

Alternative Report

Submitted by:

Unrepresented Nations and Peoples Organization

To the UN Committee on the Economic, Social and Cultural Rights

In consideration of the Combined Second to Fourth Report of the Socialist Republic of Vietnam during the 53rd Session of 10 - 28 November 2014

UNPO Advocacy Office
Avenue Louise 52 - Brussels 1050 - Belgium
Tel: +32 (0)251 31459 - Fax: +32 (0)251 31495
Email: unpo.brussels@unpo.org

UNPO Head Office
Laan van Meerdervoort 70 - 2517 AN, The Hague - The Netherlands
Tel: +31 (0)70 3646504 - Fax: +31 (0)70 3646608
Email: unpo@unpo.org

Website: www.unpo.org



Table of Contents

- Section A: Introduction to the Report 4**
- Section B: Introduction to the Degar, Hmong and Khmer Krom5**
- Section C: Compliance with ICESCR.....6**
 - Article 1 – Right to Self-determination6
 - Article 2 – Non-discrimination.....7
 - Article 6 – The Right to Work9
 - Article 11 – Right to adequate standard of living10
 - Article 12 – Right to health11
 - Article 13 – Right to education.....12

SECTION A: Introduction to the report

This alternative report was submitted by the Unrepresented Nations and Peoples Organization (UNPO) on the occasion of the 53rd Session of the Committee on Economic, Social and Cultural Rights (henceforth, “the Committee”).

3

The framework of this report will comment upon relevant articles of the International Covenant on Economic, Social and Cultural Rights sequentially. The final section of the report raises questions and proposes recommendations intended to inform the discussions taking place pertaining to the International Covenant on Economic, Social and Cultural Rights (henceforth, “ICESCR” or “the Covenant”) and between the Committee and the Vietnamese delegation at the 53rd Session.

This report will focus primarily on the situations of the Degar, Hmong and Khmer Krom groups in the Socialist Republic of Viet Nam and the government’s compliance with and implementation of the provisions in the International Covenant, as it affects these particular groups.

The main issues that will be dealt with in this report are the religious oppression, poverty and marginalization of the Degar, Hmong and Khmer Krom, caused mainly by social and political discrimination and exclusion. This has resulted in many Degar, Hmong and Khmer Krom becoming victims of arbitrary arrests, police violence, forced evictions from their ancestral land and destruction of their religious objects, as well as lack of access to adequate healthcare, education in their own language and religious freedom.

Brussels, August 2014

SECTION B: Introduction to the Degar, Hmong and Khmer Krom

Degar

The Degar people, around 1 million in total, inhabit the Central Highlands 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 were eventually pushed into the Central Highlands by waves of Vietnamese and Cham peoples up to the late 1600's. 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'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. The Hmong predominantly live in the Northern Highlands of Vietnam. However, 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 2005¹. Among the biggest issues for the Hmong are Vietnamese and Laotian government agreements to coordinate military efforts to detain individuals and families seeking refuge in Viet Nam and forcibly return them to Laos, where further abuse awaits.

Khmer Krom

The Khmer Krom have traditionally resided 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.

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

SECTION C: Compliance with CESCR

Article 1: Right to Self-Determination

Article 1.1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

5

Article 1.2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

The Vietnamese report submitted to the Committee points out that “the assurance of right to comprehensive equality in terms of political, economic, cultural and social fields for all peoples” stands as proof of Viet Nam’s respect for the right of self-determination of all peoples². The same section further stresses that in Viet Nam there are no indigenous people. However, in Viet Nam there are over 54 different ethnic groups, many of whom are indigenous. Even though the Degar and Khmer Krom have a deeply rooted history respectively in the Central Highlands and the Mekong Delta, they have not been recognized as indigenous populations by Viet Nam. Despite their long history and contemporary marginalization, Vietnamese law does not provide a mechanism for recognizing ethnic groups as indigenous or grant any additional protection and rights to indigenous ethnic communities³. The lack of a recognized and protected status has furthered the discrimination and violence that the Degar and the Khmer Krom face. The disregard of the right to self-determination extends further and also affects ethnic and religious communities such as the Hmong.

Viet Nam has a one-party political system, which significantly limits the opportunities of the Degar, Hmong and Khmer Krom to be represented and determine their political status. Ethnic minority deputies comprise around 16% of the National Assembly⁴ and 11% of provincial assembly⁵. However, since elections are not free and fair, citizens are unable to choose their representatives as all of the vetted and self-nominated candidates are appointed or approved by the government⁶. Minorities and indigenous peoples are unable to determine and represent their political status as there are no mechanisms in place that allow minority and indigenous leaders and governance structures to be taken into account on a regional and national level⁷.

