



*Executive summary: Indigenous peoples, Khmer-Kampuchea Krom, Montagnards, land claims, religious persecution, excessive violence and torture, arbitrary arrests.*

## ***Khmer-Kampuchea Krom***

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### **1. Introduction**

The Khmer Krom<sup>1</sup> is a peoples traditionally living in Kampuchea-Krom (Cambodia Below), present day Southwest Viet Nam, mostly in the Mekong Delta, where some 80% of the 8 million Khmer Krom reside. Whereas Prey Nokor (Ho Chi Minh City) used to be the centre point of Khmer commercial activities, population resettlement policies by the Communist regime of Viet Nam has resulted in the Khmer Krom mostly living scattered over the rural Mekong Delta.

The Khmer Krom have lived in present-day Viet Nam since the beginning for the 1<sup>st</sup> century, however, their territory was prone to invasions, particularly in between the 9<sup>th</sup> and 15<sup>th</sup> century. Vietnamese pressured by the Chinese from the North pushed down South, diminishing the Khmer Krom territory. Inter-marriage was used by the Vietnamese as a tactic for diminishing the Khmer empire, until in 1954 the French colonists left Viet Nam. Despite regional ties and a close relationship fostered with the peoples living in Cambodia, the territory of the Khmer Krom was incorporated into Viet Nam, rather than Cambodia to. As a result, the Khmer Krom peoples are viewed in Viet Nam as Khmer and in Cambodia as Vietnamese. In addition, under the Presidency of Ngo Dinh Diem (1955 – 1963) all Khmer names were changed into Vietnamese, forever altering Khmer identity. Viet Nam, till this day, does not fully recognize the Khmer Krom as being the indigenous peoples of the Mekong Delta.

### **2. Settlement of Land Claims**

Article 1 of the Vietnamese *Law on Land* stipulates that land is to be viewed as the property of the entire people, managed by the State. This effectively means that no inhabitant of Viet Nam can own land. Though not only indigenous peoples are subjected to this law, they are disproportionately discriminated by it. A leasehold system has been in operation since 1986, which allows for people to inherit, transfer, sell or sublet land. Generally, in this process, the indigenous peoples, such as the Khmer Krom, are discriminated against and as such can only expect to be allotted the smallest least fertile plots of land by the Vietnamese authorities. Lands that had been in family possession for centuries and theoretically could have been inherited, had to be transferred to State control before reallocation took place, depriving the Khmer Krom from inheriting their ancestral lands under this leasehold system. The Khmer Krom are historically and spiritually linked to the farmlands in the Mekong Delta and land claims have been submitted as early as 1970, however no sufficient action has been taken by Viet Nam to resolve such claims.

Article 17 of the Universal Declaration of Human Rights (UDHR) stipulates the right to ownership of property. All efforts by the Vietnamese government to create a system of so-called ‘property of the entire people managed by the State’ in vain, fact is that the Khmer Krom are being denied a right which has been laid down in one the most fundamental human rights documents. Lack of means to pursue this right, as the UDHR does not offer any mechanisms for redress, effectively means that this right is violated without repercussion by Viet Nam.

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<sup>1</sup> Also referred to as Khmer-Kampuchea Krom



50 Outstanding land claims in theory could be resolved within the framework of International  
Labour (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent  
Countries, which addresses the right to ownership of land by indigenous peoples which have  
a historic claim to these lands in article 14. Unfortunately, Viet Nam has neither recognized  
the Khmer Krom as indigenous peoples, nor have they signed and ratified this Convention.  
55 Khmer people that wish to enforce their rights as have been laid down by the UDHR are  
faces with excessive violence, arbitrary arrest and on occasion torture. An example of such  
misconduct are incidents that occurred on 29 December 2006 in Soc Tran Province where a  
peaceful protest by Khmer Krom concerning a petition for the return of confiscated ancestral  
farmland was disrupted as the organizer, Mr. Huynh Ba, was detained by the authorities.

### 3. Religious Persecution

60 Numerous incidents of religious-motivated violence and discrimination have been reported.  
Systematic religious discrimination has reached proportions where it can be termed ‘policy’  
and incidents of harassment of Buddhist monks and vandalism on their places of worship are  
rampant.

65 Buddhist monks are often arrested for petty crimes or are forced to sign confessions to false  
allegations under (threat of) torture. For example, on 2 January 2007, 5 Buddhist monks in  
the province of Soc Trang (Kleang) were summoned by Vietnamese authorities. These monks  
were studying at Bali School (Trung Cap Nam Bo), an institution promoting the study of  
Khmer Krom philosophy, language and art. Whilst in detention, the monks were ordered and  
70 pressured to confess to fabricated reports of crimes, and to provide detailed accusations  
against other Buddhist monks who had fled to Cambodia following similar religious  
persecution. Indications are that the monks were targeted for accessing audio and video  
materials produced by the Khmers Kampuchea-Krom Federation (KKF), documenting their  
peaceful efforts to promote the rights of the Khmer Krom People.

