

Persecution of Hmong Christian Asylum Seekers from Vietnam

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Introduction and Summary

This report was submitted to the United Nations High Commissioner for Refugees (UNHCR) on August 8, 2012 for consideration in adjudicating asylum claims by Vietnamese nationals who are members of the Hmong ethnic minority and followers of Christianity. They left Vietnam as the result of long-term religious and ethnic persecution and a crackdown by government security forces on a peaceful gathering of thousands of Hmong Christians in Muong Nhe District of Dien Bien province in Vietnam's Northern Highlands in May 2011. In order to protect the security of these asylum seekers and their families, we have removed all identifying details about them, including their names and UNHCR ("NI") registration numbers.

We start by providing an overview of the Vietnamese government's pervasive violations of human rights and religious freedom throughout Vietnam. We then examine the specific conditions underlying the unrest that broke out among Hmong Christians in Dien Bien province in May 2011. During the decade leading up to the unrest, there has been growing discontent among Hmong Christians in the Northern and Central Highlands regarding confiscation of their land, religious persecution, inability to freely practice their religion, torture and ill-treatment in detention, and discrimination against the Hmong as members of an ethnic minority group and as followers of Christian house churches, which the government views with intense suspicion, alleging that many house churches are actually covers for political or separatist activities.

The government's harsh crackdown on the mass peaceful gathering of Hmong Christians in Dien Bien in May 2011 was characterized by serious human rights violations, including excessive use of force by military and police in dispersing the gathering and chasing down suspected leaders, possible extra-judicial execution by police of suspects in hiding, arbitrary arrest and incommunicado detention, torture and other ill-treatment of detainees, and trials that failed to meet international standards of fairness. Since 2011, at least tk Hmong Christians have been sentenced to prison in conjunction with the unrest in Muong Nhe.

We found that all the asylum applicants discussed in this declaration escaped from Vietnam after having been persecuted for their participation in the Muong Nhe event and/or for previous political and religious activities, or, in the case of a few applicants, having been credibly threatened with imminent persecution for these activities. Nevertheless, all of these applicants were rejected in their first-instance UNHCR refugee status determination proceedings.

We respectfully request that the facts and observations set forth in this declaration be considered by the United Nations High Commissioner for Refugees (UNHCR) in adjudicating applications for refugee status determination, appeals from decisions not to recognize refugee status, and motions for reopening and/or reconsideration of such decisions in cases filed by Vietnamese nationals who are members of the Hmong ethnic minority group, including the asylum seekers discussed in this submission (asylum seekers "A", "B", "C", "D", "E", "F", and "G"¹), and all other such applications and motions based on similar facts and circumstances.

¹ All identifying details about specific asylum seekers mentioned in this report have been removed, including their names and UNHCR identification numbers, which have been replaced with capital letters, eg "A", "B", etc.

Declarants' Backgrounds

2. Declarant Nguyen Dinh Thang, Ph.D., has served since 1990 as Executive Director of Boat People SOS (BPSOS), a non-governmental organization that works on human rights, refugees, and related humanitarian matters, with a particular focus on Vietnam. Prior to serving in this capacity he worked as a volunteer advocate, counselor, and youth leader on behalf of refugees since shortly after his own resettlement as a refugee in 1979. He is in frequent communication with a wide range of contacts within Vietnam and has closely followed the situation of Montagnards and other particularly vulnerable people in Vietnam for over 20 years. For the past five years he has traveled extensively to Thailand to interview a large number of Vietnamese, including Hmong, who recently escaped from Vietnam. He has given expert testimony before committees of the United States Congress, the United States Commission on International Religious Freedom, and immigration courts on refugee issues and on human rights practices in Vietnam. He edits Vietnam Country Report, an annual publication of the BPSOS-sponsored Vietnam Study Group.

3. Declarant Grover Joseph Rees is a former law professor, judge, diplomat, and United States government official who has had extensive experience in refugee and asylum law and policy as well as with human rights law and practices. He retired in January 2009 after 24 years in the executive, legislative, and judicial branches of the United States Government, including service as General Counsel of the United States Immigration and Naturalization Service (1991-93); Staff Director and Chief Counsel, Subcommittee on International Operations and Human Rights, Committee on International Relations, United States House of Representatives (1995-2000); Counsel, Committee on International Relations, United States House of Representatives (2001-02); United States Ambassador to East Timor (2002-2006); Acting United States Representative to the United Nations Economic and Social Council (2007); and Deputy Assistant Secretary of State for International Organizations (2008-09). He has written and spoken extensively on refugee law and policy and on human rights law and practices, has given expert testimony on refugees and related human rights questions before committees of the United States Congress and in the United States Immigration Courts, and delivered the official statements of the United States of America on refugees and on UNHCR in the United Nations General Assembly during its 62nd session. Since January 2009 he has been associated with Boat People SOS as Senior Counselor for International Initiatives.

4. Declarant Sara Colm has researched and reported on human rights issues in Southeast Asia for more than 20 years. From 1998-2011, she worked as senior researcher for the Asia Division of Human Rights Watch, where she was responsible for monitoring and analyzing political developments and human rights abuses in Vietnam and Cambodia. Based in Cambodia, she also documented protection issues faced by Vietnamese democracy activists, the Khmer Krom ethnic minority, and Montagnard Protestants fleeing from Vietnam to Cambodia and Thailand to seek asylum. As HRW's specialist on Vietnam, she has provided expert information and analysis on Vietnam in reports, media statements, private letters, written testimony, and verbal briefings for various stakeholders. These include officials from the United Nations; U.S. State Department, White House, and Congress; the United States Commission for International Religious Freedom, Congressional Research Service, foreign diplomats in Hanoi from the United States, UK, EU, ASEAN and Japan and foreign ministry officials in Brussels, Geneva, London, Paris, Canberra, Tokyo, Bangkok and Phnom Penh. In 2011, she served as an expert witness on Vietnam in removal proceedings by a United States Immigration Court of a Montagnard refugee from

Vietnam now in the United States who was facing deportation. Her expertise regarding Vietnam includes arbitrary arrest, detention, torture, extra-judicial killings, refugee and asylum policy, refugee refoulement, religious freedom, children's rights, press freedom, internet censorship, human rights defenders, labor rights, political and religious prisoners, impunity of police and militia carrying out abuses, and the rights of ethnic minority communities in the Central Highlands, Mekong Delta, and Northern Highlands. Her expert background on Southeast Asia extends to the 1980s, when she was editor-in-chief of the *Tenderloin Times* newspaper in San Francisco, California (1985-1992), which published articles in English, Vietnamese, Khmer and Lao in its coverage of Southeast Asian communities in San Francisco, United States refugee and immigration policies, and news developments in Southeast Asia.

5. Declarants Thang and Rees have personally interviewed numerous Hmong refugees and asylum seekers, including several of the applicants whose cases are listed in paragraph 1, not only about the interviewees' own experiences with persecution but also about a broad range of related information about the situation of Hmong in Vietnam. All three declarants have also had extensive discussions of the situation of Hmong, including discussions on how best to evaluate these reports by refugees and asylum seekers, with numerous other human rights and refugee experts whose work focuses in whole or in part on Vietnam.

6. Based on the communications, discussions, interviews, and other processes described above and for the specific reasons set forth below, declarants have concluded that the UNHCR Notices of Decision in the cases listed in paragraph 1 reflect a pattern of serious errors of law and fact whose effect is to underestimate dramatically the likelihood that the applicants and similarly situated Hmong will face persecution on account of race, nationality, religion, political opinion, and/or membership in a particular social group upon return to Vietnam. There is a significant likelihood that such persecution could include arrest and torture by Vietnamese police or government officials, or at the instigation or with the consent or acquiescence of such officials. Declarants therefore respectfully request that UNHCR consider carefully the facts and observations set forth in this memorandum in adjudicating appeals and/or motions to reopen or reconsider in these cases and in adjudicating other cases involving similarly situated Hmong.