This means that these groups and their leaders are often excluded from the decision-making processes on economic and social development. Such a top-down approach of establishing policies

² Vietnam State Party Report (E/C.12/VNM/2-4), para.29

³ Luong Thi Truong and Orlando Genotiva (2010). *Recognizing Ethnic Minority Customary Land Rights in Vietnam and the Philippines*. Available at: http://www.recoftc.org/site/uploads/wysiwyg/docs/Vietnam_Briefs_Eng_PDF/RECOFTC_21July10_B5_web.pdf

⁴ United States Department of State (2012). *Vietnam 2012 Human Rights Report*. p.30. available at: <http://www.state.gov/documents/organization/204463.pdf>

⁵ Vietnam Committee on Human Rights and International federation on Human Rights (2012). *Violations of the Rights of Ethnic and Religious Minorities in the Socialist Republic of Vietnam*. Alternative report on the Implementation of the UN ICERD (80th Session). p.18

⁶ United States Department of State (2012). *Vietnam 2012 Human Rights Report*. p.28. available at: <http://www.state.gov/documents/organization/204463.pdf>

⁷ 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) p.18

without consulting the affected communities significantly undermines the right of the Degar, Hmong and Khmer Krom to freely determine and pursue their economic, social and cultural development⁸.

Furthermore, Viet Nam does not allow its indigenous people and minority groups to study and use their own languages in public and to study their own history. This is despite Article 5 of the Constitution of Viet Nam stating that “The peoples have the right to using their own language, scripts and preserving their identity, fully displaying their custom, tradition and culture.” The government of Viet Nam does not allow the Khmer-Krom to be referred to as “Khmer-Krom”, but rather refers to them as “Dân Tộc Thiểu Số Khmer” (ethnic minority Khmer) and do not permit Khmer-Krom villages, districts and provinces to be called their original Khmer names.

In addition, Hmong villages are facing environmental concerns, as gold mining, illegal wood logging, and dam building have reached record numbers. These developments continue to cause environmental hazards and erosion, the reduction of wildlife and fisheries, the disappearance of the historical wilderness, and above all, the destruction of nature. At the same time, Vietnamese policies to establish “new economic zones” in the Central and Northern Highlands have particularly affected the livelihood of the Degar and Hmong minorities.

Many of the “new economic zones” and economic development projects in the Central Highlands exploit indigenous land and natural resources. In the Central Highlands large areas of fertile lands have been transformed into industrial crops, such as coffee and rubber⁹. In 2007 the Vietnamese government launched a 15-year project to develop the bauxite mining industry and in particular exploit the vast bauxite reserves in the Central Highlands. Reports have indicated that the largest mining contractor, a Chinese corporation named Chalco, has been clearing out portions of the forest in the region, using open-pit mining techniques and releasing vast amounts of toxic red sludge (a byproduct of refining bauxite), destroying fertile lands in the process¹⁰.

⁸ Vietnam Committee on Human Rights and International federation on Human Rights (2012). *Violations of the Rights of Ethnic and Religious Minorities in the Socialist Republic of Vietnam*. Alternative report on the Implementation of the UN ICERD (80th Session)

⁹ Ibid, p.10

¹⁰ Vietnam Committee on Human Rights and International Federation on Human Rights (2012). *Violations of the Rights of Ethnic and Religious Minorities in the Socialist Republic of Vietnam*. Alternative report on the Implementation of the UN ICERD (80th Session). p.20

Article 2 – Non-discrimination

Article 2.1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

Article 2.2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 2.3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Under the pretext of protecting national security, unity, and solidarity, the Vietnamese government has persistently employed policies of discrimination and repression against indigenous and minority groups. These communities face discrimination due to both their religion and ethnicity. The Vietnamese government discriminates against these groups by denying them their right to religion, education, and language, and violently suppresses peaceful protests and gatherings. Minority and indigenous activists are often censored, arbitrarily arrested and subjected to unfair trials. The institutional prejudice and stigma against indigenous and minority groups in Viet Nam becomes clearly evident through the official statements of the government. In the current report submitted to the Committee as well as previous reports submitted to other UN bodies, ethnic minorities and their socio-economic traditions are presented as “backward” and “superstitious”, as well as the main reason for the economic underdevelopment and social disparities in the regions¹¹. Furthermore, these views are further perpetuated and presented to the Vietnamese public by the media, which is almost exclusively under the control of the government. The media presents the poverty and marginalization of minority groups as a result of “internal factors, such as early marriage, high birth rates, drug and alcohol problems, laziness and dependency on government support.”¹²

The Vietnamese government has continuously maintained high security measures in the Central and Northern Highlands as a response to alleged separatist activities by indigenous and minority groups. Local police forces have increasingly arrested and detained ethnic Degar and Hmong due to allegations that their protestant faith and churches are enticing separatism¹³. In April 2012, Nay Y Nga, an ethnic Degar, was sentenced to 5 years in prison under charges of sabotaging national unity by allegedly encouraging people to join the Degar Protestant church and supporting local independence movements¹⁴. 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

¹¹ Vietnam State Party Report (E/C.12/VNM/2-4). p.6; 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) p. 6

¹² 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) p. 6

¹³ United States Department of State (2012). *Vietnam 2012 Human Rights Report.* p.41. available at: <http://www.state.gov/documents/organization/204463.pdf>