75 Unfortunately, fear for such persecution by the Vietnamese State also lives outside the  
borders of Viet Nam, as Viet Nam coerces other States into cooperating with it under the  
notion of maintaining friendly relations. One infamous case illustrating such conduct is the  
case of Venerable Tim Sakhorn. Buddhist monk Tim Sakhorn was arrested in Cambodia,  
where he had been living since 1978 and where he holds citizenship, on 30 June 2007 and  
deported to Viet Nam, under the name of maintaining friendly relations, as Venerable  
80 Sakhorn allegedly was undermining these relations. Tim Sakhorn was arrested and defrocked  
on charges of ‘harming the solidarity’ between Cambodia and Viet Nam by spreading  
‘propaganda’ from his Pagoda. Cambodia repatriated him to Viet Nam despite the lack of a  
bilateral extradition treaty and he was consequently arrested for illegal entry in Viet Nam.  
Following a mock trial, Venerable Sakhorn was sentence to a year imprisonment and was  
85 released from prison on 28 June 2008. However, Venerable Sakhorn is still unable to return  
home as he is being held under heavy monitoring by Vietnamese officials who do not allow  
for him to leave his uncle’s home in Viet Nam. According to the sentence that convicted  
Venerable Sakhorn, he was supposed to have the option of returning to Cambodia. Despite  
repeated calls for ending Tim Sakhorn’s house arrest by UNPO, various other human rights  
90 organizations and the European Parliament, the status quo has not changed. Vietnamese  
authorities are taking measures into their own hand in an attempt to further intimidate the  
Khmer Krom in Viet Nam and abroad by denying Venerable Sakhorn his right to return to  
Cambodia.

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#### **4. Excessive violence and torture**

100 The Vietnamese authorities are known for using excessive violence when maintaining order  
and reports have been made of police officers using methods of torture to pressure  
confessions, as stated before. The Khmer Krom disproportionately suffer from misconduct by  
Vietnamese security personnel and police officers as a result of discrimination. Peaceful  
105 protests on numerous occasions have been harshly put down, as was the case with a peaceful  
protest by some 80 farmers on 28 February 2008 in An Giang Province to request their  
ancestral farmlands back from the Vietnamese authorities. The Khmer farmers were  
prevented from filing claims with the authorities by means of threatening with (excessive)  
110 violence. Past demonstrations had been violently dispersed by Vietnamese authorities using  
electric batons, arbitrarily arresting persons taking part in these demonstrations and by  
inflicting injuries upon persons whilst in police custody.

#### ***Montagnards***

#### **5. Introduction**

115 The Montagnards<sup>2</sup> inhabit the central western mountains of Viet Nam, with a total population  
of approximately 1 million people. The Montagnards find their roots some 2000 years ago  
and traditionally stems from the eastern coast of Viet Nam. Tribal wars, however, have led  
the Montagnards to retreat over the centuries into the mountains in the western part of  
present-day Viet Nam.

120 Struggle over the centuries have shifted boundaries of the territory of the Montagnards,  
however the situation drastically changed towards the end of the 17<sup>th</sup> century when  
Vietnamese invasions forced the Montagnards to permanently retreat into the mountains and  
leave the costal regions. It was not until the end of the end of the 19<sup>th</sup> century that the French  
established small posts in the territory of the Montagnards (from whom they derive their  
125 name) and only around 1918 did the French introduce Vietnamese into the area as servants  
for their missions. Territorial settlements made under the French after their departure were  
annulled in 1954, when South Viet Nam resettled thousands of Vietnamese in the area,  
destroying tribal courts and forcibly relocating Montagnard villages from viable farmland. In  
1961 the Americans started recruiting for military service amongst the Montagnards,  
130 resulting in some 40,000 enlisted Montagnards. The Montagnards people's traditional way of  
life, historical struggle for autonomy and alliances with France and the United States of  
America during the Viet Nam War has resulted in them being regarded by the Vietnamese as  
"moi" or savages and a threat to the internal security of Viet Nam, which results in systematic  
discrimination and gross human rights violations.

#### **6. Settlement of Land Claims**

135 With regards to the settlement of outstanding land claims, the situation of the Montagnards is  
similar to that of the Khmer Krom. The laws that apply in Viet Nam with regards to  
ownership of property have been outlined before and also impede the Montagnards from  
exercising ownership over their ancestral lands and from developing their agriculture, leaving  
140 many underfed. The State of Viet Nam remains to act hostile towards such claims; a  
demonstration during Easter 2004 was followed by a massive military crackdown, after  
which many Montagnards sought refuge in neighbouring Cambodia or in the United States of  
America. As a result, dozens of Montagnards were arrested for organizing demonstrations or

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<sup>2</sup> Sometimes also referred to as Degards or Montagnard Degards.



145 for aiding refugees that were fleeing to Cambodia. Denying these land claims are a tool for  
the Vietnamese government to marginalize the Montagnards and arrests made under the  
150 auspices of maintaining order during such demonstrations are used as a tactic of instigating  
fear amongst the Montagnards in order to prevent further land claims being launched.

