong participation in the "Secret War" and their collaboration with American forces, they also face retaliation and persecution in Viet Nam, such as a 4-month campaign by Vietnamese provincial officials to eradicate Protestantism among the Hmong reported in 2005.¹ Among the biggest issues for the Hmong are Vietnamese and Laotian government agreements to coordinate military efforts to detain individuals and families seeking refuge and forcibly return them to Laos, where they await further abuse.

¹ United Kingdom Home Office (2006) Country of Origin Report: Vietnam, 6.82

Section C: Compliance with ICERD

Article 1.1 – Lack of “racial discrimination” definition

Article 1.1 states that *“the term ‘racial discrimination’ shall mean any mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other filed of public life.”*

According to the State report, Vietnamese law forbids all acts of segregation and discrimination on the basis of ethnicity and origin, and protects equality among ethnicities. Article 5 of the Constitution was further elaborated in the 1999 Penal Code stipulating that acts causing “ethnic hatred, discrimination or segregation, or infringing upon the equality of the community of Viet Nam’s ethnicities shall constitute an offence of undermining the unity policy.” However, Viet Nam does not have a separate law on discrimination and does not specify what constitutes discrimination under the law.² The lack of a clear definition, as noted by the Committee, demonstrates that Viet Nam is not appropriately considering the situation of racial discrimination in its country.³ Instead of addressing this issue, in its report to the Committee, the State makes overly positive claims regarding the existence of racial discrimination in Viet Nam. “In this [state] report, the achievements in the implementation of ICERD reflect the realization of ethnic minorities’ rights in all aspects, be they economic, political, cultural or social.”⁴

Indigenous and minority groups report high levels of perceived discrimination against them, particularly by government authorities and agencies. For the Khmer Krom, for example, such discrimination includes a lack of Khmer-language secondary education opportunities, the banning of Khmer-language publications, restrictions and serious interferences on their religious practices, harsh punishments for association with Khmer advocacy groups, poor distribution of aid intended for Khmer communities and no compensation for confiscation of their land.⁵ Following her 2010 mission to Viet Nam, Dr. Magdalena Sepúlveda Carmona, Independent Expert on the question of extreme poverty and human rights, stated:

“An additional obstacle to the development of minority groups is the lack of cultural understanding of some State officials and the stereotyping of ethnic minorities that attributes their lack of economic progress to their culture and traditional practices. A World Bank study documented reproduction of negative stereotypes among authorities and the internalization of such views among minorities, also noting that this had led to flawed policy prescriptions. The independent expert recognizes the efforts of the Committee on Ethnic Minorities to remove negative stereotypes. Nevertheless, in her interactions with some authorities, the independent expert was told that lack of progress among minorities related to their “mindset” and “backwardness”. The Government must

² Mayer Brown JSM (2008) Guide to Discrimination Law in Vietnam, Retrieved from <http://www.mayerbrown.com/publications/article.asp?id=4525&nid=6>

³ “The Committee, considering that no country is free from racial discrimination, encourages the State Party to give closer attention to article 1 of the Convention and to consider the situation in the country in accordance with the broad definition given therein of racial discrimination.” See: Committee on the Elimination of Racial Discrimination (2001) *Consideration of reports submitted by state parties under article 9 of the Convention (A/56/18, paras.408-428) para.414*

⁴ Committee on the Elimination of Racial Discrimination (2010) *Reports submitted by state parties under article 9 of the Convention: Viet Nam (CERD/C/VNM/10-14) para.32*

⁵ Human Rights Watch (2011) *On the Margins: Rights Abuses of Ethnic Khmer in Vietnam’s Mekong Delta*

strengthen its efforts to change popular perceptions about minorities and enhance the capacity of Government staff and institutions to better serve their interests.”⁶

Recommendation: Recognize that that political, social and economic marginalization of minority indigenous peoples in Viet Nam is unequivocally linked to the existence of racial discrimination at all levels of society and state.

Recommendation: Establish a comprehensive definition of racial discrimination in accordance with Article 1.1 of the International Convention on the Elimination of All Forms of Racial Discrimination.

Recommendation: Provide a public education campaign to address ethnically discriminatory attitudes originating from within State institutions in consultation with organizations representing the views and concerns of indigenous peoples and ethnic minorities.