¹⁴ *ibid*

“illegal church house” and failing to sign a document renouncing his religious beliefs¹⁵. In the Dien Bien province of the Northern Highlands in March 2012 two ethnic Hmong were sentenced to 2.5 years in prison for disturbing social order by taking part in a religious gathering¹⁶. Human Rights Watch has reported that in 2010 over 100 Degar were detained by the local police in attempt to stop the spread of Dega Protestantism¹⁷. Land activists have also been subjected to harassment and arbitrary arrests. In the Mekong Delta, Vietnamese authorities have repressed land right activists and restricted the religious freedom of the Khmer Krom. For instance, in February 2008, Khmer Krom farmers from the An Giang province gathered at a village office to demand the compensation the authorities had promised them for their land. The police used dogs and electric batons to break up the peaceful protest and charged two women with causing public disorder¹⁸. Various other cases of such human rights abuses, as well as local officials hiring thugs to “harass, threaten or beat” religious leaders have been reported¹⁹. Such persecution of spiritual leaders and followers has acquired a systematic nature.

8

Furthermore, Viet Nam has prevented the Khmer Krom from forming any social organizations or associations. The Viet Nam authorities instead arrange most of the Khmer Krom social activities as propaganda events to show case Khmer Krom satisfaction with the Viet Nam authorities. For example, at the Fifth Festival of Culture, Sport and Tourism for the Khmer Krom in December 2011, Khmer Krom performers were forced to do musical and cultural performances that had no ties with Khmer Krom culture.

Indigenous and minority groups have also been penalized by the system of household registration which is necessary for obtaining land, enrolling in school, receiving healthcare, and for birth registration²⁰. The Vietnamese authorities have often refused to issue ID cards that recognize certain minority religions such as Protestantism and Theravada Buddhism. This places their followers in a difficult situation where “they [either] have no identity card and cannot receive government benefits, or they are identified as subscribing to no religion, which may be used to prevent their attendance at churches.²¹”

¹⁵ Montagnard Foundation Inc. (2011) *Vietnam Sentences Degar Christian to 5 Years*. Available at: <http://montagnard-foundation.org/wp/2011/09/14/1652#.Tw1VrIGDmyY>

¹⁶ nited States Department of State (2012). *Vietnam 2012 Human Rights Report*. p.42. available at: <http://www.state.gov/documents/organization/204463.pdf>

¹⁷ United States Commission on International Religious Freedom (2013). *Annual Report: Vietnam*. p.200. Available at: <http://www.uscirf.gov/reports-briefs/annual-report>

¹⁸ Human Rights Watch (2009). *On the Margins: Rights Abuses of Ethnic Khmer in Vietnam’s Mekong Delta*. Available at <http://www.hrw.org/reports/2009/01/21/margins-0>

¹⁹ 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/4d8e90bd.html>

²⁰ Vietnam Committee on Human Rights and International Federation on Human Rights (2012). *Violations of the Rights of Ethnic and Religious Minorities in the Socialist Republic of Vietnam*. Alternative report on the Implementation of the UN ICERD (80th Session), p.10

²¹ United States Commission on International Religious Freedom (2013). *Annual Report: Vietnam*. p.205. Available at: <http://www.uscirf.gov/reports-briefs/annual-report>

Article 6 – The Right to Work

Article 6.1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

Article 6.2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

9

In particular, these communities face serious difficulties retaining ownership of their land due to government approved economic development projects. All of the land in Viet Nam is owned by the State, which grants individuals the right to use certain parts of it. Even though Viet Nam has avoided addressing the issue of land rights of minorities and indigenous peoples in their report submitted to the Committee, land appropriation remains a significant problem in the country and particularly affects minority and indigenous communities.

The Hmong and the Degar live in the forest areas of the Central and Northern Highlands. In these regions land is allocated to individuals by the central government, leaving limited opportunities for communal use of the land. Reports have shown that only 24% of the ethnic minority or indigenous population has land rights in the forest areas they live in, while less than 1% of the forests are available for communal use. The former independent expert on minority issues, Ms. Gay McDougall, has reported that landlessness is on the rise in Viet Nam and pointed out that many members of highland minorities “do not have access to forest resources, even in areas where there are few other livelihood opportunities, and that poverty and livelihood improvement are rarely mentioned in forestry planning.”

These communities have also been resettled from their traditional lands to make way for economic development projects. In the Northern Highlands, where most of the Hmong minority lives, more than 91 000 people were involuntarily resettled due to the development of the Son La hydropower project. Aside from violating their right to land and use of resources, these resettlements have also been followed by increased food insecurity and poverty among the local communities, due to inadequate transition assistance and lack of appropriate alternative means of subsistence. These economic development projects have also prompted a large influx of ethnic Kinh and Chinese skilled workers in the region, changing the demographic composition of the region and limiting employment opportunities for the local minorities and indigenous peoples.