### **7. Religious Persecution**

150 The Montagnards traditionally believed in ‘good’ and ‘bad’ spirits and had no concrete  
organized religion. This changed when in the 1940 missionaries came to the region and  
converted most Montagnards to Christianity, mostly Protestantism, though some were  
converted to Catholicism. As such, the Montagnards are not only indigenous peoples of Viet  
155 Nam, but also a religious minority, leading to increased discrimination and persecution from  
the State. The Vietnamese State still sees organized religion as a threat to the state system,  
despite the fact that they have the obligation not to discriminate against groups on the basis of  
the Universal Declaration of Human Rights and the International Covenant on Civil and  
Political Rights – documents which can be considered customary international law and which  
160 the latter Viet Nam has ratified. Furthermore, the Vietnamese Constitution prescribes the  
right to freedom of religion and non-discrimination on the basis thereof in article 70 of the  
aforementioned document. Though the reference to freedom of religion in the Vietnamese  
constitution is encouraging, in practise this right is not implemented.

165 Examples of Christian Montagnards being persecuted for their religion are unfortunately  
ample. For instance, on 30 and 31 July 2008 at least 5 Christian Montagnards were detained  
for their membership to a native Christian Church and for their refusal to join a congregation  
that is supported by the Communist regime of Viet Nam. Usually claims are ‘backed up’ by  
evidence that these Church congregations are allegedly violent sects plotting to overthrow the  
Vietnamese government. Evidently, refusal to join a State Church cannot be a basis for  
detention and in no manner can be aligned with article 70 of the Vietnamese constitution.

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### **8. Excessive violence and torture**

175 Ill-treatment by Vietnamese (police) forces is not exclusively linked to the Montagnards;  
minorities in Viet Nam suffer disproportionately from violence inflicted upon them by  
government officials. Frustration and anger from past grievances – not at least the  
cooperation of the Montagnards with the Americans during the War – often leads to  
disproportionate use of violence during – often arbitrary – arrests. Maltreatment which can be  
classified as torture is also widespread, particularly in order to coerce Montagnards to  
denounce their faith or to force them to join a congregation which is backed by the  
Communist government.

180 Due to this ongoing violence, thousands of Montagnards have fled to Cambodia. However, as  
is the case with the Khmer Krom, it often happens that these people are repatriated by  
Cambodia to Viet Nam, where they are consequently put under house arrest or detained in  
government facilities and intimidated or tortured. Cases of the families of Montagnard human  
rights defenders living abroad being harassed, arbitrarily detained and violence used against  
185 them with the goal of coercing the family members abroad to seize their activities as human  
rights defenders are also known.

### **9. Recommendations**

190 In conclusion, it seems that the plight of indigenous Khmer Krom and the Montagnards is  
largely centred on poor political will from the central Vietnamese government. This lack of  
will is widely manifested in lack of an effective system to deal with land claims, excessive



use of force by law enforcement, poor implementation of the right to freedom of religion and tactics of coercion based on intimidation and torture.

195 Generally speaking, in spite of widespread violations of human rights inflicted upon members of the Khmer Krom and Montagnards minorities, the government of Viet Nam should be commended for having incorporated key human rights, such as the freedom of religion, in their national constitution. In addition, they should be commended for having ratified the International Covenant on Civil and Political Rights, despite the fact that the implementation  
200 of the rights enshrined in this document remains poor.

The overall assessment of the human rights situation in Viet Nam leads UNPO to conclude that in the areas of civil and political rights enough mechanisms are in place to adequately guarantee the rights of minorities, but that the implementation thereof is severely lacking. It takes political will from the Vietnamese government to ensure that the human rights of the  
205 aforementioned groups are respected.

In particular, UNPO urges Vietnamese authorities:

210 *To acknowledge the indigenous status of both the Khmer Kampuchea Krom peoples, as well as that of the Christian Montagnards;*

215 *To, in line with article 8 of the Universal Declaration on the Rights of Indigenous Peoples, create an effective mechanism for the settlement of outstanding land claims by both indigenous groups and to compensate those groups for the loss of their ancestral lands;*

*To sign and ratify International Labour Organization (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, with the aim of respecting the traditions of indigenous peoples in relation to the use of their ancestral lands;*

220 *To commit to the full implementation of Article 70 of the Vietnamese constitution;*

*To commit to investigating widespread allegations of abuse by law enforcement, arbitrary arrests, and extrajudicial torture, and explore possible judicial remedies for victims and their families;*

225 *To release all those detained or placed under house arrest after having been repatriated from abroad to Viet Nam under the auspices of ‘undermining friendly relations’ and ‘solidarity’ between Viet Nam and the state repatriating these persons;*

230 *To define which actions can be qualified as a actions ‘harming solidarity’ between Viet Nam and other sovereign states; and*

*To commit to the provisions laid down in the sentence of Venerable Tim Sakhorn and to, accordingly, allow him to return to Cambodia.*