Question: How accessible is the Committee for Ethnic Minority Affairs and similar agencies to citizens and civil society groups who wish to raise concerns? Please provide information regarding its independence from state influence.

Question: What steps have the Vietnamese National Assembly’s Ethnic Council and similar agencies taken to ensure representation of indigenous peoples and ethnic minorities and to complete their respective mandates?

Article 1.4 – Recognition as indigenous peoples

Article 1.4 states that “special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.”

Viet Nam does not recognize the indigenous nature of the Khmer Krom and the Degar Montagnard peoples, despite having endorsed and ratified the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In 2010, a representative from the Vietnamese Mission to the United Nations attempted to block the participation of an NGO representing the indigenous Montagnard people in Viet Nam at the UN Conference on the Expert Mechanism on the Rights of Indigenous Peoples. The representative was cited as saying that because there were no indigenous peoples in Viet Nam, the NGO in question had no right to attend.⁷

The state’s refusal to recognize the indigeneity of certain groups means these indigenous groups are not offered special protection in Vietnamese law, despite their historic status and contemporary

⁶ United Nations Human Rights Council (2011) *Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona: Addendum, Mission to Viet Nam.* (A/HRC/17/34/Add.1) para.28

⁷ Montagnard Human Rights Organization (2010) MHRO attends UN Conference on Indigenous Peoples in Geneva. Retrieved from <http://www.mhro.org/mhro-attends-un-conference-on-indigenous-peoples-in-geneva>

marginalization. Vietnamese law makes no provisions for the recognition of indigenous peoples, nor does it provide for the recognition of any specific rights for ethnic minorities regarding land, cultural protection and free socio-economic development.⁸

Recommendation: Formally recognize the Degar Montagnards and the Khmer Krom as indigenous peoples of Viet Nam, and respect the distinct rights afforded to them by the UN Declaration on the Rights of Indigenous Peoples.

Recommendation: Formally endorse and ratify International Labor Organization Convention 169 on Indigenous and Tribal peoples.

Article 5 (a) – Equal treatment before court

Article 5 (a) guarantees “[t]he right to equal treatment before the tribunals and all other organs administering justice.”

The State report to the Committee lacks information regarding challenges faced by Vietnamese justice institutions in fairly processing individuals from indigenous and ethnic minority communities. Under the guise of vaguely-defined national security charges, Khmer Krom, Degar Montagnard and Hmong individuals and activists have been sentenced long prison terms after trials often distorted by political influence, endemic corruption and inefficiency.⁹ Additionally, credible reports have surfaced that Vietnamese officials pressured defense lawyers not to take as clients any religious or democracy activists facing trial. Several lawyers who took such cases experienced harassment, arrest, conviction, and even disbarment.¹⁰

The Degar Montagnards’ participation in public protests and worship in unregistered house churches have made them subject to charges of “undermining national solidarity” or “disrupting security.” Degar people who have been arrested trying to seek political asylum in neighboring countries have been charged with “fleeing abroad to oppose the People’s Administration.”¹¹ Khmer Krom individuals have been arrested after filing legitimate legal complaints. In May 2009, Mr. Huynh Ba was arrested after filing a complaint about his confiscated farm lands, and was charged with attempting to “disturb Vietnamese society.” His family has reported that Vietnamese officials have not released his location or the duration of his imprisonment.¹²

Recommendation: Amend domestic law provisions that criminalize certain religious activities on the basis of imprecisely-defined crimes of national security.

Recommendation: Release all prisoners who have been detained as a result of their nonviolent political and religious beliefs and practices.

⁸ Troung, L.T. & Genotiva O.M. (2010) Recognizing Ethnic Minority Customary Land Rights in Vietnam and the Philippines

⁹ United States Department of State (2011) 2010 Human Rights Report: Vietnam. Retrieved from <http://www.state.gov/g/drl/rls/hrrpt/2010/eap/154408.htm>

¹⁰ *ibid*

¹¹ Human Rights Watch (2011) Montagnard Christians in Vietnam: A Case Study in Religious Repression

¹² The Khmer Krom Network (2009) Vietnam Authority Arrests Land Activists Huynh Ba, Retrieved from <http://khmerkrom.net/node/1956>

Article 5 (b) – Right to security of person

Article 5 (b) protects “[t]he right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual groups or institution.”