Indigenous Khmer Krom have also faced widespread confiscation of their lands. During the war between Viet Nam and Cambodia, the Vietnamese government massively relocated them from their fertile lands in the Mekong Delta due to the perceived ties with Cambodia. However, during the war the Vietnamese government allocated much of the Khmer Krom ancestral lands to and populated the region with ethnic Kinh. This meant that many Khmer Krom were left landless and without the

possibility to continue with their traditional means of subsistence. Most of the Khmer Krom have become temporary agricultural workers or poor wage laborers, which has furthered the social and economic inequality they face. In spite of the fact that Viet Nam is the second largest producer of rice in the world, many indigenous people of Viet Nam do not have enough to eat. The Viet Nam authorities have forced the Khmer Krom to switch from their traditional farming methods to more intensive methods. Traditionally, the Khmer Krom have farmed rice once a year and generally had enough food to sustain the community. However, current government policies have forced the Khmer Krom farmers to intensively farm the land three times a year while using pesticides and fertilizers. In the long term, this has caused soil degradation and erosion of Khmer Krom farmlands and have deprived Khmer Krom farmers of their livelihoods and source of income.

Article 11 – Right to adequate standard of living

11.1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Indigenous and minority communities in Viet Nam are among the poorest inhabitants of the country, and often do not enjoy adequate standards of living. Poverty in Viet Nam is clustered around the upland regions of the Central and Northern Highlands, as well as the Mekong Delta. In the Northern Highlands 60.1% of the population lives under the poverty line, in the Central Highlands the rate is 32.8%, while in the Mekong Delta is 18.7%²². Some of these figures might not seem alarming compared to the national average of 20.7%²³. However, statistics show that 93.3% of the Hmong, around 80% of the Degar and 43.2% of the Khmer Krom live under the poverty line²⁴. The World Bank has recognized efforts by the government to reduce poverty since the 1990's as partially successful as they have significantly contributed to the reduction of poverty in general, but have not effectively addressed poverty among rural minorities and indigenous groups²⁵. While the economic development projects have increased the GDP of the rural regions over the years, they have left the indigenous and minority groups marginalized and unemployed.

One of the main reasons behind the high poverty rates among indigenous and minority groups in the Highlands and the Mekong Delta are land-grabbing and landlessness. The Degar, Hmong and Khmer Krom are highly dependent on their lands for agriculture and subsistence. The exploitation of indigenous lands once used for subsistence agriculture and farming has led to major food and

²² The World Bank (2012). *Well Begun, Not Yet Done: Vietnam's Remarkable Progress on Poverty Reduction and the Emerging Challenges*. p.66. Available at: <http://documents.worldbank.org/curated/en/2013/08/18124050/2012-vietnam-poverty-assessment-well-begun-not-yet-done-vietnams-remarkable-progress-poverty-reduction-emerging-challenges>

²³ *ibid*

²⁴ *Ibid.* p.124

²⁵ *ibid.*

economic insecurity for indigenous peoples in Viet Nam. Unable to derive food from their forests and to earn enough money to feed their families, indigenous peoples are increasingly becoming victims of malnutrition²⁶. Problems with access to food in the Central Highlands are due to the bauxite mining projects, which have destroyed large portions of fertile land by clearing out vegetation and releasing toxic waste²⁷. In the Northern Highlands large industrial projects such as hydroelectric plants and rubber production have destroyed forests and displaced many Hmong from their lands²⁸. Furthermore, the indigenous people in the regions do not receive a fair share from these activities (mining, forestry, etc.) that are degrading the environment and exploiting resources on land that has been long been inhabited by these indigenous and minority groups. In the Mekong Delta many Khmer Krom have lost the rights to the fertile lands they owned and were given new portions of land that are unsuitable for subsistence and crops²⁹.

11

Article 12 – Right to health

Article 12.1. The States Parties recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the improvement of all aspects of environmental and industrial hygiene.

Indigenous peoples and minorities in Vietnam are facing serious challenges in maintaining an adequate standard of health. Article 61 of the 1992 Vietnamese Constitution recognizes the right “to benefit from a health care system” and the State has the right to establish the costs and exemption from medical fees. The economic development projects promoted by the government lack sufficient attention on developing healthcare in rural areas and discrimination in the access to healthcare has led to increased malnutrition, prevalence of diseases and pollution of indigenous lands.

One example of the problems arising from the development projects is bauxite mining in the Central Highlands. Bauxite mines are open-pit mines that produce a toxic red sludge of arsenic and other harmful chemicals that are released into the soil and eventually reach the streams, rivers and drinking water supplies. With the 15 billion dollar project supported by the government aimed to increase and substantially develop bauxite mining by 2025, the environmental effects on and pollution of the lands and water supplies in the Central Highlands would be substantial³⁰. Unfortunately, there is limited information on the environmental and health impacts of bauxite mining and other industrial projects in the Central and Northern Highlands, as the government has been swift in suppressing local criticism and has restricted the access of foreign researchers. Most environmental damage in rural and upland Viet Nam goes unrecorded and unpunished.