Human Rights Violations in Vietnam

7. The Socialist Republic of Vietnam, hereinafter Vietnam or the SRV, is a one-party authoritarian government in which the Vietnamese Communist Party (VCP) holds a monopoly on political power. The party is able to penetrate from the national to the provincial level of governance by "interlocking directorates by which every government unit has a party component (*ban can su dang*) down to the village level." (Zachary Abuza, *Renovating Politics in Contemporary Vietnam*, 2001.)

8. Among the SRV leadership's primary concerns has been a fear of "peaceful evolution" – i.e., that the influence of Western ideals, including democracy, human rights, religious freedom, and ethnic equality, will dissipate Marxist ideology and the legitimacy of the VCP. (See, e.g., Abuza, *supra*, and Carlyle Thayer and Ramses Amer, eds, *Vietnamese Foreign Policy in Transition*, 1999.) The leadership has been particularly suspicious of Protestantism, which many in the government view as a byproduct of American imperialism.

9. Internal documents from the Communist Party of Vietnam as well as statements by party leaders in the state-controlled media demonstrate the party's official concerns. A confidential

report on a top-level meeting of Vietnam's General Security Directorate of the Ministry of Public Security in 2005 outlines the government's detailed plans to counter the growing popularity of "peaceful evolution" (described in paragraph 8, above) and "hostile forces". Much of this plan remains in operation today. Among the "hostile forces" identified in the report are "political opportunists, adversarial religious fanatics, and released antirevolutionary prisoners." (Ministry of Public Security, General Security Department, "Minutes of Meeting to Assess the Recent Security and Public Order Situation and Discuss Forthcoming Counter-measures," No. 167/A11 (A12C3), April 5, 2005.)

10. Official efforts to counter plots by "hostile forces" have not only continued in recent years, but escalated, especially around the time of the 11th Party Congress in January 2011 and the National Assembly Elections on May 22, 2011. Just weeks before the party congress opened on January 12, 2011, Prime Minister Nguyen Tan Dung issued the following instructions: "The government at all levels must concentrate on effectively dealing with all complicated and sensitive issues related to ethnic minorities, religion and large groups of petitioners. Do not allow anything complicated to happen so that hostile forces can distort the situation and stir up resistance." (Prime Minister's directive, issued by Telegram #2402/CD-TTg, dated December 30, 2010.)

11. During 2011 and 2012 the Politburo has continued to identify "peaceful evolution" schemes aimed at undermining socialism and the state as the major issue confronting Vietnam. (See, for example, the statement by Lt. Gen. Nguyen Ngoc Thanh, May 8, 2012, in *Tap chi Cong san* [Communist Review]; and "To Uphold a Proactive Stance in National Defense and Security" in *Dai Doan Ket* [Grand Unity] newspaper, July 12, 2011.)

12. The SRV government uses a system of surveillance and censorship to suppress political and religious dissenters. The authorities use "household registration" (*ho khau*) -- essentially an internal passport -- and a block warden system to oversee those whom they suspect of being involved in political or religious dissent. Police-administered *ho khau* are required in order for people to be considered legal residents of a locality and to legally find work, obtain access to public services, travel or relocate within Vietnam, and rent or own a home. According to the U.S. State Department, the government "continue[s] to open and censor targeted persons' mail; confiscate packages and letters; and monitor telephone conversations, e-mail, text messages, and fax transmissions." During 2011 "[t]he government cut the telephone lines and interrupted the cell phone and Internet service of a number of political activists and their family members." (United States Department of State, Country Reports on Human Rights Practices for 2011, Vietnam report.)

13. Vietnamese law restricts freedom of movement. All citizens are required to inform the local police when changing their residence or staying overnight at any location outside their own homes. However, "the government appeared to enforce these requirements more strictly in some districts of the Central and Northern Highlands" where ethnic minorities, including the Hmong, predominantly reside. (United States Department of State, Country Reports on Human Rights Practices for 2011, Vietnam report.)

14. Police brutality and torture of detainees is common throughout the nation. As reported by Human Rights Watch (HRW), "Police frequently torture suspects to elicit confessions and, in several cases, have responded to public protests over evictions, confiscation of land, and police brutality with excessive use of force." (HRW World Report, 2012.)

15. Although Vietnamese laws formally prohibit all forms of discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities continues to be manifested from the national to the provincial level. (See, for example, HRW, “Montagnard Christians in Vietnam: A Case Study in Religious Repression,” 2011; HRW, “On the Margins: Rights Abuses of Ethnic Khmer in Vietnam’s Mekong Delta,” 2009.)

16. Confounding expectations that increased “engagement” with the world through trade, foreign investment, and tourism would lead to an improvement in the Vietnamese government’s human rights practices, in the last several years the scope and severity of the government’s efforts to suppress its critics have increased substantially. This trend became particularly noticeable in the months leading up to the January 2011 Communist Party Congress and May 22, 2011 National Assembly elections, with little let-up in the crackdown on dissent since. In its 2012 World Report, Human Rights Watch observes: “The Vietnam Communist Party Congress in January 2011 and the stage-managed National Assembly election in May determined the leadership of the party and government for the next five years. During both, there was no sign of any serious commitment to improve Vietnam’s abysmal human rights record.” (HRW World Report, 2012.)

Religious Freedom Violations in Vietnam

17. In September 2004, the “Secretary of State designated Vietnam as a ‘Country of Particular Concern’ under the International Religious Freedom Act for particularly severe violations of religious freedom.” Among the most important reasons for this designation was the harsh treatment often meted out to Protestants, particularly those who are members of ethnic minority groups. “The U.S. Ambassador and other U.S. officials, including the Ambassador at Large for Religious Freedom, raised concerns about the repression of Protestantism in the Central and Northwest Highlands, detention and arrest of religious figures, and other restrictions on religious freedom with government cabinet ministers up to the level of Deputy Prime Minister, CPV leaders, provincial officials, and others,” but serious violations of religious freedom, particularly against Hmong and other ethnic minority Protestants, continued. (U.S. State Department, International Religious Freedom Report [hereinafter IRFR], 2004.) This designation was reiterated in 2005.

18. Vietnam’s designation as a “Country of Particular Concern” was removed in 2006 because the State Department detected signs of progress, particularly in the commitment by the Vietnamese government to allow more Protestant churches to register with the government. However, according to the United States Commission on International Religious Freedom (USCIRF), “Vietnam’s overall human rights record remains poor, and has deteriorated since Vietnam joined the World Trade Organization in January 2007.” (USCIRF Annual Report, 2011.)

19. Since 2007, Vietnam has “moved decisively to repress any perceived challenges to its authority, tightening controls on freedom of expression, association, and assembly...independent religious leaders, and religious freedom advocates were arrested, placed under home detention or surveillance, threatened, intimidated, and harassed.” (USCIRF Annual Report, 2011.)

20. Religious organizations, in particular, are tolerated only when they are clearly secondary and subordinate to the interests of the party or the government. In other words, “Religious groups encountered the greatest restrictions when the government perceived their activities as

challenging its rule or the authority of the Communist Party.” (United Kingdom Border Agency Operational Guidance Notes, 2011.)

21. Vietnamese law requires all religious organizations to be registered and subsequently approved by the government. Participating in independent religious organizations is viewed as challenging the authority of the government. Even in the cases of government approved religious organizations, legal protections “are both vague and subject to arbitrary or discriminatory interpretations based on political factors; and new converts to some Protestant and Buddhist communities face discrimination, intimidation, and heavy pressure to renounce their faith.” (USCIRF Annual Report, 2011.)