There have been numerous reports of extreme police force used against indigenous peoples practicing their rights and engaging in peaceful protests. In spite of the national prohibition on the unlawful use of force by law enforcement agencies against citizens, clear violations of fundamental rights, including arbitrary arrest, imprisonment, and torture are common during government-coordinated crackdowns on unauthorized political and religious activity. On 4 January 2011, a Vietnamese Army Captain reportedly allowed the use of attack dogs when attempting to extract religious renunciations from Degar Christians on January 4, 2011.¹³ Human Rights Watch has also documented many cases of widespread police brutality involving Degar individuals.

“People arrested on national security charges because of their religious or political beliefs are even more susceptible to torture, not only because police want to extract information or confessions from them, but because they are routinely held incommunicado, without access to legal representation and sometimes even family members, during their pre-trial detention period, which can last from three months to more than one year.”¹⁴

Khmer Krom communities holding peaceful protests and rallies to bring attention to land confiscation or broken promises of compensation have experienced similarly brutal treatment by the police. In April 2008, a confrontation between Khmer farmers and local authorities resulted in 10 truckloads of riot police, including soldiers, arriving to surround the village and beat all those in connection with the ring leaders with wooden and electric shock batons.¹⁵

Recommendation: Allow full, impartial and transparent investigations on reports of violence against indigenous and minority communities, and ensure that perpetrators of such violence are brought to justice.

Recommendation: Permit outside experts, including those from the United Nations and independent international human rights organizations, to have access to indigenous and minority communities in Viet Nam.

Article 5 (d)(i), (ii) – Principle of non-refoulement and non-expulsion of refugees

Article 5 (d)(i) specifies “[t]he right to freedom of movement and residence within the border of the State.”

Article 5 (d)(ii) ensures “[t]he right to leave any country, including one’s own, and to return to one’s country.”

¹³ Montagnard Foundation, Inc. (2011) VN Uses Dogs to Attack Degar Christian, Retrieved from <http://montagnard-foundation.org/wp/2011/02/24/1172#.Tw7kGYGDmyY>

¹⁴ Human Rights Watch (2010) Vietnam: Widespread Police Brutality, Deaths in Custody, Retrieved from <http://www.hrw.org/en/news/2010/09/22/vietnam-widespread-police-brutality-deaths-custody>

¹⁵ Human Rights Watch (2011) On the Margins: Rights Abuses of Ethnic Khmer in Vietnam’s Mekong Delta

The Committee has established that the principle of non-refoulement must be observed regarding all refugees and displaced persons without distinction as to race, color, or national or ethnic origin. All such people have the right to return to their country of origin provided it is voluntary and under conditions of safety.¹⁶ Viet Nam's actions regarding forced extradition and repatriation of indigenous peoples and ethnic minorities constitute a severe violation of these principles.

The Hmong people of Laos continue to experience egregious human rights abuses at the hands of the Lao government. Many Hmong attempt to flee Laos in search of refuge from abuse. However, their escape is often blocked by the collaborative efforts of the Laotian and Vietnamese military on major offensives to track and detain all Hmong people in the Xaysomboun Special Zone and border areas.¹⁷ Viet Nam is not a signatory to the 1951 and 1967 conventions relating to the status of refugees and has no legal system for providing protection to those seeking refuge or asylum.¹⁸

Many Degar Montagnard people have also sought refuge from Viet Nam's oppression by attempting escape to UN refugee camps in Cambodia. Through the coordination of the Vietnamese and Cambodian governments, hundreds of Degar people have been forcibly repatriated to Viet Nam. In 2005, the UN Special Envoy to Cambodia expressed concerns of "reasons to believe that there are people in the highlands on the other side of the border who have a justified fear of persecution by the Vietnamese government."¹⁹ Khmer Krom who flee abroad to Cambodia also continue to find themselves under threat of the Vietnamese government. Human Rights Watch uncovered a 2007 report by the National Borders Committee of Viet Nam's Ministry of Foreign Affairs that described the cooperation between Viet Nam and Cambodia was highly effective in cracking down on Khmer Krom.

"We have coordinated with our friends (CPP) in Cambodia to put a stop to their activities, including breaking up their schemes to demonstrate in front of our embassy during President Nguyen Minh Triet's official visit and preventing people from crossing the border into Takeo Province so that they will be able to set up 'refugee camps' there."²⁰

Recommendation: Ratify the 1951 Convention on the Status of Refugees and halt any current and future refoulement of asylum-seekers.