²⁶ UNICEF. *The Children of Vietnam*. Available at: <http://www.unicef.org/vietnam/children.html>

²⁷ *Violations of the Rights of Ethnic and Religious Minorities in the Socialist Republic of Vietnam*. Alternative report on the Implementation of the UN ICERD (80th Session) p.20

²⁸ *ibid.*

²⁹ Human Rights Watch (2009). *On the Margins: Rights Abuses of Ethnic Khmer in Vietnam's Mekong Delta*. Available at <http://www.hrw.org/reports/2009/01/21/margins-0>

³⁰ Vietnam Committee on Human Rights and International Federation on Human Rights (2012). *Violations of the Rights of Ethnic and Religious Minorities in the Socialist Republic of Vietnam*. Alternative report on the Implementation of the UN ICERD (80th Session).

The food insecurity derived from indigenous people's poverty and lack of access to forests and fertile lands has led to malnutrition and related diseases. Ethnic minority and indigenous children are most affected by malnutrition, which has led to higher child mortality rates in these areas. The national mortality rate in Viet Nam has decreased over the years and in 2012 the infant mortality rate was 18/1000 births, while the mortality rate for children under the age of 5 was 23/1000 births³¹. Currently there is limited information on child mortality among the Degar, Hmong and Khmer Krom communities. However, UNICEF has estimated that the rates are three to four times higher than the national average for indigenous and minority groups living in the Central and Northern Highlands³². The prevalence of underweight children under five years old has also dropped in Viet Nam over the years to 20%, but the rate remains higher for the Central and Northern Highlands where 34% of the children are underweight³³.

The introduction of user fees in order to receive medical treatment has transformed healthcare into an expensive commodity³⁴. This is particularly harmful for the impoverished indigenous and minority groups of the Northern and Central Highlands and the Mekong Delta, as they often have to pay additional informal fees, transportation costs and expenditures on drugs, which further widens the gap between them and the ethnic Kinh and hampers their access to healthcare³⁵.

Article 13 – Right to education

Article 13.1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

Article 13.2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all; (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education; (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education; (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education; (e) The development of a system of

³¹ World Health Organization (2013). *Neonatal and Child Health Country Profile: Vietnam*. Available at: http://www.who.int/maternal_child_adolescent/epidemiology/profiles/neonatal_child/vnm.pdf

³² UNICEF. *The Children of Vietnam*. Available at: <http://www.unicef.org/vietnam/children.html> ; Save the Children and United Nations Vietnam. *State of the World's Children 2008: Viet Nam Fact Sheet*. Available at: http://www.unicef.org/vietnam/factsheet_cs.pdf

³³ Save the Children (2012). *Progress in Child Well Being: Building on What Works*. p. 70. Available at: http://www.savethechildren.org.uk/sites/default/files/docs/Progress_in_Child_Well-being_low_res.pdf

³⁴ Vietnam Committee on Human Rights and International federation on Human Rights (2012). *Violations of the Rights of Ethnic and Religious Minorities in the Socialist Republic of Vietnam*. Alternative report on the Implementation of the UN ICERD (80th Session)

³⁵ M. Malqvist, A. Thorson et al. (2013). *Ethnic Minority Health in Vietnam: A review exposing horizontal inequality*. Global Health Action Vol. 6. Available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3589437/#CIT0036>

schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

The 1992 Vietnamese Constitution recognizes the right of citizens to receive education and establishes the development and improvement of education as a high priority³⁶. Viet Nam has had a positive history in promoting education and improving literacy rates among its population, but discrepancies between the majority and minority groups exist. On average, 93% of the population in Vietnam is literate, primary school enrollment rates are over 90% and school dropout numbers are low³⁷. However, great disparities exist between different regions and ethnicities in Vietnam, and minority and indigenous populations are often denied the same opportunities to education as other inhabitants of the country. The problems become evident when the national averages are broken down by ethnicity and region. In particular, the regions with the highest illiteracy and lowest school enrollment rates are the Central and Northern Highlands and the Mekong Delta.

The Northern Highlands, and the Hmong minority in particular, are the worst off in terms of literacy. A 2011 report by the UNFPA has indicated that only 37.7% of the Hmong population is able to read and write³⁸. Only 69.7% of Hmong children are enrolled in primary school and 34.1% in lower secondary schools, which is remarkably low taking into account that ethnic Kinh enjoy a 97% enrollment rate for primary schools and 86.7% for lower secondary education³⁹. Even though there have been attempts to improve the education and literacy situation of the Hmong, they have not been effective due to underfunding and inadequate implementation⁴⁰.