22. “In many provinces, Protestant churches were required to submit lists of all worshippers as part of the registration process, although the legal framework on religion does not require this information. This practice appeared to be widespread.” (U.S. State Department IRFR, 2010.) These lists, Hmong asylum seekers believe, have assisted the government to identify, monitor, and arrest those who are perceived as opponents of the government.

23. On the individual level, believers who are members of unrecognized religions “continue to be imprisoned or detained for reasons related to their religious activity or religious freedom advocacy.” (USCIRF Annual Report, 2012.)

24. In particular, “new converts to ethnic-minority Protestantism . . . face discrimination, intimidation, and pressure to renounce their faith.” (USCIRF Annual Report, 2012.)

25. According to the 2010 U.S. State Department Religious Freedom report, about two-thirds of Protestants in Vietnam are members of ethnic minority groups, including the Hmong in the Northern Highlands.²

26. Over the years there have been occasional reports of improvement with regard to religious freedom in Vietnam. For instance, the government has on occasion allowed religious organizations to register with the government entity that regulates religion, after having previously refused to accept the registration of these organizations. The government also occasionally allows large religious gatherings to take place, although such gatherings are typically forbidden. However, advances in religious freedom “often depended on geographic area, ethnicity, relationships with local or provincial officials, or perceived ‘political’ activity. . . . There continues to be active suppression of independent religious activity, especially among ethnic minority populations and religious groups or individuals perceived as posing a political challenge to government authority.” (USCIRF Annual Report, 2011.)

27. Implementation of these modest religious reforms has taken place more in the cities rather than the countryside, and particularly not in rural areas inhabited by ethnic minority groups such as the Mekong Delta, Central Highlands, and Northern Highlands. “In large urban areas, the Vietnamese government continues to expand the zone of permissible religious activity. Religious leaders in Hanoi and Ho Chi Minh City [Saigon] report fewer restrictions on their normal worship activities in recent years, and the government continues to support the building of religious venues and the training of religious leaders and has allowed some large religious

² In this report we use the term Northern Highlands to refer to the mountainous area in northern Vietnam. It includes the Northeast Region that lies north of the Red River lowlands and the Northwest Region that borders Laos and China. Dien Bien province, where the May 2011 gathering of Hmong Protestants took place, is located in the Northwest Region of the Northern Highlands.

gatherings and pilgrimages.” (USCIRF Annual Report, 2011.) It should be noted that these urban areas are far more visible to international observers than other areas of the country. Various international observers including foreign journalists, diplomats, and UN agencies are primarily based in Hanoi and Ho Chi Minh City, which are overwhelmingly populated by ethnic Vietnamese (Kinh).

28. Basic legal rights “of ethnic minority Protestants in northern Vietnam have been impaired by the refusal of the competent authorities to issue them identity cards that recognize their religious affiliation. Without proper recognition of their Protestant status, they are left in an indeterminate and vulnerable position: either they have no identity card, or the fact that they are identified as subscribing to no religion may be used to prevent their attendance at churches.” (USCIRF Annual Report, 2011.)

Growth of Protestantism among the Hmong

29. There were few known Protestant Hmong in Vietnam’s northern highlands until 1989, when Hmong began to convert to evangelical Christianity. (James Lewis, “The Evangelical Religious Movement Among the Hmong of Northern Vietnam and the Government Response to It: 1989-2000,” *Crossroads: An Interdisciplinary Journal of Southeast Asian Studies*, Northern Illinois University, 2002; *Nhan Dan* (The People) newspaper, April 21, 1991.)

30. In response to the growth in Protestantism, the government launched a series of measures, including legal directives and official training manuals issued to local officials, to eliminate or discourage the practice of Protestantism among the Hmong, which the government asserted was being used to oppose the government and undermine national solidarity. (Lewis, 2002.)

31. The government often refers to Hmong Protestants, particularly those belonging to unregistered church groups, as followers of the “*Vang Chu*” religion. Articles in the state-controlled media in Vietnam assert that *Vang Chu* is not a true religion, but a guise for anti-government activities. A 2011 article in *Phap Luat* (Law) declares: “The nature of the problem is clear, the ‘*Vang Chu*’ religion is not a religion at all, but a ‘false religion’ that abuses and distorts Protestantism. Their evangelical activities are illegal; their leaders are self appointed.” (*Phap Luat*, May 9, 2011.)

Efforts to “Manage and Control” Hmong Protestants

32. The growth of Protestantism in the Northern Highlands, heavily populated by ethnic Hmong and largely shielded from foreign scrutiny, is viewed as a potential threat to national security. An example of this suspicion is the handbook published by the Vietnamese Committee on Religious Affairs in 2006. The handbook outlined guidelines for “provincial officials in the northwest provinces on how to manage and control religious practice among ethnic minorities . . . Although the 2006 handbook recognizes the legitimacy of some religious activity, it also indicates that the Vietnamese government continues to control and manage religious growth, label anyone spreading Christianity in the northwest provinces as a national security threat, and use unspecified tactics to . . . persuade new converts to renounce their beliefs.” (USCIRF Annual Report, 2011.) As a result of the many criticisms from the international community, two revisions of the handbook have been released since 2007. “Neither, however, offers much improvement on the original.” (USCIRF Annual Report, 2011.)

33. In the 2007 revision of the Religious Affairs handbook, “provincial officials are still told to control and manage existing religious practice through law, halt ‘enemy forces’ from ‘abusing religion’ to undermine the Vietnamese state, and ‘overcome the extraordinary...growth of Protestantism.’ This last instruction is especially problematic, since it again suggests the growth of Protestantism among ethnic minority groups is a threat that officials must combat. The 2007 revised version also states that local officials must try to ‘solve the root cause’ of Protestant growth by, ‘mobilizing’ ethnic groups to ‘preserve their own beautiful religious traditions’” (USCIRF Annual Report, 2011.) Specifically, the handbook calls on local officials to “encourage the return to traditional beliefs” -- essentially condoning forced renunciation of faith -- despite the Prime Minister’s Instruction No. 1 and Decree 22, both passed in 2005, which outlaw such practices.

34. The 2008 revision of the Religious Affairs handbook retained all the language of the 2007 revision. The new revision also added “a final chapter which chides local officials for ‘loose control over Protestantism, leading to an increase in illegal meeting places.’ Local officials are instructed that these meeting places ‘must be...disbanded.’ These instructions are inconsistent with Vietnam’s international obligations to protect freedom of religion and belief and can be read as instructions to abuse and restrict religious freedom.” (USCIRF Annual Report, 2011.)

Lack of Bibles and Religious Education

35. Hmong Protestants seeking to register their churches have been told they need a recognized minister in order to register, though when some obtain the necessary certification as ministers, local authorities do not recognize their certification, as in the case of Applicant “B”.

36. According to the USCIRF 2011 Annual Report, one of the methods the government has used to repress the growth of Protestantism among ethnic Hmong is to deny or delay the publication of Bibles published in modern Romanized Hmong. Hmong who are caught with Bibles printed in Hmong have been subjected to beatings, fines, and detention. As noted by the USCIRF, “[I]n March 2011, in Dien Bien province, a Hmong Protestant leader was briefly detained and the Bibles he was carrying were confiscated. He was warned to not transport ‘illegal materials.’” (USCIRF Annual Report, 2011.)

Church Registration Issues

37. Hmong Protestants are often subjected to more severe constraints on the practice of their religion than are imposed on other ethnic groups, with the government accepting very few of the 671 registration applications submitted by Hmong church groups since 2005. (Boat People SOS, [BPSOS], “Persecution of Hmong Christians and the Muong Nhe Incident,” January 24, 2012. 2006.)