Recommendation: End the forceful repatriation of indigenous peoples and ethnic minorities seeking refuge.

Recommendation: Allow international observers to freely assess the conditions of detention or settlement of refugees placed in Vietnamese custody and to allow such observers unfettered access to any associated legal proceedings.

¹⁶ United Nations Human Rights Council (1996) General Recommendation No. 22: Article 5 and refugees and displaced persons (A/51/18)

¹⁷ Society for Threatened Peoples (2006) They Hunt Us Like Animals: Massacres and grave human rights violations against the Hmong in Laos

¹⁸ United States Department of State (2011) 2010 Human Rights Report: Vietnam. Accessed from <http://www.state.gov/j/drl/rls/hrrpt/2010/eap/154408.htm>

¹⁹ Montagnard Foundation Inc. (2010) Persecution of the Degar Montagnards. Speech presented at UNPO Conference 'Returning Refugees: Extradition to Torture' Rome

²⁰ Human Rights Watch (2011) On the Margins: Rights Abuses of Ethnic Khmer in Vietnam's Mekong Delta

Article 5 (d)(v), (vi), & Article 5 (e)(i) – Right to property and employment opportunities

Article 5 (d)(v) is regarding “*the right to own property alone as well as in association with others.*”

Article 5 (e)(i) guarantees “[*t*]he rights to work, to free choice of employment, to just and favorable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favorable remuneration.”

Despite purported efforts by the Vietnamese government to address unemployment in regions where large concentrations of indigenous and minority peoples reside, many communities of Khmer Krom, Degar Montagnards and Hmong still face high jobless rates. In contrast to figures submitted in Viet Nam’s state report, additional studies showed that even though the poverty rates among ethnic minorities has stopped increasing, the average income of ethnic minorities and mountainous regions is only 1/3 that of the national average.²¹ This has resulted in disproportionate poverty levels within these communities. In 2011, the United Nations Children’s Fund (UNICEF) reported that ethnic minority children in Vietnam have a poverty rate five times higher than the ethnic majority.²²

Intrinsically linked to high unemployment and poverty rates is lack of access to fertile cultivation soils. Landlessness has increased among ethnic minorities.²³ This is further complicated by Vietnamese land reforms in 1975 which placed ownership of land with the State, which in turn assigns usage rights to individuals. Natural resources which are abundant in ancestral domains are therefore no longer available for indigenous communities’ use because they are subject to government allocation.²⁴ Despite Viet Nam’s requirement to adhere to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)²⁵, indigenous groups such as the Khmer Krom and the Degar Montagnards report that large tracts of fertile farms and valuable forest lands have been confiscated and reallocated to ethnic Kinh without fair compensation. In many instances, the indigenous families are relocated to areas that lack access to basic infrastructure and services, including schools and healthcare facilities. This in turn leads to further marginalization of indigenous communities.²⁶

Recommendations: Ensure that any policies affecting indigenous peoples, especially regarding indigenous land rights, are in accordance with the United Nations Declaration on the Rights of Indigenous Peoples.

²¹ IWGIA (2011) Report following workshop *Solutions to Poverty Reduction and Stabilization of Ethnic and Mountainous areas in the period 2011-2015*, 3 December 2010

²² United Nations Children Fund (2011) *Child Poverty in East Asia and the Pacific: Deprivations and Disparities*

²³ Trends in increasing landlessness among minority groups highlighted by AusAID’s 2004 Mekong Data Poverty Analysis were shown to have continued. See: Human Rights Watch (2011) *On the Margins: Rights Abuses of Ethnic Khmer in Vietnam’s Mekong Delta*

²⁴ United Nations Human Rights Council (2011) *Report of the independent expert on minority issues, Gay McDougall: Addendum, Mission to Viet Nam*. (A/HRC/16/45/Add.2) para.31

²⁵ Article 10 states: “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.”

²⁶ United Nations Human Rights Council (2011) *Report of the independent expert on minority issues, Gay McDougall: Addendum, Mission to Viet Nam*. (A/HRC/16/45/Add.2) para.36

Recommendations: Improve infrastructure and basic services in indigenous and minority regions, bringing these into line with conditions in the rest of the country.

Recommendation: Investigate and end practices of uncompensated land confiscation.