Illiteracy and school enrolment issues also affect the indigenous Khmer Krom. Even though 73.5% are able to read and write and school enrollment in primary education is 86.4%, only 46.3% of the population has enrolled in secondary school and 15.4% in upper secondary school⁴¹. The most pressing issues with regards to Khmer Krom education are the high dropout rates. Khmer Krom communities experience the highest school dropout rates with an average of 50.1% of students failing to finish secondary school. In comparison, only 19% of ethnic Kinh students drop out of secondary education⁴². One of the main reasons for the lack of education and dropout among the Khmer Krom are the restrictions placed on the use of Khmer language in schools and public places. Khmer children are unable to follow the school curriculum since the language of instruction is Vietnamese, and there is no assistance provided in the Khmer language⁴³. The lack of early instruction in their mother tongue has created a language barrier for the Khmer Krom, hampering

³⁶ 1992 Constitution articles 30-43 and report p74

³⁷ The World Bank (2014). *Literacy Rate, Adult Total (% of people ages 15 and above)*. World Bank Database. Available at: <http://data.worldbank.org/indicator/SE.ADT.LITR.ZS>

³⁸ United Nations Population Fund (2011). *Education in Vietnam: An Analysis of Key Indicators*. p.25. Available at: http://vietnam.unfpa.org/webdav/site/vietnam/shared/Census%20publications/5_Monograph-Education.pdf

³⁹ Minh Phuang Luong and Wolfgang Nieke (2013). *Minority Status and Schooling of the Hmong in Vietnam*. Hmong Studies Journal Vol. 14. p.4

⁴⁰ United Nations Population Fund (2011). *Education in Vietnam: An Analysis of Key Indicators*. p.25. Available at: http://vietnam.unfpa.org/webdav/site/vietnam/shared/Census%20publications/5_Monograph-Education.pdf

⁴¹ Minh Phuang Luong and Wolfgang Nieke (2013). *Minority Status and Schooling of the Hmong in Vietnam*. Hmong Studies Journal Vol. 14. p.4

⁴² http://www.unfpa.org/webdav/site/vietnam/shared/Factsheet/FINAL_Factsheet_Education_ENG.pdf

⁴³ 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)

their ability to continue to higher education and further limiting their employment and economic opportunities⁴⁴.

In addition to language barriers and bans on publications in local or minority languages, indigenous and minority children have faced harassment and discrimination in the classroom by teachers and school officials. For instance, in 2011 a Degar student was barred access to her school because her parents had refused to affiliate with a State-sanctioned church⁴⁵. Reports have also indicated that even though according to Vietnamese law education is supposed to be free for everyone, certain communities, including the Degar, Hmong and Khmer Krom, are being charged for school fees⁴⁶.

14

Article 15 - Cultural Rights

Article 15.1. The States Parties to the present Covenant recognize the right of everyone:

(a) *To take part in cultural life;*

(b) *To enjoy the benefits of scientific progress and its applications;*

(c) *To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.*

Article 15.2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

The right to take part in cultural life encompasses, *inter alia*, the right to free exercise of the religion of one's choice⁴⁷.

Religion is an intrinsic part of the cultural identity of the Degar, Hmong and Khmer Krom groups in Vietnam. One of the most pressing issues and most prevalent human rights violation in Viet Nam is religious oppression. Since its establishment as the ruling party in 1975, the Communist Party of Viet Nam has been implementing policies of discrimination, marginalization and violence against the Hmong, Degar and Khmer Krom. On many occasions the Vietnamese government has used laws such as the 2004 Ordinance on Religion and Belief and its Implementation Decrees 22 and 92 to expand their control over religious minorities and present them as threats to national security. In particular, a frequently used provision contained in the 2004 Ordinance points out that the abuse of the freedom of religion, if used to undermine peace, independence and unity, is illegal⁴⁸. The 2004 Ordinance also establishes a system of registration for religions and congregations, which classifies

⁴⁴ *ibid*

⁴⁵ Degar Montagnard Youth Group (2011). *Alternative Reports on Vietnam's Implementation of the UN Convention on the Rights of the Child in the 2002-2011 Period*. p.6. Available at: http://montagnard-foundation.org/pdf/DMYG_CRC_59_VietNam.pdf

⁴⁶ Vietnam Committee on Human Rights and International federation on Human Rights (2012). *Violations of the Rights of Ethnic and Religious Minorities in the Socialist Republic of Vietnam*. Alternative report on the Implementation of the UN ICERD (80th Session). p. 29; US State 38 Degar Montagnard Youth Group (2011). *Alternative Reports on Vietnam's Implementation of the UN Convention on the Rights of the Child in the 2002-2011 Period*. p.6. Available at: http://montagnard-foundation.org/pdf/DMYG_CRC_59_VietNam.pdf

⁴⁷ CESCR General Comment No.21, *The Right of everyone to take part in cultural life (art. 15, para. 1 (a))*, para.13, E/C.12/GC/21 (43rd Sess. Dec. 2-20, 2009).

⁴⁸ Vietnam Committee on Human Rights and International federation on Human Rights (2012). *Violations of the Rights of Ethnic and Religious Minorities in the Socialist Republic of Vietnam*. Alternative report on the Implementation of the UN ICERD (80th Session). p. 11

all non-registered religions as illegal⁴⁹. Even though the 1992 Vietnamese Constitution provides for religious freedom in Article 70, the 2004 Ordinance has enabled the government to control and repress minority religions.

