



R E P O R T F O C U S

Degar Montagnards

The indigenous Degar Montagnard people are concentrated in the Central Highlands of Vietnam¹. Their support of the United States during the Vietnam war has resulted in continuing animosity, including Degar Montagnards often being labelled as ‘moi’ or savages, or threats to national security. Large populations of Degar Montagnards in Vietnam are prohibited from practicing their Protestant Christianity outside State-sanctioned churches, which puts communities and families at risk of unlawful detainment, torture, and extrajudicial killings.

Hmong

The Hmong ChaoFa people are indigenous to northern Laos and have historically been subject to forced repatriation, targeted killings, and discrimination. Large Hmong communities in Vietnam are the result of their fleeing from repressive policies in Laos. Extremely disconcerting are agreements between the Vietnamese and the Laotian governments to coordinate military efforts to detain individuals and families from seeking refuge and forcible return them to Laos where they await further abuse.

Khmer Krom

The indigenous Khmer Krom reside in southwest Vietnam, primarily in the Mekong Delta. Following the decline of the Khmer Krom empire in the 15th century, Vietnamese policies focused on displacing Khmer Krom communities and weakening their cultural identity by forcing intermarriage and replacing all traditional Khmer names by Vietnamese ones.

H U M A N R I G H T S I S S U E S

Settlement of Land Claims

The Vietnamese land reforms of 1975 placed land ownership with the State (Article 1), which in turn assigns usage rights to the individuals. Natural resources, which are abundant in ancestral domains, are therefore no longer available for indigenous communities’ use due to them being a subject to government allocation.² The lands were confiscated without proper compensation, and while all land is owned by the State, minority groups such as Khmer Krom and Degar Montagnards are disproportionately discriminated by the policies, having been given the smallest and least fertile land to live and work on after confiscation. Attempts to file legitimate legal complaints in regards to the confiscated land that could have been otherwise inherited have resulted in arrests. In May 2009, Mr. Huynh Ba (ethnically Khmer Krom) was arrested after filing such a complaint, 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.³

¹ Also commonly referred to as Viet Nam

² 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

³ The Khmer Krom Network (2009) Vietnam Authority Arrests Land Activists Huynh Ba, Retrieved from <http://khmerkrom.net/node/1956>



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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 Vietnam to resolve such claims. Degar Montagnards are in a similar situation in regards to the land confiscations. Denying their land claims are a tool the Vietnamese government uses to marginalize the Montagnards. Arrests made under the auspices of maintaining order during demonstrations are used as a tactic of instigating fear amongst the Montagnards in order to prevent further land claims being launched.

Vietnam does not recognize the indigeneity of either group despite having endorsed and ratified the Declaration on the Rights of Indigenous Peoples (UNDRIP).⁴ This deprives Khmer Krom and Montagnards of the special protection otherwise offered by the Vietnamese law. In 2010, a representative from the Vietnamese Mission to the United Nations (UN) attempted to block the participation of an NGO representing Montagnards people in Vietnam at the UN Conference on the Expert Mechanism on the Rights of Indigenous Peoples referring to the lack of indigenous status of the representative's organization.⁵ There is a potential to resolve the land disputes through the International Labour Convention (ILC) 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. However, Vietnam has neither ratified the convention, nor has it recognized Khmer Krom and Montagnards as indigenous peoples.

Religious Prosecution and Violence

Religious minorities in Vietnam are subject to severe restrictions. This includes the Khmer Krom, who practice Theravada Buddhism, and Degar Montagnards, who practice Protestant Christianity. Article 70 of the Vietnamese Constitution states "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."⁶ However, the State employs various tactics to limit religious freedom, including the prohibition of meetings of unregistered religious groups, while registration is arbitrarily denied.⁷

Additionally, Theravada Buddhism has been classified as religious organization rather than religion, thus stripping its practitioners of important protections, such as reading relevant religious material, like Khmer-language books and publications, or holding such materials in the libraries.⁸ 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. Cultural and religious holidays are not allowed in schools or elsewhere, while the temples, serving as the centres of Khmer Krom culture, are systematically destroyed. Children that want to study their

⁴ Montagnard Human Rights Organization (2010) MHRO attends UN Conference on Indigenous Peoples in Geneva. Retrieved from <http://www.mhro-attends-un-conference-on-indigenous-peoples-geneva>

⁵ Ibid.

⁶ 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

⁷ United States Department of State (2011) 2010 Human Rights Report: Vietnam. Accessed from <http://www.state.gov/g/drl/rls/hrrpt/2010/eap/154408.html>

⁸ Human Rights Watch (2011) *On the Margins: Rights Abuses of Ethnic Khmer in Vietnam's Mekong Delta*



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cultural and religious traditions of Theravada Buddhism have to apply for permission from the government to do so.⁹

In 2011 Degar Christian villager Y-Huong Nie was abducted and detained prior to being sentenced to 5 years in prison. His crime was practicing Christianity in an “illegal church house” and failing to sign a document renouncing his religious beliefs.¹⁰ In April and June 2013, Kpuil Mel, Kpuil L, and Nay Y Nga, three Protestant activists, were sentenced to 22 years of imprisonment for transgressing Article 87 and accused of Degar Protestantism, outlawed by the State. In May 2013, another three Degar activists were arrested for “undermining national unity” according to the same Article 87 for their affiliation with the unregistered Ha Mon Catholic group.¹¹ 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 Vietnam’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.¹² 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.¹³ Various other cases of such human rights abuses, as well as local officials hiring thugs to “harass, threaten or beat” religious leaders have been reported.¹⁴ Such prosecution of spiritual leaders and followers has acquired a systematic nature.¹⁵

Right to Security

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.¹⁶ Human Rights Watch has also documented many cases of widespread police brutality against Degar individuals.