Article 5 (d)(vii), (viii), (ix) – Freedom of expression, religion and peaceful assembly

These articles protect “[t]he right to freedom of thought, conscience and religion,” “the right to freedom of opinion and expression,” and “the right of freedom to peaceful assembly and association.”

Freedom of assembly is limited by Vietnamese law. All forms of public protests and gatherings are restricted and monitored by the government. Those wishing to gather in a group are required to apply for a permit, which local authorities can issue or deny arbitrarily.²⁷ Additionally, by prohibiting meetings of unregistered religious groups, the Vietnamese government effectively restricts the right of religious groups to gather in worship. These laws undermine Article 70 of the Vietnamese Constitution, which states that “Citizens shall enjoy the right to freedom of belief and religion, to follow or not to follow any religion. All religions are equal before the law. Places of worship of beliefs and religions are protected by the law.”²⁸

Religious minorities in Viet Nam are subject to severe restrictions. This includes the Khmer Krom, who practice Theravada Buddhism, and the Degar Montagnards who practice Protestant Christianity. The government-controlled Vietnamese Buddhist Sangha (VBS), which presides over all Buddhist organizations and sects in Vietnam, has defined Theravada Buddhism as a religious organization rather than a religion, thereby stripping its practitioners of important protections. Under the jurisdiction of the VBS, Khmer Krom monks have been prohibited from reading Khmer-language books and publications or holding these materials in their pagoda libraries.²⁹ Montagnard Christians are subjected to similarly repressive measures. In 2011, Degar Christian villager Y-Huong Nie was abducted and detained prior to being sentenced to a 5 year prison term. His crime was practicing Christianity in an ‘illegal church house’ and failing to sign a document renouncing his religious beliefs.³⁰

On several occasions, the Vietnamese government has used legislation such as the 2004 New Ordinance on Religion and Belief to associate minority religions with threats to national security. The Ordinance prohibits the “abuse” of religious freedom in order to “undermine the country’s peace, independence, and unity.” Vietnamese officials have coordinated the forced defrocking of dozens of Khmer Krom Buddhist monks, including Venerable Tim Sakhorn who was disrobed and disappeared in 2007 for “undermining national unity” under Article 87 of Viet Nam’s Penal Code. The Vietnamese government has also labeled the Degar Church as a “false religion” which supposedly calls for separatism and is influenced by violent groups.

²⁷ United States Department of State (2011) 2010 Human Rights Report: Vietnam. Accessed from <http://www.state.gov/g/drl/rls/hrrpt/2010/eap/154408.htm>

²⁸ Committee on the Elimination of Racial Discrimination (2010). *Reports submitted by state parties under article 9 of the Convention: Viet Nam (CERD/C/VNM/10-14)* para.115

²⁹ Human Rights Watch (2011) *On the Margins: Rights Abuses of Ethnic Khmer in Vietnam’s Mekong Delta*

³⁰ Montagnard Foundation Inc. (2011) *Vietnam Sentences Degar Christian to 5 Years*, Retrieved from <http://montagnard-foundation.org/wp/2011/09/14/1652#.Tw1VrIGDmyY>

Despite a complete lack of evidence to support these claims, the state remains suspicious of Degar Christians that do not join the government-authorized Southern Evangelical Church of Vietnam (SECV).³¹

In the spring of 2011, Hmong villagers peacefully demonstrating for religious freedom were violently suppressed by Vietnamese security forces using ground attack helicopters; dozens of protesters were reportedly killed.³² Viet Nam has moved slowly to extend legal recognition to Hmong Protestant churches despite an Ordinance requiring timely responses to such applications. In the meantime, Vietnamese officials have coordinated efforts to discourage Hmong communities from practicing Christianity. According to the US State Department, “local officials repressed [Hmong] Protestant believers in some parts of northwest provinces by forcing church gatherings to cease, closing house churches, confiscating property, and pressuring individuals to renounce their religious beliefs, though often unsuccessfully, despite the prohibition on forced renunciations in the Prime Minister’s 2005 instructions on Protestantism.” The report has also included instances of contract thugs hired by local officials to “harass, threaten or beat” religious leaders.³³

*Recommendation: Allow all independent religious organizations to freely conduct religious activities and govern themselves.*³⁴

Recommendation: Review implementation of Decree 22 which forbids forced renunciations of faith especially as it disproportionately affects ethnic minorities.

