

## **Junior Sacerdotal Council of Cao Dai Religion**



# Joint Submission Responding to the 5<sup>th</sup> and 6<sup>th</sup> State Report on Vietnam's Implementation of the UN Convention on the Rights of the Child

February 28, 2020

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## Introduction

1. This joint submission was collectively prepared by the following organizations:
  - Boat People SOS (BPSOS)
  - Coalition to Abolish Modern-day Slavery in Asia (CAMSA)
  - Hmong United for Justice
  - Junior Sacerdotal Council of Cao Dai Religion
  - Montagnards Stand for Justice
  - Vietnam Coalition Against Torture (VN-CAT)
  
2. This joint submission addresses Vietnam's State Report relating to the following articles of the UN Convention on the Rights of the Child (CRC):
  - Article 7. Birth registration, name and nationality
  - Article 14. Freedom of thought, conscience and religion
  - Article 30. Right of children in ethnic, religious or linguistic minorities or of indigenous origin
  - Article 34. Protection against sexual exploitation and sexual abuse
  - Article 37. Protection against torture or other cruel, inhuman or degrading treatment or punishment
  - Article 39. Services to promote physical and psychological recovery after traumatizing experience

### Article 7. Birth registration, name and nationality

3. According to Vietnam's State Report, its "Children's Law of 2016 states that children have the right to have their births and deaths registered with a surname and nationality. [State Report, Para. 35]
  
4. In reality, thousands of Hmong and Montagnard children have not been issued a birth certificate or have been listed as fatherless on their birth certificates because of the Government's policy of denying household registration to Hmong and Montagnards who refuse to renounce their Christian faith. We have alerted the UN Special Rapporteur on Freedom of Religion or Belief, the UN Special Rapporteur on Minority Issues, the UN Human Rights Committee and the UN Human Rights Council of the situation of functionally stateless Hmong and Montagnard Christians.<sup>1</sup>

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<sup>1</sup> Written statement submitted by Jubilee Campaign, a non-governmental organization in special consultative status, February 11, 2019: [http://dvov.org/wp-content/uploads/2019/09/3734\\_A\\_HRC\\_40\\_NGO\\_Sub\\_En\\_VietNamupdated.pdf](http://dvov.org/wp-content/uploads/2019/09/3734_A_HRC_40_NGO_Sub_En_VietNamupdated.pdf)

5. For decades, the Vietnamese Communist government has tried to suppress, if not exterminate, Christianity in relatively remote areas. The Montagnards who live primarily in the Central Highlands, not far from Laos, have been one such target. Tens of thousands of Montagnard Christians had to convert to a government-controlled denomination whose leadership is more loyal to the Communists than to God. Those holding on to their faith have been subjected to harassment, threats, detention, torture, denial of livelihood and denial of basic citizen's rights.
6. The crackdown particularly intensified after North Carolina-based Baptist Pastor Gene Lathan visited and prayed with a number of Montagnard Christians in one of the local villages for about an hour last July. The group prayer with Pastor Lathan was videotaped by the Security Forces for use during interrogation.
7. Police interrogators frequently use threats of long-term imprisonment and even death to coerce victims to sign pledges to leave their denomination and stop reporting violations to human rights organizations, foreign governments and international bodies such as the United Nations.<sup>2</sup> The interrogators frequently threaten victims with prosecution and imprisonment for "unauthorized religious activities." Some 60 Montagnard Christians have been sentenced to long-term imprisonment primarily because of their faith but the government charged them with undermining "national security" or "national unity."
8. Similarly, provincial authorities have taken increasingly brutal measures to stop the spread of Christianity among Hmong hilltribes in the Northwestern highlands of Vietnam. The Hmong began converting to Christianity over thirty years ago. They mainly reside in the mountainous region of Dien Bien, Lai Chau, Lao Cai and Ha Giang provinces. For the past two decades, provincial authorities throughout these provinces have attempted to stamp out Christianity among the Hmong by insisting that they either renounce their faith or flee. Many fled to previously uninhabited lands, primarily in the Central Highlands, where they live in makeshift tents and work as seasonal laborers for farmers. They lack access to clean water, health care, protection against natural disasters, and basic necessities. Others have fled to other countries where they have sought asylum.
9. Denial of "household registration" is a form of persecution that has been frequently used by provincial governments to force Hmong and Montagnard Christians to renounce their faith. Without a household register, these Christians cannot get a citizenship ID card, own property, obtain legal employment, apply for a business license, open a bank account, receive public services or even use the public library; married couples may not

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<sup>2</sup> Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, Report of the Secretary General, September 9, 2019:

[https://www.ohchr.org/Documents/Issues/Reprisals/A\\_HRC\\_42\\_30.docx](https://www.ohchr.org/Documents/Issues/Reprisals/A_HRC_42_30.docx)

obtain a marriage certificate and their children may be denied a birth certificate. They are functionally stateless in their own country.