- “[U]nlike in some parts of the Central Highlands, the government has moved very slowly to extend legal recognition to Hmong Protestant churches. The number of legally-recognized churches and meeting points has reached 100 in the past year, but an estimated 1,000 religious groups are seeking affiliation with the ECVN. Hundreds of applications for legal recognition have been declined or ignored, despite provisions in the Ordinance on Religion and Belief requiring government officials to respond to applications in a timely manner.” (USCIRF Annual Report, 2011.)

Forced Renunciation of Faith

38. The practice of forced renunciation of faith, although formally banned by Decree 22 in 2005, persists at both the local and provincial levels with at least tacit support from the central government's religious regulators. Reports of forced renunciation of faith "are not isolated cases, but are sanctioned by central government authorities to thwart both the growth of Protestantism in the northwest provinces and independent religious activity in the Central Highlands." (USCIRF Annual Report, 2011.) In particular, "local authorities are pressuring Hmong Protestants to recant their religious practices and return to traditional practices." (U.S. State Department IRFR, 2010.)

39. The State Department's Religious Freedom report for 2010 describes one example of forced renunciation: "In the Ho Kaw Village of the Dien Bien Province in 2009, district officials pressured 10 Christian families to recant their faith." Among them were "[t]hree ethnic Protestant H'mongs, Sung Cua Po, Sung A Sinh, and Hang A Xa, who refused to renounce Christianity [and] were allegedly detained, handcuffed, and beaten by police in order to force them to renounce their faith. Following the beatings, most Christians in the village stopped practicing their religion under pressure from local officials and family members. . . . After additional police threats, Po signed a renunciation of Christianity. In March, Po and his family fled his home after continued abuse from authorities and family members, and have not been seen since that time." (U.S. State Department IRFR, 2010.)

40. In 2010 and 2011 there were multiple instances in which local officials in Dien Bien forced Hmong Protestants to renounce their faith through methods such as fines, beatings, threats of property confiscation and expulsion, and even death threats: As noted by USCIRF,

- "In June 2010, several Hmong Protestants from Trung Phu village, Na Son Commune, Dien Bien Dong district, Dien Bien province were threatened with death and beaten severely unless they renounced their faith"
- "In June 2010, 25 individuals from Ban Xa Fi #1, Xa Xa Tong, Huyen Muang Dien Bien Dong, Dien Bien province were threatened with confiscation of property and beatings unless they gave up Protestantism. The leader of the local congregation was driven from his home and relocated to another village. Authorities continue to harass and intimidate the villagers."
- "In March 2011, 21 people belonging to an unrecognized Protestant church in Pha Khau Village, Phinh Giang Commune, Dien Bien Dong district, Dien Bien Province, were threatened with property confiscation and forced relocation unless they stopped meeting to worship. The individuals refused and authorities continue to harass and intimidate them."
- "[I]n March 2011, Hmong Protestants leaders who started an unrecognized congregation in Ha Tam village, Muong Ba commune, Tua Chua district, Dien Bien province were detained and interrogated by local authorities. They subsequently were expelled from the district. The 'new' converts in Ha Tam village were threatened and ordered to renounce their faith." (USCIRF Annual Report, 2011.)

41. The persecution of Hmong Protestants is not a new phenomenon, with many incidents taking place in Dien Bien province in 2006 and 2007, as reported by USCIRF:

- “In Dien Bien province, Muong Lay district, Cha Cang commune, local authorities encouraged Hmong clan leaders to pressure local Protestant families to cease practicing their faith, including by forcing some families to construct traditional altars in their homes and/or to sign formal documents renouncing their beliefs.” (USCIRF Annual Report, 2008.)
- “In Dien Bien province, East Dien Bien district, police broke up a house church meeting, banned worshippers from gathering, confiscated religious material, fined followers, forced some to cut wood, and visited the homes of church members to pressure them to abandon their faith.” (USCIRF Annual Report, 2008.)
- “Religious leaders in the northwest provinces and central coast region, including leaders and followers from the Inter-Evangelistic Movement Bible Church, also reported that they were being denounced as “enemies of the state” for “believing in an American religion,” and were forced to pay fines.” (USCIRF Annual Report, 2008.)
- “In January 2007, security officials threatened to freeze the bank account of a Protestant leader in Muong Khong district, Dien Bien province unless he either left the district or renounced his faith.” (USCIRF Annual Report, 2008.)
- “Members of one house church Protestant group in the northwest provinces report that police actively broke up meetings of worshippers and authorities refused to register their meeting areas. Members of this group reported that they were forced to ‘meet secretly at night, in the fields’ in order to worship and that police actively pressured them to abandon their religion and return to ‘traditional beliefs.’ There are no reports that any security officials have been punished for these actions, despite the fact that they have been technically illegal since the February 2005 decree.” (USCIRF Annual Report, 2008.)
- “In Muong Nhe district, Dien Bien province, a house church deacon was detained after he returned from Hanoi carrying church documents and applications for registration. Since that time, there are reports that a special task force of security personnel has been living in the district to monitor the activities of Hmong Protestants there.” (USCIRF Annual Report, 2008.)
- “Police have threatened to charge the village chief of Muong Nhe district, Dien Bien province with national security crimes for sending researchers documents about government attempts to ‘prohibit Christian practice’ in the northwest provinces.” (USCIRF Annual Report, 2008.)
- “In 2006, Protestants in Muong Lay district, Dien Bien province, were forced by police to construct traditional animistic altars in their homes and sign documents renouncing Protestantism.” (USCIRF Annual Report, 2008.)
- “In April 2006, police in Dien Bien province beat 10 Hmong Protestants in an attempt to induce them to renounce their faith.” (USCIRF Policy Focus: Vietnam, Summer 2008.)

42. Local authorities sometimes use “contract thugs” to harass, threaten, or beat Hmong Protestant religious leaders. (USCIRF Annual Report, 2011; and U.S. Department of State, Country Reports on Human Rights Practices for 2011, Vietnam report.)

43. Other methods of repression used in the Northern Highlands include “forcing church gatherings to cease, closing house churches, and confiscating property.” (USCIRF Annual Report, 2011.)

44. Hmong Protestants are unable to contact foreign governments or international organizations for assistance because any “foreign relations of religious organizations, and particularly human rights defenders within such organizations, are the focus of particular suspicion.” (Christian Solidarity Worldwide [CSW], Analysis of White Paper on Religion – Vietnam, 2007.) Moreover, diplomats and foreign journalists must obtain official permission in order to visit the Northern and Central Highlands regions of Vietnam, and when visits are authorized, they are heavily monitored. This enforced isolation means that very little information can leave these regions without passing through the strict censorship of the central government.

45. In its 2012 report the USCIRF recommends that Vietnam once again be designated as a Country of Particular Concern. The severe mistreatment of Hmong Protestants in the Northern Highlands is an important element in the persistent pattern of violations on which the USCIRF bases this recommendation.

Land Rights and Discrimination Issues faced by Hmong Protestants

46. Lack of secure land tenure as well as unlawful appropriation of land by government officials and their associates has led to loss of farm land and increased poverty among the Hmong in their traditional home provinces in the Northern Highlands.