The Khmer Krom follow Theravada Buddhism, which is not a State-approved religion. The Vietnamese Buddhist Sangha (VBS) is a government controlled organization that presides over all Buddhist organizations and sects in Viet Nam. The VBS has defined Theravada Buddhism as a religious organization rather than a religion, stripping its followers from important protections and rights. Khmer Krom monks have been prohibited from reading Khmer language books and have often been attacked and defrocked by VBS officials⁵⁰. On May 16, 2013, according to eyewitnesses, the Venerable Ly Chanh Da was arrested, gagged, tied up, placed in a tightened sack, and thrown in the back of a pickup truck of the police force⁵¹. He was later released with bruises, concussion, bleeding, and left unconscious. The Venerable Ly Chanh Da simply wanted to open a class teaching Khmer language in his temple. On the same day, several Khmer Krom Buddhist followers arrived at the temple to show support to the Venerable Ly Chanh Da, but were arrested⁵². They were all convicted and imprisoned based on the alleged crime of creating “public disorder”. The following Khmer Krom religious defenders and activists were sentenced and are being held in the prisons in Kampuchea-Krom: Lam Thi Loan (1 year in prison), Ly Thi Danh (1 year in prison), Ly Minh Hai (11 months in prison), Tang Pha Phola (10 months in prison), Thach Phum Rich (3 years in prison) and Tra Quanh Tha (2 years in prison)⁵³.

Moreover, in June 2014, a Vietnamese diplomat offended the Khmer Krom by claiming that the Kampuchea Krom provinces belonged to Vietnam long before France’s official transfer of the land in 1949. This not only led to peaceful protests among Khmer Krom people worldwide, but also to the issuing of a statement by the Vietnamese Embassy in Cambodia condemning the protests and considering the move to be interfering with the sovereignty and internal affairs of Viet Nam. The country’s authorities have refused to apologize for this statement.

The Dega minority of the Central Highlands practice Dega Protestantism. Under the auspices of the 2004 Ordinance on Religion and Belief, the Vietnamese government has continually treated Dega Protestantism as a false religion and has refused to recognize it. A more pressing issue is the fact that the Dega Church has been labeled as an organization that supposedly calls for separatism and is supported by violent groups, which allows the police to have even more discretionary powers in using the repressive national security provisions⁵⁴. The provincial police of the Central Highlands, with the approval of the central government, has been conducting campaigns to reduce the number of new converts to Dega Protestantism and to force current believers to recant. These campaigns have included beatings, detentions, deaths in custody, forced renunciations of faith and

⁴⁹ *ibid.*

⁵⁰ Human Rights Watch (2009). *On the Margins: Rights Abuses of Ethnic Khmer in Vietnam’s Mekong Delta*. Available at <http://www.hrw.org/reports/2009/01/21/margins-0>; United States Commission on International Religious Freedom (2013). *Annual Report: Vietnam*. p.202. Available at: <http://www.uscirf.gov/reports-briefs/annual-report>

⁵¹ Khmers Kampuchea-Krom Federation; Submission to the UN Office of the High Commissioner for Human Rights Universal Periodic Review: Socialist Republic of Vietnam 18th Session (Jan-Feb, 2014); available at: <http://www.unpo.org/downloads/797.pdf>

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ Human Rights Watch (2011). *Montagnard Christians in Vietnam: A case study on religious oppression*. Available at: <http://www.refworld.org/pdfid/4d95751d2.pdf>

disappearances of ethnic Degar⁵⁵. Several examples of abuses and tortures executed against Christians and civilians in the Central Highland villages have been reported. For example, “in 2008, Dak Lak police arrested Y Ben Hdok and beat him to death in custody after other Montagnards in his district tried to flee to Cambodia to seek political asylum. After his arrest, his family was not allowed to visit him for three days, when police told them to pick up his battered body. According to his family, his head was bashed, his ribs and limbs were broken, and his teeth had been knocked out. Police labeled the death a suicide”⁵⁶.

16

The Hmong of the Northern Highlands are Christian Protestants. The government has viewed the growth of Protestantism among the Hmong with suspicion and has employed campaigns aimed at reducing its spread. Hmong Protestantism continues to be unrecognized by the government and remains illegal, despite the fact that over 600 Hmong churches are seeking affiliation and recognition by the authorities. In recent years, “[...] government officials, police and military continued to be encouraged not to attend religions services, particularly of organizations that had not applied for or been granted legal sanction. Local officials have forced church gatherings to disperse, required groups to limit religious holiday celebrations, closed unregistered house churches, and pressured individuals to renounce their religious beliefs.”⁵⁷

One of the most illustrative examples of the religious oppression of the Hmong occurred during a religious gathering in May 2011. More than 5000 people had gathered peacefully in the Dien Bien province for a religious event, when Vietnamese security forces used ground attack helicopters to disperse the crowd, killing and wounding dozens in the process⁵⁸.