10. The case of Vu Gia Mi, born on October 11, 2018, serves as illustration. His parents, Mr. Vu A Sua and Mrs. Vang Thi Cai, were residents of Nong Xo Village, Chieng Phung Commune, Song Ma District, Son La Province (in Northernwestern Vietnam). In August 2018, they converted to Christianity and joined the Christian Fellowship Church of Vietnam, which was approved by the Government to operate. Within days of his conversion, they were harassed, threatened and beaten in private and in public. They were forced to return to Hmong traditional belief and perform traditional rituals, which they refused. As threat and intimidation escalated, the couple decided to flee their village. They fled to Ho Voi Commune, Vu Bon Village, Krong Pac District, Dak Lak Province (in the Central Highlands). Because they could not obtain a letter of recommendation from the authorities at their original place of residence, a requirement for household registration, they have been unable to register their residence with the authorities in Dak Lak Province. Without being legally registered, their son Vu Gia Mi has been without a birth certificate. Most other members of in Ho Voi Commune are similarly functionally stateless Hmong Christians.
11. In its Concluding Observations following its March 2019 review of Vietnam's compliance with the ICCPR, the UN Human Rights Committee expressed concern over the Vietnamese Government's treatment of Hmong and Montagnard Christian communities: "It is also concerned that members of religious communities and their leaders, predominantly unregistered or unrecognized religious groups, ethnic minorities or indigenous peoples, face various forms of surveillance, harassment, intimidation, property seizure or destruction, are forced to renounce their faith, pressured to join a competing sect and are subject to physical assaults, which sometimes leads to death."<sup>3</sup>
12. Recommendations: We respectfully recommend that the UN Human Rights Committee to raise the issue of statelessness among Hmong and Montagnard Christians with the Government of Vietnam and ensure that it:
  - (1) Issue birth certificates to all children bearing both parents' names, and facilitate their full access to education and all benefits programs;
  - (2) Issue citizenship ID to all individuals without it, and household registration to all families without it;
  - (3) Issue marriage certificates, backdating to the actual wedding date, to married couples;

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<sup>3</sup> Concluding observations on the third periodic report of Viet Nam, UN Human Rights Committee, August 29, 2019: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fVNM%2fCO%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fVNM%2fCO%2f3&Lang=en)

(4) Eliminate any barriers (i.e. language, financial, transportation) to accessing and applying for other legal documents as a way to reinforce and prove their commitment against the systemic discrimination of the Montagnard and Hmong peoples and other indigenous peoples residing in Vietnam; and

(5) Ensure that local and provincial governments stop their policies of forcing Hmong and Montagnard Christians to renounce their faith, and of using denial of citizenship ID and household registration as punitive measures against those who defend their faith.

#### **Article 14. Freedom of thought, conscience and religion**

13. In its State Report, the Vietnamese Government reported that “[t]he Government of Viet Nam has implemented a number of measures to promote freedom of belief and religion of citizens in general and of children in particular.” [State Report, Para. 52]

14. In reality, the Government’s policy to outlaw and crackdown against religious communities that resist government control have severely affected children. In 2002, the Vietnamese Communist Party established the Central Highlands Steering Committee to deal with, among others, the spread of Montagnard Christian house churches. In 2004, the Ministry of Public Security established its Central Highlands Security Bureau (PA 90) to coordinate the implementation of policies set by the Central Highlands Steering Committee. Several prominent sources (including government websites associated with the Public Security Ministry and Prime Minister’s office) discussed very explicitly the need to “eradicate the evil cults” -- the official characterization of the various unapproved Montagnard Christian denominations that have been so thoroughly persecuted.

15. The article titled “Those who rescue the people from darkness”, dated February 27, 2015, and published on then-Public Security Minister Tran Dai Quang’s website characterized the Ha Mon Christian denomination as an “evil cult”: “ ...When I arrived in the Central Highlands, our task of rescuing the people from the evil Ha Mon cult was accomplished only recently. The Security Team of the Police Force of the Town of Kontum performed deeds that were representative of the indefatigable efforts of security forces throughout the Central Highlands in our fight against reactionary enemy forces disguised as ethnic religious groups...”<sup>4</sup>

16. Government crackdown against independent house churches affects the entire family, leaving long-lasting emotional, psychological and social impacts on children. When the police break up a prayer service held in a family’s private home, the children’s right to

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<sup>4</sup> <http://trandaiquang.org/nhung-nguoi-cuu-dan-ra-khoi-bong-toi-u-me.html>

religious freedom is also denied. Or, when parents are forced to renounce their faith and join a government-approved church, the children have no choice but to convert. For example, on October 7, 2018, four government officials came to the house of Y Nguyet Buon Krong in KoMLeo Village, Hoa Thang Commune, Buon Ma Thuot, Dak Lak Province at 8 am to inspect religious activities and write a report on a private worship session attended by 21 adults and 3 children. The inspection team ordered a suspension of all home worship activities until the government approves the Church. All the adherents had to sign the report to acknowledge the order given.

17. Colonel Nguyen The Luc, Deputy Director of the Police Department of Dak Lak Province, was shown in a two-part story broadcasted in September 2019 on An Ninh Television (ANTV), the official television program of the Ministry of Public Security, falsely denouncing the Montagnard house churches as units of an anti-government movement: *"FULRO<sup>5</sup> aims to achieve independence for the Central Highlands ethnic minorities and needs to recruit followers using religion as a bait."*<sup>6</sup> The said ANTV news story emphatically announced that The Montagnard Evangelical Church of Christ (MECC) had been destroyed; it went on to report the recent arrest of 30 adherents of this church under the Security Police Plan No. KH 96210.
  
18. The arrest, detention and imprisonment of Montagnard Christians who fought for the right of their people to freedom of religion or belief often leave dire consequences on children. The case of A Dao serves as illustration. Before his arrest, A Dao, of Ha Lang ethnicity, was the lead pastor of the Montagnard Evangelical Church of Christ. He advocated for religious freedom for his fellow church members in the Central Highlands and elsewhere. In August 2016, he attended the Southeast Asia Freedom of Religion or Belief (SEAFORB) Conference and also the ASEAN Civil Society Conference / ASEAN People's Forum in Timor-Leste. He was arrested shortly after his return to Vietnam. On April 28, 2017 he was sentenced to five years in prison for "helping individuals to escape abroad illegally" under Article 91 of the country's Penal Code. He denied the charge and claimed his innocence. Just before the trial started, he was allowed a brief visit by his wife and two fellow members of his Church; he told them that he had been repeatedly tortured as he resisted forced confession. He had large observable bruises on his face. Pastor A Dao's health has deteriorated as a result of the harsh treatment typically reserved for prisoners of conscience. It was reported that he was tortured in late 2019. Without viable means of livelihood, his wife had to sell their land and move in with her own relatives after sending their two school-age children to live separately with