*Recommendation: Amend Ordinance No. 21/2004/PL-UBTVQH11 on Beliefs and Religion to include a provision that prohibits forced renunciation ceremonies by government officials, linked to specific disciplinary measures for offenders.*³⁵

*Recommendation: Enforce provisions in Instruction No. 01/2005/CT-TTg, “Some Work Regarding Protestantism,” that outlaw forced renunciations of faith and establish specific penalties for those who carry out such practices.*³⁶

Article 5 (e)(v) – Education in own language

Article 5 (e)(v) protects “[t]he right to education and training.”

Indigenous peoples and ethnic minorities report that despite existing legislation to protect minority languages and integrate them into state schools, the Vietnamese government bans publications in their

³¹ Human Rights Watch (2011) Montagnard Christians in Vietnam: A Case Study in Religious Repression

³² Human Rights Watch (2011) Vietnam: Investigate Crackdown on Hmong Unrest, Retrieved from <http://www.hrw.org/en/news/2011/05/17/vietnam-investigate-crackdown-hmong-unrest>

³³ United States Commission on International Religious Freedom (2011) USCIRF Annual Report 2011: Countries of Particular Concern: Vietnam, Retrieved from <http://www.unhcr.org/refworld/docid/4dbe90bdc.html>

³⁴ Human Rights Watch (2011). “Montagnard Christians in Vietnam: a case study in religious repression.” Retrieved from <http://www.hrw.org/node/97632>

³⁵ Human Rights Watch (2011). “Montagnard Christians in Vietnam: a case study in religious repression.” Retrieved from <http://www.hrw.org/node/97632>

³⁶ Human Rights Watch (2011). “Montagnard Christians in Vietnam: a case study in religious repression.” Retrieved from <http://www.hrw.org/node/97632>

respective languages and fails to provide adequate education in minority languages. Bilingual education offered on paper by the State does not entail instruction in languages other than Vietnamese, but rather the teaching of minority languages as a noncompulsory subject. During her 2010 Mission to Viet Nam, the UN Independent Expert on Minority Issues noted that the lack of early instruction in a mother tongue can create a language barrier for children who begin their education with little if any understanding of Vietnamese.³⁷ Indigenous students have given first-hand accounts of their experiences in this respect:

“When I started first grade in public school I had to learn everything in Vietnamese, but I couldn't speak Vietnamese at all. The Vietnamese students, even teachers, made fun of us [Khmer Krom] and made us feel that we were not welcome,” said Serey Chau, president of the Khmer Krom Federation's Youth Council.

In March 2008, the state-run VietnamNet news site reported that Khmer students were “dropping like flies” out of school. “Most of the students with bad learning capacity are of Khmer minority; they cannot speak Vietnamese well and cannot follow the study curriculum,” a local teacher told them. The report said 56% of drop-outs are from the Khmer minority, with 30% of this figure leaving due to their “inability to learn.”³⁸

Under Article 16 of the Vietnamese Law on Child Protection, Care and Education, public primary education should be free. However, many communities and NGOs report that tuition fees continue to be charged to parents of indigenous and minority children, preventing many of these children from attending school.³⁹

In addition to language barriers, indigenous and minority children face stigma and harassment from school officials, creating an environment unsuitable for education. Degar Montagnard students report that teachers and local authorities have used classrooms as an opportunity to interrogate students about their and their family's religious affiliation, and have subsequently expelled Montagnard Christian students on the basis of their religion. In a 2011 report to the Committee on the Rights of the Child, the Degar Montagnard Youth Group cited a case in which a Montagnard graduate was barred from boarding school because her family refused to sign a document renouncing their affiliation with an unregistered house-church and to then join a state sanctioned church organization.⁴⁰

Recommendation: Increase opportunities for instruction in minority languages. In service of this goal, increase the training and certification of indigenous and minority teachers to provide native-language instruction, and ensure that opportunities to do so in their home communities are both available and sufficiently compensated.

Recommendation: Investigate and ensure accountability for discrimination against indigenous and ethnic or religious minority students and teachers.

³⁷ United Nations Human Rights Council (2011) *Report of the independent expert on minority issues, Gay McDougall: Addendum, Mission to Viet Nam.* (A/HRC/16/45/Add.2) para.53

³⁸ Guthrie, C. (2009) Khmer Krom hero rises from the delta, Retrieved from http://www.atimes.com/atimes/Southeast_Asia/KF06Ae03.html

³⁹ Degar Montagnard Youth Group (2011) *Alternative Report on Vietnam's Implementation of the United Nations Convention on the Rights of the Child in the 2002-2011 Period.* p 6.