The culture of the Degar, Hmong and Khmer Krom is inextricably tied to the land they have inhabited for many years. The other violations detailed in the report have a cumulative negative effect on the cultural rights of the Degar, Hmong and Khmer Krom people. Environmental degradation, restriction of land use rights, destruction of peoples’ livelihoods and inability to speak their native languages make it impossible for the indigenous inhabitants to engage in their traditional cultural practices and fully enjoy their right to a cultural life. In addition to this, the Vietnamese government has directly attacked and tried to erase the culture of the Degar, Hmong and Khmer Krom through a series of measures mentioned in this report. The policy of enforcing intermarriages between the Khmer Krom and the Vietnamese orchestrated by the Vietnamese government in the past is an example of direct measures meant to erase the identity and culture of these groups. The failure of the Vietnamese government to recognize the existence of any minorities in its territory is another challenge to the cultural identity of minority and indigenous groups. Without proper recognition by the state, true enjoyment of a cultural life and acknowledgement of their respective cultures remains impossible.

For the Khmer Krom, traditional cultural and sporting events have come under the control of the Vietnamese government and are used to attract tourists. For example, the Khmer Krom sports of

⁵⁵ United States Commission on International Religious Freedom (2013). *Annual Report: Vietnam*. p.204. Available at: <http://www.uscirf.gov/reports-briefs/annual-report>

⁵⁶ Sara Colm, Vietnam: Torture and Abuse of Political and Religious Prisoners; Campaign to Abolish Torture in Vietnam; pp. 26-27; January 2014; available at: <http://democraticvoicevn.files.wordpress.com/2014/01/vietnam-torture-and-abuse-01-16-2014.pdf>

⁵⁷ Ibid, p. 205.

⁵⁸ Human Rights Watch (2011). *Vietnam: Investigate Crackdown on Hmong Unrest*. Available at: <http://www.hrw.org/news/2011/05/17/vietnam-investigate-crackdown-hmong-unrest>

Ox racing and Dragon Boat Racing have become a major tourist draw. This has raised prices on these events, making most Khmer Krom unable to attend their own cultural and sporting events. The profits of the races are also not distributed evenly with the local Khmer Krom people. Ms. Farida Shaheed, the UN Special Rapporteur in the field of cultural rights, expressed concern for this situation after visiting Viet Nam in November 2013, stating, "In addition, I am particularly concerned by situations where people are asked to perform rather than live their own cultures, or having tickets for participation. I am talking for example of the Khmer's traditional sport of Bay Nui bull race, in some provinces of Southern Vietnam."⁵⁹

17

⁵⁹ UN Special Rapporteur in the field of cultural Rights, Visit to Viet Nam 18 – 29 November, 2013 Preliminary conclusions and recommendations, Available at: <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=14035&LangID=S#sthash.GiaKTQrr.dpuf>

Section D: Recommendations

The Unrepresented Nations and Peoples Organization strongly calls upon the Committee to urge the Socialist Republic of Viet Nam to:

18

1. *Recognize the Khmer Krom and the Degar as indigenous peoples of Viet Nam, and respect the distinct right afforded to them by the UN Declaration on the Rights of Indigenous People;*
2. *Ensure a higher political representation of the Khmer Krom, Degar and Hmong at the local and national levels;*
3. *Investigate and end uncompensated confiscation of indigenous lands;*
4. *Take immediate action to monitor and stop corporate industrial activities that are harmful for the environment and its inhabitants, and develop an adequate legal framework for environmental protection;*
5. *End resettlement policies of ethnic minorities and indigenous peoples;*
6. *Take immediate action to end arbitrary arrests of religious and spiritual leaders, as well as human and land right activist.*
7. *Implement the housing registration system without discrimination and issue identity documents to everyone regardless of their faith;*
8. *Develop poverty-alleviation programs specifically targeting regions and communities where regional ethnicities reside, focusing on the needs of indigenous people;*
9. *Address the significant disparity in health and living standards between regions populated by minorities and majorities, including providing remote geographical areas with adequate health care facilities and fighting child malnutrition;*
10. *Investigate the health effects of the bauxite mining projects in the Central Highlands;*
11. *Increase opportunities for instruction in minority languages in primary and secondary schools;*
12. *Take action against the lack of enrollment and the high dropout rates from primary and secondary schools among the indigenous and minority groups;*
13. *Allow all independent religious organizations to freely conduct religious activities and govern themselves;*
14. *Amend the laws that criminalize religions not recognized by the government;*
15. *End campaigns aimed at reducing the followers and the spread of minority religions;*
16. *Investigate the level of awareness among the people with regards to their social, economic and cultural rights.*



The Unrepresented Nations and Peoples Organization (UNPO) is an international, nonviolent, and democratic membership organization founded in 1991. Its Members are indigenous peoples, minorities, and unrecognized or occupied territories who have joined together to protect and promote their human and cultural rights, to preserve their environments, and to find nonviolent solutions to conflicts which affect them.