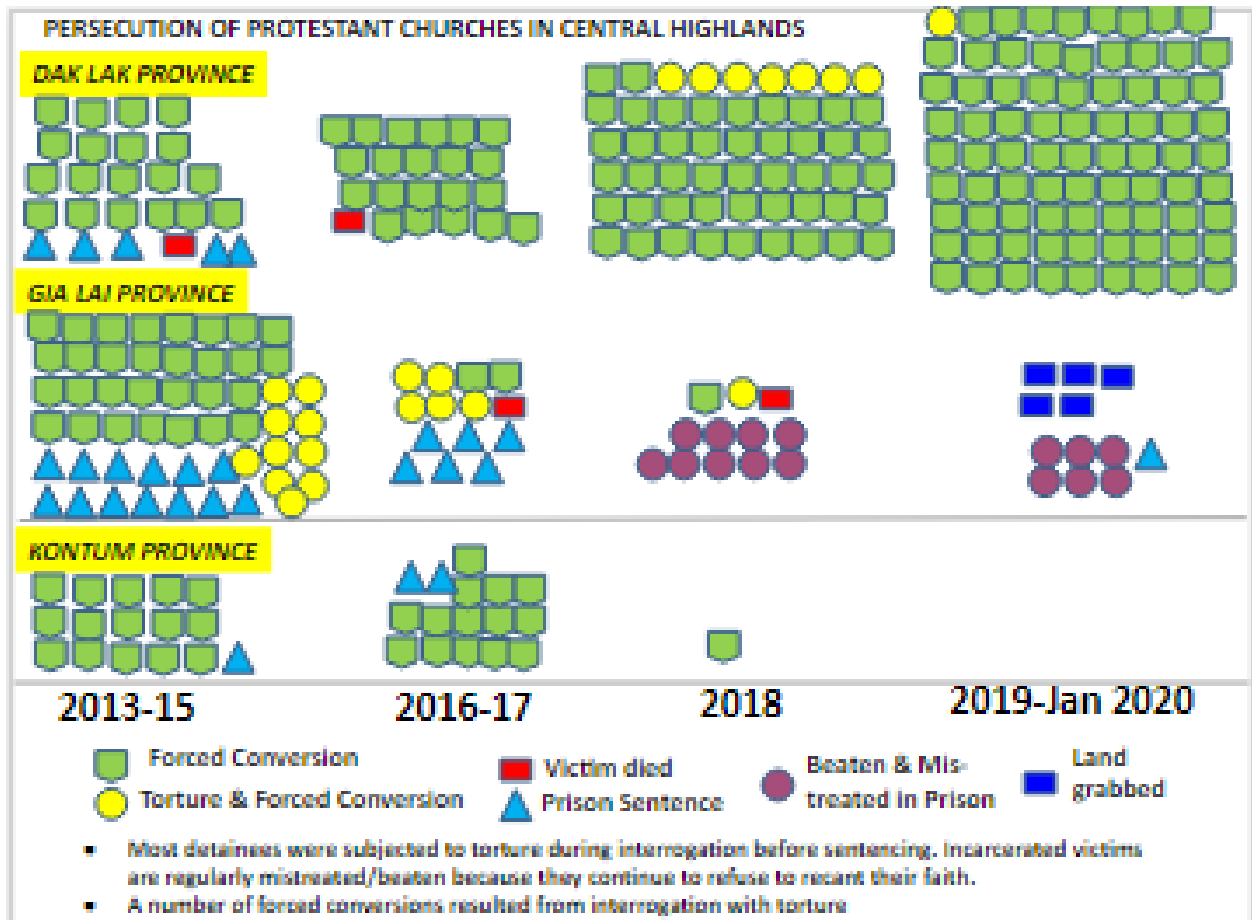
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<sup>5</sup> From the French name Front Unifié De Lutte Des Races Opprimées (United Front for the Liberation of Oppressed Races), FULRO was created by the colonial French government to defend the Montagnard population against encroachment by the Vietnamese Kinh ethnicity. After 1975, a small group of FULRO members fought against the communist government. This movement ceased to exist over two decades ago.

<sup>6</sup> <https://youtu.be/fuAcdWOFZ0w>, at minute 6:05, September 27, 2019 video shown on **Security Police TV (ANTV)**, Vietnam

relatives. His son, now 16, lives with A Dao’s mother and his daughter, 6 years old, with his mother-in-law.

19. Since 2013 we have submitted to different UN mandate holders close to 200 reports on violations of freedom of religion or belief (FORB) committed by state agencies and/or by non-state agents sponsored by the state. The following chart provides a summary of reported incidents in the Central Highlands of Vietnam. Note that the apparent decrease in the number of forced conversion incidents in Gia Lai Province and Kontum Province in recent years reflects the effectiveness of the government’s policy of eliminating most of the independent Montagnard house churches.



20. **Recommendations:** We respectfully recommend the UN Committee on the Rights of the Child to ensure that Vietnam complies with the recommendations in the UN Special Rapporteur on Freedom of Religion or Belief’s report pursuant to his visit to Vietnam in 2014<sup>7</sup> and the recommendations of the UN Human Rights Committee pursuant to its review of Vietnam’s compliance with the ICCPR, particularly the following:

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<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwik6r66pebnAhXilHIEHWd>



- (1) Effective and accessible legal recourse must be prioritized in current legal reforms in order to allow victims, whose freedom of religion or belief have been infringed upon, to obtain redress and compensation within an independent judicial system and judiciary;
- (2) State officials and religious leaders should refrain from publicly attacking independent religious groups, including through the media;
- (3) The State should investigate allegations of violations of freedom of religion or belief and other human rights;
- (4) The State party should take measures to prevent and swiftly and effectively respond to all acts of undue interference with the freedom of religion, and any incidents of hate speech, incitement to discrimination, violence or alleged hate crime, and ensure that those responsible are brought to justice.