Arrested individuals are “routinely held incommunicado, without access to legal representation and sometimes even family members, during their pre-trial detention period, which

⁹ Indigenous – Office of the High Commissioner on Human Rights. *Vietnam Shadow Report to the United Nations Convention on the Rights of the Child (CRC)*.

¹⁰ Montagnard Foundation Inc. (2011) Vietnam Sentences Degar Christian to 5 Years, Retrieved from <http://montagnard-foundation.org/wp/2011/09/14/1652#.Tw1VrlGDmyY>

¹¹ Human Rights Watch (2013) World Report 2013: Vietnam

¹² Human Rights Watch (2011) Montagnard Christians in Vietnam: A Case Study in Religious Repression

¹³ Human Rights Watch (2011) Vietnam: Investigate Crackdown on Hmong Unrest, Retrieved from <http://www.hrw.org/news/2011/05/17/vietnam-investigate-crackdown-hmong-unrest>

¹⁴ United States Commission on International Religious Freedoms (2011) USCIRF Annual Report 2011: Countries of Particular Concern: Vietnam, Retrieved from <http://www.unhcr.org/refworld/docid/4dbe90bd.html>

¹⁵ Indigenous – Office of the High Commissioner on Human Rights. *Vietnam Shadow Report to the United Nations Convention on the Rights of the Child (CRC)*.

¹⁶ Montagnard Foundation Inc. (2011) Vietnam Sentences Degar Christian to 5 Years, Retrieved from <http://montagnard-foundation.org/wp/2011/09/14/1652#.Tw1VrlGDmyY>



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can last from three months to more than one year.”¹⁷ 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.¹⁸ Various cases, like the one of Ksor Daih and Ksor Jak, arrested on 24 February 2004 and later released in 2010 with broken vertebrae and legs, demonstrate the torture systemically used in prisons. A more recent case of Rahlan Hlan, another Christian Degar, released 1 September 2010 due to the life-threatening condition, emphasizes the severity of torture-related injuries sustained by minorities in Vietnamese prisons.¹⁹

Freedom of expression and self-determination

There are numerous restrictions on the freedom of expression and self-determination in Vietnam. Most of these restrictions are directed towards stripping the minority groups of their cultural heritage and religion. Vivid example of such policies is the policies directed towards eliminating the use of Khmer language and the practice of Khmer Krom traditions as a broader assimilation policy strategy. Under Article 7 of the Vietnamese constitution, traditional Khmer Krom names are unrecognized and substituted by the Vietnamese names. Villages, districts and provinces are renamed in Vietnamese, restricting the indigenous peoples from using the old names in their own languages. The entire villages are reported to have been forced to adopt a single name. Khmer language is considered illegal and forbidden to be used under Article 8, thus restricting Khmer Krom self-identification.²⁰

The State has blocked access to the Khmer Kampuchea-Krom Federation website from Vietnam and constantly monitors the use of satellite TV receivers in order to restrict broadcasts from cultural and religious groups from Cambodia.²¹ Students from minority groups like Khmer Krom and Degar Montagnards are restricted in their communication with foreigners or Embassies’ representatives. Certain instances of harassment and intimidation of the whole village population have been reported. Fines for disobeying and watching the Cambodian broadcasts were issued in 2012.²² Learning indigenous languages is forbidden in most of schools. When allowed, the programs are weak in content and the textbooks used contain many grammatical errors and incorrect spelling, as they are written by the Vietnamese, not native speakers. Imported textbooks with reflection of culture and language are banned.²³

Recommendations

In conclusion, the plight of indigenous Khmer Krom, the Montagnards and Hmong is largely centred on poor political will from the central Vietnamese government. This is widely manifested in

¹⁷ 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>

¹⁸ Human Rights Watch (2011) On the Margins: Rights Abuses of Ethnic Khmer in Vietnam’s Mekong Delta

¹⁹ Montagnard Foundation Inc. (2010) Question to the European Parliament. Retrieved from <http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2010-7418&language=EN>

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

²¹ Khmer Kampuchea-Krom Federation: Report (2013)

²² Ibid.

²³ Ibid.



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the 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, expression and self-determination, and tactics of coercion based on intimidation and torture.

Generally speaking, in spite of widespread violations of human rights inflicted upon members of the Khmer Krom, Montagnards and Hmong minorities, the government of Vietnam 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 of the rights enshrined in this document remains to be seen. The overall assessment of the human rights situation in Vietnam leads to the conclusion 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 aforementioned groups are respected.

In particular, UNPO urges Vietnamese authorities:

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

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 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;

To define which actions can be qualified as actions 'harming solidarity' between Vietnam and other sovereign States; and;

To amend domestic law provisions that criminalizes certain religious activities on the basis of vaguely-defined crimes of national security;

To release all prisoners who have been detained as a result of their nonviolent political and religious beliefs and practices;

To 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.

To permit outside experts, including those from the United Nations and independent international human rights organizations, to have access to indigenous and minority communities in Vietnam;

To sign and ratify the International Labour Organization (ILO) Convention 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;

To allow community centres or religious places of worship to freely interact with their community, specifically youth, to disseminate their culture and personal values.