⁴⁰ *ibid*

Section D: Summary of Questions and Recommendations

Article 1.1 – Lack of “racial discrimination” definition

Recommendation: Recognize that that political, social and economic marginalization of minority indigenous peoples in Viet Nam is unequivocally linked to the existence of racial discrimination at all levels of society and state.

Recommendation: Establish a comprehensive definition of racial discrimination in accordance with Article 1.1 of the International Convention on the Elimination of All Forms of Racial Discrimination.

Recommendation: Provide a public education campaign to address ethnically discriminatory attitudes originating from within State institutions in consultation with organizations representing the views and concerns of indigenous peoples and ethnic minorities.

Question: How accessible is the Committee for Ethnic Minority Affairs and similar agencies to citizens and civil society groups who wish to raise concerns? Please provide information regarding its independence from state influence.

Question: What steps have the Vietnamese National Assembly’s Ethnic Council and similar agencies taken to ensure representation of indigenous peoples and ethnic minorities and to complete their respective mandates?

Article 1.4 – Recognition as indigenous peoples

Recommendation: Formally recognize the Degar Montagnards and the Khmer Krom as indigenous peoples of Viet Nam, and respect the distinct rights afforded to them by the UN Declaration on the Rights of Indigenous Peoples.

Recommendation: Formally endorse and ratify International Labor Organization Convention 169 on Indigenous and Tribal peoples.

Article 5 (a) – Equal treatment before court

Recommendation: Amend domestic law provisions that criminalize certain religious activities on the basis of imprecisely-defined crimes of national security.

Recommendation: Release all prisoners who have been detained as a result of their nonviolent political and religious beliefs and practices.

Article 5 (b) – Right to security of person

Recommendation: Allow full, impartial and transparent investigations on reports of violence against indigenous and minority communities, and ensure that perpetrators of such violence are brought to justice.

Recommendation: Permit outside experts, including those from the United Nations and independent international human rights organizations, to have access to indigenous and minority communities in Viet Nam.

Article 5 (d)(i), (ii) – Principle of non-refoulement, and non-expulsion of refugees

Recommendation: Ratify the 1951 Convention on the Status of Refugees and halt any current and future refoulement of asylum-seekers.

Recommendation: End the forceful repatriation of indigenous peoples and ethnic minorities seeking refuge.

Recommendation: Allow international observers to freely assess the conditions of detention or settlement of refugees placed in Vietnamese custody and to allow such observers unfettered access to any associated legal proceedings.

Article 5 (d)(v), (vi), & Article 5 (e)(i) – Right to property and employment opportunities

Recommendations: Ensure that any policies affecting indigenous peoples, especially regarding indigenous land rights, are in accordance with the United Nations Declaration on the Rights of Indigenous Peoples.

Recommendations: Improve infrastructure and basic services in indigenous and minority regions, bringing these into line with conditions in the rest of the country.

Recommendation: Investigate and end practices of uncompensated land confiscation.

Article 5 (d)(vii), (viii), (ix) – Freedom of expression, religion, and peaceful assembly

Recommendation: Allow all independent religious organizations to freely conduct religious activities and govern themselves.

Recommendation: Review implementation of Decree 22 which forbids forced renunciations of faith especially as it disproportionately affects ethnic minorities.

Recommendation: Amend Ordinance No. 21/2004/PL-UBTVQH11 on Beliefs and Religion to include a provision that prohibits forced renunciation ceremonies by government officials, linked to specific disciplinary measures for offenders.

Recommendation: Enforce provisions in Instruction No. 01/2005/CT-TTg, “Some Work Regarding Protestantism,” that outlaw forced renunciations of faith and establish specific penalties for those who carry out such practices.

Article 5 (e)(v) – Education in own language

Recommendation: Increase opportunities for instruction in minority languages. In service of this goal, increase the training and certification of indigenous and minority teachers to provide native-language instruction, and ensure that opportunities to do so in their home communities are both available and sufficiently compensated.

Recommendation: Investigate and ensure accountability for discrimination against indigenous and ethnic or religious minority students and teachers.