### **Article 30. Right of children in ethnic, religious or linguistic minorities or of indigenous origin**

21. The State Report did not elaborate on how the Vietnamese Government respects and protects the rights of children in indigenous communities. It summarily stated that “[u]nder the Scheme on renewal and development of social support activities for the period 2017-2025, with a vision toward 2030, ethnic minority people and ethnic minority children are beneficiaries.” [State Report Para. 145]
22. As a consequence of the policy laid out by the VCP in 2002 towards indigenous peoples in the Central Highlands, provincial and local governments have taken the liberty to suppress the cultural rights of Montagnards. The case of Y Phic H’dok, a young Montagnard Christian from the Ede tribe living in Ban Ma Thuot Town, Dak Lak Province, serves as an example. H’dok developed a love for music from an early age. In 2012, at the age of 16, he was arrested by the police for singing and listening to songs in his native language. Once, he was disciplined by his teacher and reported to the police for not singing the national anthem in class despite his explanation that he had sore throat. The authorities viewed these as signs of his support for the secessionist movement FULRO,<sup>8</sup> even though it had ceased existence decades before. For his personal safety, H’dok left his home village, sought refuge in large cities and then fled to Cambodia in February 2016.

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[2CI8QFjAAegQIAhAB&url=https%3A%2F%2Fwww.ohchr.org%2FEN%2FHRBodies%2FHRC%2FRegularSessions%2FSession28%2FDocuments%2FA\\_HRC\\_28\\_66\\_Add.2\\_E.doc&usg=AOvVaw3436raBY6nbV7pGDpoXKN9](https://www.ohchr.org/FEN/FHRBodies/FHRC/RegularSessions/Session28/Documents/FA_HRC_28_66_Add.2_E.doc&usg=AOvVaw3436raBY6nbV7pGDpoXKN9)

<sup>8</sup> Abbreviation from its French name: Front Unifié De Lutte Des Races Opprimées (United Front for the Liberation of Oppressed Races)

The police repeatedly ordered Y Phic H'dok's father, Mr. Y Ku Knul, to bring H'dok home from Cambodia. The police threatened that failure to do so would be met with punishment. On December 28, 2016, Mr. Knul went to work on his farmland as usual but did not return home. After much searching, around noon on the following day H'dok's mother found her husband hung from a bamboo tree, with bruises and marks of electric batons all over his bodies, in a remote area. Even without being notified, somehow 20 police agents quickly appeared; they took Mr. Knul's body down. From autopsy, H'dok's mother saw that her husband's organs were all smashed, probably due to heavy blows. The police took away all damaged organs and did not give the family their autopsy report. When relatives brought Mr. Knul's corpse home, plainclothes police followed and stood guard at H'dok's home, ordering visitors not to come close or take pictures of the corpse. The family was ordered by the police to bury H'dok's father quietly. Mrs. Knul told her son to find a safe place and not return home. Fearing for his life, Y Phic H'dok fled from Cambodia to Thailand, where he was recognized as a refugee by the office of the UN High Commissioner for Refugees.

23. As part of its review of Vietnam's compliance with the UN Convention Against Torture in November 2018, the UN Committee Against Torture raised the case of Mr. Knul and other cases of minority Christians in in the Central Highlands who died during or immediately after police detention. Namely, the Committee stated in its Concluding Observations that the State party should: (a) Ensure that the treatment of members of religious and ethnic communities by public officials or other persons acting in an official capacity is not based on discrimination of any kind in contravention of the Convention; (b) Ensure that all alleged cases of torture and ill-treatment by law enforcement officials, deaths in custody and complaints of excessive use of force are promptly, effectively and impartially investigated, that alleged perpetrators are immediately suspended from duty for the duration of the investigation, particularly when there is a risk that they might otherwise be in a position to repeat the alleged acts, and that, if found guilty, the perpetrators are punished with sentences commensurate with the gravity of their crime; (c) Elucidate the deaths in police custody of the Buddhist Nguyen Huu Tan, the Hmong Christian Ma Seo Sung, pastor Ksor Xiem of the Montagnard Evangelical Church and the Montagnard Christian Y Ku Knul and inform the Committee about the outcome.<sup>9</sup>

24. Recommendations: We respectfully recommend the UN Committee on the Rights of the Child to:

(1) Designate a specific staff member to receive and analyze reports of violence directed at children by state and non-state actors;

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<sup>9</sup> Concluding observations on the initial report of Viet Nam, UN Committee Against Torture, December 28, 2018: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhss%2bE2M8qeF0DtZNh aOp9sRlv49FLiQmmXk0XF%2f3HfDGn2WV8U3d6%2bDnqmRvL0KFMW6LoYE7mFs3Ta1UQXBTYF5uq7aLp9rfGdC6g yrQRxDcg>

- (2) Ensure that the Government of Vietnam satisfactorily addresses each and every report of non-compliance, including provision of services and protection to the victimized children and their parents, and prosecution of perpetrators;
- (3) Encourage changes to the legal framework to eliminate violence against children, particularly by state actors or non-state actors with government support.