- “Although Vietnam has several laws and policies on land and other natural resources, none of these provide legal recognition of ethnic minorities’ customary collective rights to the land, the forest or their resources.... Yet there are two critical issues with respect to the current land policy from the perspective of ethnic minorities, especially those living in remote areas. First, much of the land important to them has been classified as forest land, even though they have cultivated it for decades or even centuries. This has had severe negative impacts on ethnic minority livelihoods and led to serious conflicts between forest protection officers and local villagers. Land legislation is thus in stark contrast to the ethnic minority traditional recognition of land and forests as a key resource in their socio-political, economic and cultural development.” (International Work Group for Indigenous Affairs, Update 2011: Vietnam.)
- The UN Independent Expert on Minority Issues, Gay McDougall, who visited Vietnam in July 2011, highlighted the growing problem of landlessness and confiscation of traditional agricultural lands among ethnic minority communities, as well as the authorities’ use of excessive force in dispersing peaceful gatherings over these issues. “Large areas of fertile lands have been turned over to industrial crops, including coffee and rubber, while massive in-migration of ethnic Kinh has put additional pressure on scarce available land. Some ethnic minority sources report alleged ‘land grabs’ and criticize resettlement programmes aimed at turning minority agricultural practices towards sedentary agriculture and removing them to make land available to migrant Kinh. They report that peaceful demonstrations over these issues have been met with excessive force, violence and arrests by the authorities.” (Report of the Independent Expert on Minority Issues, Gay McDougall, Mission to Vietnam, 5-15 July 2010.)

47. After being driven from their traditional homes and lands without any compensation, and unable to freely practice their religion, some Hmong Protestants have moved to the Central Highlands and other provinces in the south, hoping for less repressive living conditions there. Unfortunately, many then encounter the same issues there, where local authorities harass ethnic minority Protestants, pressure them to renounce their religion, and confiscate their land. (See HRW, “Montagnard Christians in Vietnam: A Case Study in Religious Repression,” 2011.)

48. Stereotypes and derogatory views of ethnic minority groups in the media, as well as “views articulated by the Government may negatively influence public perceptions of ethnic minorities and lead to discriminatory treatment.” (Report of the Independent Expert on Minority Issues, Gay McDougall, Mission to Vietnam, 5-15 July 2010.)

- Discrimination against the Hmong as ethnic minority Protestants is often a factor in local authorities’ decisions to rule against them in land conflicts and refusal to issue them land titles. Several applicants (“B”, “C”, and “D”) told of authorities confiscating their land in Binh Phuoc province after they refused to sign pledges renouncing their religion. Misperceptions and stereotypes about the Hmong are perpetuated by the use of derogatory language by “many officials, researchers and the media” in Vietnam. (Rob Swinkels and Carrie Turk, “Explaining ethnic poverty in Vietnam, a summary of recent trends and current challenges,” World Bank, Vietnam, 2006.)
- “Minorities are burdened further by perceptions of them as backward, passive, ignorant, and the architects of their own poverty and under-development. Besides constituting unfortunate stereotypes, this perception is used to lend justification to a top-down model of decision-making about minority issues and development models that undervalues genuine consultative processes and traditional knowledge.” (Report of the Independent Expert on Minority Issues, Gay McDougall, Mission to Vietnam, 5-15 July 2010.)

49. Hmong, particularly those lacking official household registration documents and those belonging to unregistered Protestant house churches, are often blamed in the state media for deforestation, as well as smuggling, drug running, and organizing plots against the government.

- A 2010 article in *Cong An Nhan Dan* (People’s Police) -- published more than a year before the unrest in Muong Nhe -- reported that Dien Bien’s police force had uncovered “sneaky groups” of Hmong who had disseminated distorted propaganda defaming the party and the government. (*Cong An Nhan Dan*, September 13, 2010. See also *Lao Dong*[Labor], March 11, 2009.)
- A 2011 article in *Phap Luat* (Law) newspaper carried a litany of complaints about the Hmong, including members of unregistered house churches and unregistered migrants. When confronted by authorities for conducting illegal activities, the article stated, the Hmong send around photographs and complaints, “trying to harass the government.” (*Phap Luat*, May 9, 2011.)

Past persecution suffered by the applicants in these cases on account of race, religion, and/or political opinion

50. As mentioned above, and discussed in detail in paragraphs 63-88 below, all the applicants in these cases left Vietnam as the result of the crackdown by government security forces on the peaceful gathering of Hmong Protestants in Dien Bien province in May 2011. However, a

number of the applicants in these cases reported that, apart from their participation in the May 2011 gathering, they or their family members and close associates had been subjected to persecution on account of their race/ethnicity, religion, and/or actual or imputed political opinions, with such persecution being inflicted on Hmong Protestants living in the Central Highlands as well as the Northern Highlands:

- For instance, Applicant “F” reported that the authorities in the commune in which he lived in Ha Giang province in the Northern Highlands had taken land away from his parents. In 2009 his father petitioned the government for return of the land, but the official response was a summons to the police station, where both the applicant’s father and his mother were beaten.
- Applicant “F” also reported that he was denied medical service by state-run hospitals because of his religion. When he attempted to seek medical care at the commune and district levels he was mocked by the hospital staff, who told him to “just go pray.” The hospital staff also called him “cat”, a derogatory term towards Hmong. Other ethnic groups in his commune who do not follow Christianity are not denied medical care, he said. The applicant also reported that after his father was beaten by the police for demanding back confiscated land in 2009, hospital staff denied his father medical care based on similar slurs about his ethnicity and religion.
- Applicant “B” reported that he had attempted many times to register his house church with the government, first in the Northern Highlands and then in the south, where he moved after police burned down his house church in the north in 2000. In 2006, in response to one such effort to register his house church, the police came to force the members of the church to renounce their faith because they were following an “illegal religion”.
- Applicant “B” was asked to sign a renunciation of faith statement in Binh Phuoc province in February 2006. When he refused, the police threatened to confiscate his land and prevent him from farming. In May 2006, armed police and soldiers surrounded his village for ten days and destroyed the crops and farm land of everyone in the village. District police arrested him for taking photographs of the destruction. During interrogation, police tortured him by beating, kicking and slapping him, shocking him with electric shock batons, and burning him with a cigarette lighter. After 45 days in detention he was fined 3 million VND (about US\$ 188 at the time) and released.
- Applicant “C” bought a hectare of land in Binh Phuoc province in January 2006 for the price of 5 million VND (about US\$ 313 at the time), shortly after relocating there from Lao Cai in the north. When he and his family refused to sign a pledge renouncing their faith, officials confiscated his land. In May 2006, heavily armed soldiers and police came to his village with 15 tractors and destroyed all of the crops and farm land in his village.
- Applicant “D” and fellow Protestants were pressured by district officials in Binh Phuoc province to renounce their religion on threats of eviction and land confiscation in February 2006. He and others refused to sign. As a result he was detained at the district headquarters for a week. In May 2006 soldiers and police came to his village with weapons and destroyed their crops.

- Applicant “D” also testified that in 1998 he was detained and fined for being in possession of Bibles. He was held at a detention center in Dien Bien province for four months.
- Applicant “E” reported that the authorities had made repeated demands on himself, his father, and members of their church to renounce their Protestant religion. In 2005, after church leaders publicly advised members of their congregation not to sign renunciation statements that were proffered by security forces, the security forces beat the church leaders, handcuffed them, and took them away. After that the members of the Protestant church in his village were afraid to worship except in secret. Because Applicant “E” refused to renounce his religion, the authorities confiscated his land. “I would be threatened and they would tell me that if I did not renounce, they would put me in jail or take my land. They told me that if I want my land, I had to convert back to the ancestral religion. I did not renounce my religion and the government took my land in 2005.”
- Applicant “G” testified that in 2003, as a church leader, he was charged with the responsibility of carrying Bibles from Hanoi back to his home in Ha Giang province. While still in Hanoi he was arrested and beaten by the police. The Bibles were confiscated from him. In 2008, on his way home after a church training in Dien Bien, police arrested him and tried to force him to recant his religion. He refused, and was jailed for one month and fined 10 million VND, or about US\$ 631 at that time. These incidents took place despite the fact that his church has been officially registered with the government since 2003.
- Applicant “F” testified that on February 1, 2012 he was arrested, beaten, and detained by the police on his way from Ho Chi Minh City [Saigon] to his home Ha Giang province for being in possession of Hmong-language Bibles. He was informed by the police that his religion (Protestantism) was not permitted by the Vietnamese government. He was asked to sign a renunciation of faith; when he refused, he was threatened with a sentence of life in prison. He was released on February 20, 2012 and fined 5 million VND, or US\$ 240.