## **Article 34. Protection against sexual exploitation and sexual abuse**

### Trafficking of children

25. In its state report, the Vietnamese Government asserted that “Viet Nam’s laws prohibit trafficking, kidnapping and swapping of children.” [State Report, Para. 156]. In the section about implementing recommendations of CRC Committee and improving legal framework and policy to perform Optional Protocol, Vietnam’s State Report asserted that “[t]he Penal Code 2015 (amended and supplemented in 2017) stipulate crimes directly relating to the sale of children, child prostitution and child pornography including: Human Trafficking, Trafficking of a person under 16, Rape of a person under 16, Sexual abuse, Sexual abuse of a person aged from 13 to 16, Molestation of a person under 16, Employment of a person under 16 for pornographic purposes, Procuring and harboring prostitutes, Engaging in prostitution with a person under 18, Abduction of a person under 16. [State Report, Para. 169] It further asserted that Viet Nam’s Laws have established criminal liability for violations against regulations on sale of children, child prostitution, and child pornography. [State Report, Par. 170]
26. However, there are many reported cases of children abducted and sold across the border into Cambodia, Laos and China while their traffickers, identified by the victims or their family members, have been treated with impunity. Appeals for rescue and denunciation letters are often ignored by responsible authorities. Below is an illustrative example, where the Police at both the district and province levels have for 9 years ignored repeated appeals by the victims’ relatives, chastised the victims who came forth as witnesses, and set free traffickers despite eye-witness identification by the victims.
27. Case in point: Ly Thi Sinh (aged 20), her younger sister Ly Thi Sua (aged 15) and their cousin Ly Thi Minh (aged 14), residents of Khuoi Vin Hamlet, Ly Bon Commune, Bao Lam District, Cao Bang Province.

They were abducted by Lo Van Hien and two of his accomplices while attending a festival at Khau Vai Market in Ha Giang Province on April 28, 2011.

After eight days in captivity, Ly Thi Sua managed to return home with the help of the Chinese police. She saw Lo Van Hien at the local market. Her family immediately made a

report to the police, requesting that they mount a rescue operation for the other two victims. On July 11, 2011 the police arrested and detained Hien for a few days and released him. When questioned by Sua's parents, Mr. Duong Minh Hai, Deputy Public Security Chief of Bao Lam District, declared that Hien was innocent. Repeated appeals by the victims' families to the police to rescue Sinh and Minh were ignored.

Meanwhile, Ly Thi Minh was sold to a Chinese man for 50,000 yuan. After giving birth to a son, she was allowed to use a phone. In March 2015 she was able to pass information to her parents in Vietnam, giving them information about her whereabouts. Her parents immediately notified the authorities of Bao Lam District. They also met in person Mr. Ly Anh Cu, Head of the Societal Vice Prevention squad of Bao Lam District Public Security Bureau, only to be advised by him that, "Ly Thi Minh has a husband and children now; when her children are older, her husband will naturally take her back to Vietnam to visit her parents." The responsible authorities refused to take any action.

Minh managed to convince the Chinese man to allow her to meet her parents at the border between Vietnam and China on July 22, 2015. She begged to be allowed to spend three days with her family and got her captor's approval. On the next day, she called to tell him that she would not return to China. Back at her village, on August 24, 2015 she filed a denunciation letter with the Police Department of Cao Bang Province and the Police Bureau of Bao Lam District, appealing for the rescue of her cousin Ly Thi Sinh, who was still missing in China, and requesting investigation into the traffickers, including the three that she was able to identify: Mr. Lo Van Hien (Vietnamese citizen), Mrs. Thao Thi Trang (Vietnamese citizen) and Mr. Sung Sai Lu (Chinese citizen). The government did not take any action.

After being abducted on April 28, 2011, Sinh was held in captivity by the traffickers for about ten days before being sold to a Chinese man by the name Quan Dung Quan. Taken to his village, she was kept under close surveillance by that man's entire family and could not escape. Over the next seven years, she gave birth to 4 daughters. In 2017 she was allowed access to a mobile phone for the first time. Through Vietnamese migrant workers living in the area, she managed to contact her family in Vietnam. On November 17, 2018 she took her two youngest daughters and escaped to Vietnam. The following month, Mr. Quan came straight to her village in a failed attempt to take back one of the two daughters. He was detained by the border police for a short while for illegal entry into Vietnam. The police invited Sinh to the station to meet with her captor; there she was treated as a criminal for having fled with her two daughters. They advised her to return to her Chinese "husband" and released Mr. Quan. Fearing Mr. Quan's retaliation, she fled into the forest and thought of committing suicide.

On January 16, 2019 she filed a denunciation letter and requested protection from the police. The police did not take any action. In February 2019, Mr. Quan again came to her village; like the last time, he was briefly detained by the police for illegal entry. Soon released from detention, he proceeded to take one of the two daughters with him and

returned to China. While he was still in the proximity of the village, Sinh notified the police but they did not take any action. In May 2019, Mr. Quan came to her village again; he threatened her and her parents. Fearing for loved ones, she agreed to return to China with the remaining daughter. Mr. Quan offered 30 million VND to her parents.

According to the three victims, they had met many other victims of the same trafficking ring and knew the names and places of residence of three such victims. They reported that information to the Vietnamese police, which did not bother to investigate. The identified traffickers continued their human trafficking operations with impunity. In Ly Bon Commune, by the end of 2015, already some 20 young females had been kidnapped and sold into China.

28. Although Vietnam signed the Palermo Protocol<sup>10</sup> in 2011 and passed law to combat human trafficking, implantation has been systematically deficient. The above case of three young Hmong females, including two minors at the time of their abduction, illustrates the government's failure to protect the victims, prosecute the traffickers and take actions against derelict government officials. This case remains unresolved after 9 years.
29. In 2019, the Trafficking In Persons (TIP) office of the US Department of State ranked Vietnam in the Tier 2 Watch List because "[d]espite continued reports of official complicity, the government did not report any investigations, prosecutions, or convictions of officials complicit in trafficking offenses." According to this report, "[t]raffickers exploit Vietnamese women and children in sex trafficking abroad; many are misled by fraudulent employment opportunities and sold to brothel operators on the borders of China, Cambodia, and Laos, and elsewhere in Asia, including Malaysia, Republic of Korea, Singapore, Taiwan, and Thailand."<sup>11</sup>
30. The UN Human Rights Committee, pursuant to its review of Vietnam's compliance with the ICCPR, expressed its concern "about the limited access of victims of human trafficking to social services, particularly in the absence of household registration, and that stigmatization and retribution in local communities may discourage victims from seeking such services."<sup>12</sup>

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<sup>10</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

<sup>11</sup> 2019 Trafficking in Persons Report: Vietnam, Trafficking In Persons Office, US Department of State: <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/vietnam/>

<sup>12</sup> Concluding observations on the third periodic report of Viet Nam, UN Human Rights Committee, August 29, 2019: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fVNM%2fC0%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fVNM%2fC0%2f3&Lang=en)

## Sexual abuse of children

31. In its state report, the Government of Vietnam asserted: “The prevention of child sexual abuse and exploitation is enshrined in the Law on Children 2016. This law proscribes acts of sexual assault, violence and exploitation of children, including children in special circumstances viz. sexually abused children, trafficked children and drug addicts.” [State Report, Para. 64]
32. According to statistics released by the Public Security Ministry and published in the media on January 12, 2019, in 2018 there were 1,200 cases of sexual abuse affecting 1,100 children; 1,230 perpetrators were prosecuted.<sup>13</sup> While these numbers showcase the Government of Vietnam’s efforts to combat sexual violence against children, much improvement is needed. In its report titled “Out of the shadows: Shining light on the response to child sexual abuse and exploitation” released on January 16, 2019, The Economist’s Intelligence Unit studied 40 countries and ranked them on how their governments responded to the threat of sexual violence against children.<sup>14</sup> Vietnam is ranked 37 out of the 40 countries studied. Vietnam scores only 38/100 in terms of government commitment and capacity to fight sexual abuse against children, and only 17/100 in terms of engagement of industry, civil society and media.
33. The following illustrative example highlights how action directed at the repeated sexual abuses of 5 children by a 63-year old man has been stalled for the past 15 years, due to his connections in high places. The perpetrator has conducted business as usual while his victims had to escape to another city for fear of reprisal. This case was brought up in a joint submission for the ICCPR review of Vietnam.<sup>15</sup>

All five victims, aged 9-12 at the time, were students at So Dong Nhi, a school for orphaned girls and those from poor families. Run by the Cao Dai Religion and located in the inner quarters of its Tay Ninh Holy See, this school offers free education in exchange for the student’s vow of chastity, with the option for grown students to become priests.

In September 2005, Ms. Trieu Thi Hanh, a Cao Dai clergy member who volunteered at the sewing facility of So Dong Nhi (where students learned sewing skills), found blood dripping from the pants of “A”, a nine-year old student, when she came to the facility to use the telephone to call home. Upon talking to A, Ms. Hanh realized that she had been raped by Mr. Tran Van Th., a 63-years old cleric of the Pious rank who oversaw

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<sup>13</sup> “Hơn 1.100 trẻ em bị xâm hại tình dục trong 12 tháng”, available at:

<https://news.zing.vn/hon-1100-tre-em-bi-xam-hai-tinh-duc-trong-12-thang-post908260.html>

<sup>14</sup> “Out of the shadows: Shining light on the response to child sexual abuse and exploitation”, Economist Intelligence Unit, Jan 16, 2019, available at: <https://outoftheshadows.eiu.com/>

<sup>15</sup> Joint submission to the UN Human Rights Committee for ICCPR Review of Vietnam, March 2019:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCSS%2fVNM%2f33746&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCSS%2fVNM%2f33746&Lang=en)

security at Gate No. 12 of the Tay Ninh Holy See. From A's account, Ms. Hanh found out that four other students of Dong Nhi School had also been repeatedly raped by the same man. Th. lured each of them home one at a time, gagged their mouth, undressed them, drugged them with a white powder, and used a device to pry open their vagina before having intercourse with them. He did this repeatedly to these young girls. When Ms. Hanh talked to A, this young girl had already been through the horrifying experience the third time.

Dong Nhi School's headmaster reported this matter to the Governing Council of the Tay Ninh Holy See, which at the time was occupied by the Cao Dai Tay Ninh Sect, a sect established by the Vietnamese Communist Party in 1997 to eventually displace the original Cao Dai Religion, established in 1926. On behalf of A and the other four victims (all orphans), A's father also sent the Governing Council a request to investigate Th. As the Governing Council ignored both the internal report and the victims' request for investigation, A's father retained a lawyer to file a complaint with the Police Department and the People's Procuracy of Tay Ninh Province. He even travelled to Ha Noi to seek intervention from the office of the Prime Minister. In late 2005, the Police of Tay Ninh Province arrested Th. However, he was released three days later, reportedly thanks to the intervention of Mr. Nguyen Thanh Tam, Chair of the Governing Council of the Cao Dai Tay Ninh Sect and, at the time, also a member of the National Assembly.

With the help of the lawyer, in early 2006 at least 13 newspapers covered the case. However, on November 29, 2006, the Police Department of Tay Ninh Province issued a decision to cease prosecution against Tran Van Th. (Criminal Case No. 137); the reason given was "insufficient evidence." The five young girls were evicted from the Dong Nhi School on the basis that they had lost their virginity. A's family received threats from people close to the Governing Council. The media no longer covered the case. All efforts by A's father to seek justice led to dead ends. After a key supporter of his pursuit for justice died after being suspiciously hit by a car that ran over the pavement, a group of sympathetic Cao Dai followers secretly made arrangements to hide all five victims in safe places outside of Tay Ninh Province. A's father continued to pursue justice until he died of ill health in 2012. The victims continue to be on the run and still dare not return to Tay Ninh Province. The perpetrator, Th., continues to live in Tay Ninh as a free man. It appears that the Police Department had been influenced by decisions made at a higher level and closed its investigation in disregard of due process.