51. The accounts given by these applicants are fully consistent with the reports of governments and non-governmental organizations during the last 12 years about general patterns of persecution of Hmong Protestants in Vietnam. These include: U.S. State Department human rights and international religious freedom reports on Vietnam (1998-2011), UK Foreign and Commonwealth Office Reports on human rights in Vietnam, the 1999 report of UN Special Rapporteur for Religious Intolerance Abdelfattah Amor, the 2010 Report of Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt (addendum), the 2010 Report of the Independent Expert on Minority Issues Gay McDougall, and press releases, reports, and briefing papers (1998-2012) by Human Rights Watch, Amnesty International, Freedom House, Vietnam Committee on Human Rights (Que Me) International Federation for Human Rights, International Working Group on Indigenous Affairs, Minority Rights Group International, and Christian Solidarity Worldwide.

52. As noted above, this systematic repression of Hmong Protestants includes but is not limited to the denial and delay of church registrations, destruction and confiscation of church property, forced renunciations of faith, arbitrary detention, and the frequent and excessive use of violence

against those who transgress or resist these measures and/or who are otherwise perceived as opponents of the authorities.

53. The religious repression of Hmong Protestants in Dien Bien province continues. In June 2012 police and paramilitary officers in Dien Bien province destroyed two newly-constructed Hmong church buildings in Muong Cha district (adjacent to, and formerly part of, Muong Nhe District), according to *Compass Direct News*, a long-time source of credible information about rights violations against Protestants in Vietnam that is often used as the basis of U.S. State Department reports. “Vietnamese Officials Destroy Two New Church Buildings,” *Compass Direct News*, June 27, 2012.

Torture in Police Custody

54. Police brutality, including torture and fatal beatings, continues to be reported in all regions of Vietnam.

55. Many of those who have been killed in detention were arrested for minor infractions such as traffic violations. (HRW, “World Report 2012: Vietnam,” and HRW, “Vietnam: Widespread Police Brutality, Deaths in Custody,” September 22, 2010.) However, those who have been arrested and tortured by Vietnamese police or government officials, or at the instigation or with the consent or acquiescence of such officials, also include a number of ethnic minority asylum seekers who returned to Vietnam, including several who were rejected in UNHCR refugee status determination proceedings.

56. Political and religious detainees, including members of ethnic minority groups, and / or members of unapproved religious groups such as Protestant house churches, are even more likely than ordinary citizens to be tortured in police custody.

- “Political and religious detainees and others whose cases are considered sensitive are frequently tortured during interrogation, held incommunicado prior to trial, and denied family visits and access to lawyers.” (HRW, “World Report 2012: Vietnam,” February 2012.)
- “Since late 2006 we have observed significant increase in the use of violence and torture by the police, both in uniform and plainclothes, which coincided with the government crackdown against political dissidents and nonconformist churches. This crackdown has continued to this day.” (Statement of Nguyen Dinh Thang, PhD, Executive Director, BPSOS at the hearing on “Examining Ongoing Human Rights Abuses in Vietnam,” United States House of Representatives, January 24, 2012.)
- “People arrested on national security charges because of their religious or political beliefs are even more susceptible to torture, not only because police want to extract information or confessions from them, but because they are routinely held incommunicado, without access to legal representation and sometimes even family members, during their pre-trial detention period, which can last from three months to more than one year.” (HRW, “Montagnard Christians in Vietnam: A Case Study in Religious Repression,” March 30, 2011.)

- “Authorities beat and arrest members of ethnic minorities in remote areas, such as Montagnards in the Central Highlands, for refusing to join state-sanctioned church organizations, protesting land confiscation, making contact with relatives or groups abroad, or trying to seek political asylum in Cambodia. In April police arrested Y Ben Hdok in Dak Lak province after other Montagnards in his district tried to flee to Cambodia to seek political asylum. After three days in detention, police told Y Ben’s family to pick up his battered body. According to his family, his head was bashed in, his ribs and limbs broken, and his teeth had been knocked out. Police labeled the death a suicide.” (HRW, “World Report 2008: Vietnam.”)
- Khmer Krom Buddhist monks who were arrested and imprisoned after participating in a peaceful protest for religious freedom in 2007 were tortured numerous times during police interrogation, including by having their heads forcibly submerged in water, being shocked with electric batons, and having their heads smashed against a concrete wall. (Declarants’ interviews with two Khmer Krom Buddhist monks upon their release from prison.)
- “In 2007, the government recognized-Evangelical Church of Vietnam reported that an Ede Christian died in Phu Yen province after being detained and beaten by police for not renouncing his religion.” (HRW, “World Report 2008: Vietnam.”)

57. People arrested for their political and religious beliefs in Vietnam face physical abuse at each stage of their arrest, detention, and imprisonment.

- Some are beaten into submission upon arrest or during transit to the police station so that they cannot shout out or draw attention to their plight from passersby. (Declarants’ interviews with former political and religious prisoners.)
- The beatings continue during the first several days in police custody, when most political and religious detainees are held incommunicado and denied any contact with family members or a lawyer. (Declarants’ interviews with former political and religious prisoners.)
- After transfer to a pre-trial detention center for investigation, the torture and physical abuse becomes systematic, meted out during interrogation sessions to extract information and coerced confessions from the prisoner. (Declarants’ interviews with former political and religious prisoners.)

58. Former religious and political prisoners describe being beaten with truncheons and leather sandals, boxed on the ears until they bled, slammed against concrete walls, and shocked with electric batons. (Declarants’ interviews with former political and religious prisoners.) Specific forms of torture, cited by Nguyen Dinh Thang in congressional testimony in January 2012, include:

- Lining the victim up against the wall and beating him in the chest, sides and legs.
- Handcuffing the victim to the upper rim of the window, causing him to stand on his toes, while beating him with batons and electric rods.

- Stripping the victim naked and flogging him with a belt.
- Kicking the victim in the chest, thighs, stomach with military boots.
- Punching the victim on the head and temples.
- Locking victim up in solitary confinement in a pitch dark and filthy place.
- Using a small knife to cut into the victim's flesh.
- Hitting the victim's ankles with a wooden stick.
- Standing the victim in water and electro-shocking him.
- Drawing a large amount of blood from the victim.
- Applying electric shocks to the victim's private parts.

59. Family members of religious and political prisoners in Vietnam have described the condition of their loved ones upon release: many have “gone crazy” and are never able to work again; some are released early from prison to hospital or home and die shortly after their release from injuries sustained during prison torture. (Declarants' interviews with former political and religious prisoners.)

60. “Since 2001, at least 25 Montagnards have died in prisons, jails, or police lock-ups after beatings or illnesses sustained while in custody, or shortly after being prematurely released by prison authorities to a hospital or home.” (HRW, “Montagnard Christians in Vietnam: A Case Study in Religious Repression,” March 30, 2011.)

61. Some members of ethnic minority groups who have returned to Vietnam after seeking asylum in Cambodia and Thailand have been detained, interrogated, and tortured upon their return to Vietnam. Regarding Montagnard asylum seekers repatriated to Vietnam, Human Rights Watch has reported:

- “Immediately upon return to Vietnam some returnees have been detained in dark cells in the provincial prison for three to seven days.
- “The returnees have been interrogated every day about why they had left Vietnam and pressured to renounce their religion.
- “They have been beaten and tortured during interrogation.
- “Upon return to their villages, some have not been allowed to freely leave their villages or even their homes at times, and have been regularly questioned by local authorities about their whereabouts and their activities.
- “Some appear to have been forced to appear before the state media making statements of remorse about fleeing to Cambodia.” (HRW, “No Sanctuary: Ongoing Threats to Indigenous Montagnards in Vietnam's Central Highlands,” June 14, 2006.)

62. In some cases, asylum seekers have not only been detained, interrogated and tortured, but tried and sentenced to prison upon returning to Vietnam:

- “In recent months three Montagnard asylum seekers, including two whose applications had been denied by UNHCR in Bangkok, have been arrested upon their return to Viet Nam. Government-run news services have proudly reported the arrests of these ‘reactionaries’ and have accused them of consorting with anti-government organizations. (Statement of Nguyen Dinh Thang, United States House of Representatives, January 24, 2012.)
- Another UNHCR-rejected asylum seeker, a member of the Khmer Krom ethnic minority who face persecution similar to that inflicted on Montagnards, was arrested a few hours after returning to Viet Nam and has been convicted and sentenced for having organized peaceful demonstrations prior to his departure in 2008.” (Statement of Nguyen Dinh Thang, United States House of Representatives, January 24, 2012.)
- “In December [2010], Chau Heng, a Khmer Krom land-rights activist was arrested upon re-entering Vietnam after being denied political refugee status by the Office of the UN High Commissioner for Refugees in Thailand. Heng led large-scale protests in 2007 and 2008 against local government land seizures.” (U.S. Department of State, Country Reports on Human Rights Practices for 2010, Vietnam report.)
- Chau Heng was held in incommunicado detention for 102 days, until two days before his trial on March 31, 2011. His wife, who was finally able to visit him at that time, told Radio Free Asia: “The first time I was allowed to visit him, he could not open his eyes, he could not hear, understand or respond to us. His physical condition was like he’d been injected with an anesthetic, tortured mentally. He just sat without moving or speaking, even when I asked him something several times.” (Radio Free Asia, March 31, 2011.)

The May 2011 Gathering

63. All of the applicants in these cases are members of the ethnic Hmong minority group. They left Vietnam as the result of the crackdown by government security forces on a peaceful gathering of thousands of Hmong Protestants in Muong Nhe District of Dien Bien province in Vietnam’s Northern Highlands in May 2011.

64. The mass gathering in Muong Nhe was a response to decades of political repression and religious persecution of Hmong Protestants. It was preceded by several incidents of harsh repression in Dien Bien province in early 2011 (see paragraph 40, above), which further inflamed simmering discontent by Hmong Protestants. Among these incidents was the demolition of an entire Protestant Hmong village in Muong Nhe District:

- In January 2011, authorities in Muong Nhe District sent military troops with orders to raze all the homes and confiscate all the farm land in the Hmong village of Na Khua in Nam Nhu commune of Muong Nhe. The village is home to over a hundred households, all Protestant, who had been seeking legal recognition of their church since 2006. Authorities had repeatedly put pressure on the villagers to renounce their faith, claiming Protestantism to be an American religion. When villagers refused to recant their religion, on January 28, 2011, government-hired workers, escorted by armed troops, started to demolish the villagers’ homes. After a brief interruption during the Lunar New Year

celebrations, the workers returned in mid-March to complete their job. Over a hundred Hmong households were evicted from their ancestral lands. (BPSOS Congressional Testimony and Report, January 2012; Interview with Applicant “A”.)

65. Hmong villagers decided to hold a mass prayer gathering to ask for an end to religious persecution and the confiscation of their homes and land. Word got out to Hmong populations living in other provinces, where they too suffered severe forms of religious persecution, forced renunciation of faith, and confiscation of land.

66. Muong Nhe, where many Hmong Protestants have been forced off their land, was a logical place for Hmong to gather. For decades Muong Nhe has also been the site of numerous incidents of harsh religious persecution against Hmong Protestants, as documented by USCIRF, the U.S. State Department, and respected international NGOs such as Freedom House.

67. While some of the Hmong who attended the gathering in Muong Nhe were living in the south at the time of the gathering, their original homes were in the Northern Highlands, with many originating from Dien Bien province.

- “We decided to go to Muong Nhe because it was where the most people had been forced off their land by government officials,” said Applicant “C”, a Hmong who moved from Lao Cai to Binh Phuoc after authorities confiscated his land because he refused to renounce his religion.
- Applicant “G”, a resident of Muong Nhe at the time of the gathering, said that while Hmong from southern provinces attended the gathering, “the majority were from Muong Nhe because in that area, the land has been taken away from everyone to plant rubber tree plantations and they do not have land to make a living.”

68. Beginning on or about March 25, 2011, news of the impending gathering in Muong Nhe began to spread in the following provinces: Dien Bien; Lai Chau; Son La; Lao Cai; Yen Bai; Ha Giang; Cao Bang; Dak Lak; Dak Nong; Binh Phuoc; and Lam Dong. (Interviews with the asylum applicants.)

69. “On April 30, 2011, thousands of Hmong began to gather near Huoi Khon Village in Muong Nhe district of Dien Bien.” HRW, May 17, 2011. This date and location have been confirmed by the applicants and other Hmong Vietnamese asylum seekers.

70. The applicants in the present cases and other Hmong Protestants attended the gathering for two main reasons: First, to demand the return of their land that had been confiscated without appropriate compensation by the Vietnamese government; second, to demand the right to practice their religion freely.

- Applicant “C” said that on May 2, 2011 government officials came to Muong Nhe and asked the Hmong why they had come there. “We answered because the government officials destroyed our farm land and sold our land to the rich, and have persecuted our Christians ways from 1990 until now.” For these reasons, the Hmong had come together to beg government officials to return their land so that they could support their families and to grant the people the ability to practice their religion freely. Originally from Lao Cai in the Northern Highlands, he traveled to the gathering from Binh Phuoc in the south.
- Applicant “D” provided two reasons for attending the gathering, “My land had been taken from me. I decided that I should attend the gathering with my brother because I did

not have land. They took mine from me in 2006. I had to rent land to farm.” The second reason for attending the gathering, he said, was “to demand religious freedom, to go to church.” Originally from the Lao Cai in the Northern Highlands, his family fled to Binh Phuoc in the south after police burned down his family’s home and 13 other houses in his village because they refused to renounce their religion.

- Applicant “E”, whose family relocated from the Northern Highlands to Dak Lak in 1995, said that “I decided to participate in the May gathering at Muong Nhe because I felt that my father had already been persecuted and I was being persecuted, and it would probably continue throughout generations. I wanted to do something about it. I knew so many Hmong Christians were going, and I wanted to go too and ask for freedom of religion and land rights.”
- Several applicants said they heard about the upcoming gathering in Muong Nhe from church leaders. Applicant "A" said church leaders in his village in Dien Bien told the people that “those who have had their land taken away from them and have no religious freedom, you can go, participate, and tell the authorities.”
- Applicant “F” said he decided to attend the gathering after hearing about it from church leaders in Dien Bien in April 2011. Once at the gathering he asked others why they had come: “They said the government took away my land and I could not make a living because of being a Protestant; others said they’d been fined a lot of money because of Protestantism so they were there to ask for religious freedom.”

71. On May 2, 2011 police and local government officials arrived at the site of the Hmong gathering. Authorities spoke to individual protestors, asking for the reasons behind their gathering. They took the protestors’ identification documents and recorded their names and residence information with the promise that their demands would be taken into consideration. These records appear to have been used to track and arrest protestors in later months. (Interviews with the asylum applicants.) A number of the applicants reported their experiences with the police, government officials, and/or military personnel who recorded their information:

- Applicant “C” said that on May 2, 2011, the authorities took his photo and wrote down the information on his identification card.
- Applicant “B” saw that the police and military were not returning the identification cards after recording the information, so he decided not to turn his over. However, the authorities photographed him and recorded his personal information.
- Applicant “D” arrived at the gathering site on May 2, 2011. The “people’s police” (*cong an nhan dan*) stopped him before he could enter the site and confiscated his identification card.
- The identification card of Applicant “G” was taken from him on May 2, 2011 by the police. He was told that that his identification card would be returned when the police came to give the Hmong the government’s response to their inquiries.