34. Recommendations: We respectfully recommend the UN Committee on the Rights of the Child to ensure that the Vietnamese Government:

- (1) Address the illustrative cases presented in this report as proof of Vietnam's full compliance with provisions under the ICCPR, the Palermo Protocol, and the CRC, all of which Vietnam is a state-party of; namely, the complaints or

denunciations filed by victims should be thoroughly investigated, victims should be rescued and protected and perpetrators should be prosecuted;

- (2) Ensure it not only makes statements about policy but also demonstrates its commitment through proper actions with regard to the above test cases, including carrying out prompt, impartial, independent and effective investigation into the allegations of violence and other ill-treatments made by the victims, bring any identified perpetrators to justice via fair trials and provide reparations to the victims in accordance with Vietnam's obligations under the ICCPR and CAT;
- (3) Ensure that all allegations of human trafficking are promptly and thoroughly investigated by an independent and impartial body, that perpetrators are prosecuted and, if convicted, are punished with sanctions consistent with the gravity of the crime, and that victims and, where appropriate, their families are provided with full reparation, including rehabilitation and adequate compensation;
- (4) Intensify efforts to prevent, suppress and punish trafficking in persons (from Concluding Observations of the UN Human Rights Committee);
- (5) Provide victims with effective protection, assistance and remedies (from Concluding Observations of the UN Human Rights Committee); and
- (6) Ensure access to social services and the availability of a sufficient number of adequately funded shelters for victims, including for children (from Concluding Observations of the UN Human Rights Committee).

### **Article 37. Protection against torture or other cruel, inhuman or degrading treatment or punishment**

35. In its State Report, the Vietnamese Government claims that “[t]he Child Protection Program 2011-2020 set goals for all children to be protected to reduce the risk of their falling into ‘special circumstances’, to protect children from harm, especially children in special circumstances, to provide support and care to aid recovery, to integrate children into the community and provide them with the opportunity to develop. [State Report, Para. 69] The Vietnamese Government further claims that “[t]he percentage of children who were victims of violence has decreased significantly - by nearly 40% since 2004.” [State Report, Para. 61]
36. Even if the claimed 40% reduction in child violence could be verified independently from government statistics, this reduction clearly does not incorporate the secondary impacts of torture and violence on children. From the growing body of researches on torture



worldwide, it has been well established that spouses and children of torture survivors often suffer secondary traumatization via cross-generational family transmission.<sup>16</sup>

37. The case of Ma Seo Sung, already mentioned in the context of the Committee Against Torture's Concluding Observations, illustrates the secondary traumatization of his two daughters, one born in 2014 and the other in 2016, via cross-generational family trauma. Ma Seo Sung, born in 1989 in Theng Phang Hamlet, Xin Man District, Ha Giang Province, was a Hmong Christian. To seek a less repressive environment towards Christianity, in 2012 he joined his uncle in Dak Nong Province, where he got married to a Hmong Christian woman. As neither of them was allowed to register their residence in Dak Nong Province, the couple was not issued a marriage certificate and their daughters were denied birth certificates. On April 30, 2017, Sung took his nephew, Giang A Lang (born in 1996), by motorcycle to Dak Lak Province to buy medicine for treating skin fungus disease. Out of suspicion that Ma Seo Sung and Giang A Lang were in search of a Christian pastor, the police of Ea So Commune stopped their motorcycle and falsely accused them of cocaine use. Both were taken to the police station. On May 4, 2017, Captain Nguyen Tien Dung of Dak Lak Province police notified Sung's uncle, Mr. Ma Khay To, of Sung and Lang's detention. At noon on May 5, 2017, Captain Dung called again to notify Mr. To that Sung had committed suicide by hanging himself in the detention center. Bruises and injuries found on Sung's corpse belied police's claim, and the family pursued justice with the help of human rights organizations. Threatened with reprisal by the police, Sung's wife had to flee to Thailand with their two young daughters; Mr. To also fled with his family to Thailand. The brutal death of their father, their family's subsequent long trek from Vietnam to Thailand by land, and their life as asylum seekers in Thailand have deeply traumatized Sung's daughters.
38. There is a pattern of violence committed by provincial and local authorities against entire communities, often in association with land grab. Examples abound. In May 2010, hundreds of local police agents joined forces with the militia and the provincial police mobile unit to attack participants of a funeral in Con Dau Parish, causing over 100 mourners to be injured, including many children. Sixty-two of the mourners were arrested, detained and tortured for days. Six of them were later sentenced to prison terms. One parishioner, Nguyen Thanh Nam, successfully fled the scene but was later captured and beaten to death. His surviving wife and his teenage son and daughter were severely traumatized. A number of victims filed a request for police investigation into the acts of torture and violence but their request received no response.<sup>17</sup> In March 2015, the police of Ky Anh District, Ha Tinh Province sent hundreds of agents and a demolition team to destroy 80% of the homes of parishioners in Dong Yen Parish. The government then barred 153 children in the parish from attending public school. When

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<sup>16</sup> Secondary trauma in treating refugee survivors of torture: Assessing and responding to secondary traumatization in the survivors' families, Dr. Ibrahim Kira, Torture Volume 14, No. 1, 2014, available at <https://irct.org/assets/uploads/Assessing%20and%20responding%20to%20secondary%20traumatization.pdf>

<sup>17</sup> UN human rights experts denounce land-grabbing case in Viet Nam, March 26, 2014: <https://news.un.org/en/story/2014/03/464772>

parents set up substitute classes at the parish's school, the government moved in and destroyed this school and threatened the volunteer teachers.<sup>18</sup> In more recent times, on January 4-8, 2019 hundreds of police agents attacked the Vuon Rau Loc Hung (Loc Hung Vegetable Garden) Commune and destroyed all 500 houses in that commune, leaving all residents homeless to this day.<sup>19</sup> On January 9, 2020, some 3,000 police agents mounted a brutal and bloody assault against the Dong Tam Village, which resulted in the village's 84-years old elder being shot dead and three police agents reportedly killed.

39. **Recommendations:** We respectfully recommend the UN Committee on the Rights of the Child to:

- (1) Treat the illustrative cases presented in this report as tests of Vietnam's full compliance with provisions under ICCPR, CAT and CRC, all of which Vietnam is a state-party of; and
- (2) Ensure that the Government of Vietnam not only makes statements about policy but also demonstrates its commitment through proper actions with regard to the above test cases, including carrying out prompt, impartial, independent and effective investigation into the alleged acts of violence that physically and emotionally affected children.

### **Article 39. Services to promote physical and psychological recovery after traumatizing experience**

40. According to Vietnam's State Report, "[f]or children in special circumstances - victims of violence, child abuse, sexual abuse, trafficking – Viet Nam's laws require that children be supported with counselling, psychotherapy and other child protection services. Payments for medical examinations, treatments and health education for children are supported by the Government. The Government has adopted other policies to support children in special circumstances, such as providing meal and travel allowances in cases where urgent protection is required. Such children are also entitled to exemptions from school fees and other study expenses and are supported by legal aid in accordance with regulations on school education, training and vocational education."<sup>20</sup> [State Report, Para. 73]

41. It is most unlikely for children that suffered traumatization directly caused by government officials to have access to any type of medical care, counseling or

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<sup>18</sup> Taiwanese plant's toxic dumping threatens the health and livelihood of millions in Vietnam: Century-old Dong Yen Parish faces disappearance, December 3, 2016: <http://dvov.org/wp-content/uploads/2019/01/Dong-Yen-Parish-Case-Summary.pdf>

<sup>19</sup> Loc Hung Vegetables Garden: A Catholic Community Under Siege, January 31, 2019: <http://dvov.org/wp-content/uploads/2019/03/Loc-Hung-Vegetables-Garden-Summary-01-31-19.pdf>

<sup>20</sup> Decree No. 56/2017 / ND-CP dated 9 May, 1977 of the Government detailing some articles of the Law on Children

psychotherapy services. In the case of Y Phic H'dok, as a child victim, he had to flee from his home village. Without a letter of recommendation from the local government, which was also his persecutor, he would not be able to obtain legal residency status in his location of refuge, let alone accessing services. He had no choice but eventually to flee to a neighboring country.

42. More prevalent is secondary traumatization caused by cross-generational family trauma transmission, and cross-generational collective identity trauma transmission through (1) group identity or affiliation to ethnicity, color, nationality or religion, and/or (2) social structure where a subpopulation suffers endemic poverty, discrimination, or social stigma.<sup>21</sup> The Vietnamese Government's policy of targeting certain religious and indigenous communities have exacerbated both family and collective transmission.
43. The functional statelessness faced by thousands of Hmong and Montagnard Christian families serves as illustration for trauma transmission through social structure. For almost two decades, thousands of Hmong Christians have been forced to leave their home villages in Northern Vietnam because they had refused to abandon their religious faith as ordered by the local authorities. A number of them were forcibly evicted from their village while others had no choice but to escape the mounting threats from the local authorities.
44. Hundreds of stateless and homeless Hmong and Montagnard Christian families have fled to Thailand, Laos and Myanmar, where they are treated as illegal migrants and can be arrested at any time. In Thailand, Hmong asylum seekers are part of the "urban refugee" population. In Laos and Myanmar, fleeing Hmong Christians live in the jungle and receive sporadic help from local Hmong communities. The case of Y Phic H'dok described above illustrates how secondary trauma, caused by the death of his father, have compounded the trauma caused directly to him by past arrest and the threat of future arrest from the police. He also had to flee to Thailand to seek protection from the UN High Commissioner for Refugees.
45. We are not aware of any services available to children who had suffered trauma subjected to secondary traumatization to promote physical or psychological recovery.
46. Recommendations: We would like to call on the UN Committee on the Rights of the Child to:
  - (1) Look into the availability of services for children that have been traumatized by acts of violence committed by government officials and/or government-supported non-state actors;

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<sup>21</sup> Secondary trauma in treating refugee survivors of torture: Assessing and responding to secondary traumatization in the survivors' families, Dr. Ibrahim Kira, Torture Volume 14, No. 1, 2014, available at <https://irct.org/assets/uploads/Assessing%20and%20responding%20to%20secondary%20traumatization.pdf>

- (2) Monitor the establishment of such services if they are not currently available; and
- (3) Ensure that the Government of Vietnam reports, as part of the review, the admission of such children into those services.

### **Additional Recommendations about Functional Statelessness of Hmong and Montagnard Christians**

47. We would like to reiterate our recommendations to the Government of Vietnam, which have been offered in the joint report submitted by BPSOS, Institute on Statelessness and Inclusion and Statelessness Network Asia Pacific for the third Universal Periodic Review of Vietnam:<sup>22</sup>

- (1) Fully promote, respect, protect and fulfil its obligations towards stateless persons under international human rights law;
- (2) Collaborate with civil society actors to ensure that reforms aimed at addressing statelessness are effectively implemented;
- (3) Publish information on the size and profiles of the stateless populations in Vietnam and the barriers these populations face in acquiring or confirming citizenship in Viet Nam;
- (4) Guarantee access to fundamental human rights without discrimination, particularly with respect to ethnic and religious minorities such as the Hmong and Montagnard communities;
- (5) Develop and implement civil documentation and registration campaigns that support people who are stateless or at risk of statelessness to acquire and confirm citizenship and obtain civil documentation. Such activities should focus on supporting populations residing in border areas and in remote and hard to reach locations;
- (6) Reform the residential registration system, so that access to fundamental human rights is not restricted by one's status within the residential registration system;
- (7) Ensure universal birth registration in Viet Nam, as a tool for protecting the right to a nationality and preventing statelessness, in compliance with Viet Nam's obligations under article 7 of the CRC (to register all births immediately) and the

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<sup>22</sup> <http://dvov.org/wp-content/uploads/2018/07/ISI-UPR-Submission-Viet-Nam-For-Website.pdf>

Sustainable Development Goals, which aim under goal 16.9: “by 2030 provide legal identity for all including birth registration”; and

- (8) Ensure all children in Viet Nam have access to education, irrespective of their documentation status.