72. On May 2, 2011, when the government officials were questioning the participants in the gathering and collecting their identification cards, the military and police presence at the site was small and their actions were relatively non-threatening:

- Applicant “G” said, “When I arrived on the May 2, they [the police and military] were already there. They came in vehicles. I am not sure how many but I think there were about a dozen.”
- Applicant “B” said that “on 2 May they [the police and military] came in Toyota pick-up trucks and riot police vehicles. I am not sure about my estimate but there were about 40 or 50 people. They were just asking questions; they did not do anything.”

73. On May 3, 2011 the Vietnamese security forces increased their presence in the area.

- Applicant “C” said that on May 3 the government officials brought many soldiers and more police to monitor the area where the Hmong had gathered.
- Applicant “B” said, “They came just to observe. I am not sure how many were there. There were those I did not see.”

74. On May 4, 2011, two helicopters arrived at the area where the Hmong gathered, according to the asylum applicants.

- The first helicopter that arrived broadcast a voice recording that many of the participants believed to be that of Prime Minister Nguyen Tan Dung. This voice ordered the Hmong to go home and made threats to their safety if they did not. Applicant “C” said the voice, which identified itself as Prime Minister Nguyen Tan Dung, said: “I ask/beg for you to return to your homes. We will find farm land for you people so you can eat and drink. I am coming one time only. I will not come again. If you do not go home, don’t ... say that I didn’t warn you.”
- The second helicopter that arrived poured a colored liquid down upon the area where the Hmong gathered. Applicant “C” said: “That second [helicopter] came right above us and showered the poison like rain onto us, and that made us wet.” It caused the leaves on the trees to turn a “funny color,” and the water in the well where they drank to look oily, he said. A number of the participants believe that this unknown substance resulted in the deaths of some of the Hmong who were at the gathering. In particular, several of the applicants mentioned that two children and an elderly woman died soon after the liquid was dropped from the helicopter. The applicants said those who died had drunk the infected water or had eaten rice cooked with the infected water. While Vietnamese government officials admitted that at least one child died during the gathering, they blamed lack of food and water and poor sanitary conditions at the encampment. (Radio Free Asia, “Protests in Dien Bien as told by locals,” May 13, 2011 and DPA, “Babies die from poor conditions at protest camp,” May 9, 2011.)

75. Human Rights Watch reported that “[o]n May 4 and 5, Vietnamese military troops and helicopters moved in to suppress the assembled people.” HRW, Vietnam: Investigate Crackdown on Hmong Unrest, May 17, 2011.) Several of the applicants confirmed that there was a marked increase in the presence of Vietnamese armed forces on May 4 and 5:

- Applicant “G” said that on May 3 “there were many [armed forces] I could not count; there were over a hundred.” On May 4, he said there were even more: “over a thousand.”
- Applicant “B” said that on May 5 one of the participants received a warning that the Hmong people should go home because there were about 10,000 armed security forces surrounding the area.

- Applicant “C” said that on May 5 and 6, many riot intervention police arrived. They surrounded the area, prohibiting movement into or out of it.
- Applicant “A” said that by May 6, the numbers of soldiers and police, including *canh sat co dong*, or riot intervention police, matched the numbers of Hmong who had gathered, who he estimated had grown from 2-3,000 to nearly 7,000 people.

The Crackdown on May 6

76. On May 6, 2011, the assembled military and police, armed with truncheons, electric shock batons, pistols, and AK-47 assault rifles, began to use force to disperse the crowd, according to the applicants “A”, “B”, “D”, and “G”.

77. Several participants said that the violent dispersal of the gathering on May 6 was preceded by police and soldiers first asking everyone that day to gather together to learn how authorities were going to address their grievances.

- Applicant “C” said that on May 6 the police and soldiers asked all the Hmong to assemble, saying “today we are going to give to all of you what your heart desires. Please ask everyone to come together right here.”
- Applicant “D” said, “On May 6 the soldiers and police called us all to come closer. They said they were going to give us all we wanted. As we came closer, they took out batons to hit people and arrested people. People ran screaming into the woods. I saw people get hit by batons and tasers [electric shock batons]. No guns were used.”

78. According to Human Rights Watch, “There are unconfirmed reports that dozens of Hmong were killed or injured” by security forces during their attack on the gathering, adding that confirmation of the reports was difficult because “[t]he authorities sealed the area and refused permission to foreign diplomats and journalists to travel there.” (HRW, Vietnam: Investigate Crackdown on Hmong Unrest, May 17, 2011.) A number of the applicants reported seeing participants in the gathering who were seriously injured, with some possibly killed, during the attack:

- Applicant “B” said he saw an acquaintance from Dak Lak province being beaten on the head with a baton. When the man fell to the ground the applicant believed he was dead. The applicant then fled the gathering site.
- Applicant “D” said that on May 6, 2011 he saw a child about 13 years old stabbed by the police. He also saw a man, approximately 40 years old, hit in the head with a baton.
- Applicant “A” reported seeing a man beaten and collapsing on the ground. “His wife came and hugged him. The police came and stabbed her in the stomach. I saw that and did not want to stay and watch anymore so I ran.”
- Applicant “G” said that “[o]n the 6th I saw many people being beaten. But it was chaotic. I saw people being beaten and arrested -- both men and women; children as well. I was scared, so I ran.”

79. Government officials, such as the deputy chair of the provincial People’s Committee, rejected reports by foreign media agencies that local authorities used force to dispel the unrest, or that many Hmong were arrested and even killed:

- “The chairperson noted that while dispersing the crowd, the Muong Nhe authorities did not use force, but only organized working teams of mass organizations to help the people understand the scheme of these bad elements and to voluntarily return to their residential areas. They also provided medical care and treatment for those who were ill, especially the elderly and children, to ensure security and order there.” (*Quan Doi Nhan Dan* [People’s Army] newspaper, May 29, 2011.)
- Spokeswoman Nguyen Phuong Nga from the Ministry of Foreign Affairs of the Socialist Republic of Vietnam also stated that the protestors left Muong Nhe voluntarily. (Radio Free Asia, December 5, 2011.) This is inconsistent with the reports of the applicants in these cases, all of whom indicate that participants were driven from the area by violent means. The government account is also called into question by the reported extent of military and police deployment at the gathering.

Government Responses to the May Gathering, including Subsequent Persecution of Participants and Others

80. The state-controlled media in Vietnam, as well as some foreign wire services and radio stations, have attributed the mass gathering of Hmong to cult-like beliefs that a Hmong “King” or “savior / messiah” would come to the area on or around May 21, 2011 to unite the Hmong and create their own Hmong Kingdom there. In rationalizing the crackdown on the gathering, the Vietnamese government has focused its propaganda messages on this point, which resonates with its long-held official line that Hmong Protestantism is not a genuine religion, but a guise for anti-government activities used by “hostile forces” to dupe and incite the gullible, ignorant Hmong.

- In the government’s first public response to the unrest on May 5, the Foreign Ministry spokesperson told the press: “Taking advantage of the situation some bad elements tried to provoke the crowd and mobilize to establish an independent ‘kingdom’ of the Hmong, disturbing the social order, security and safety of the locality.” (Reuters, May 6, 2011.) Three days later, *Quan Doi Nhan Dan* (People’s Army) newspaper stated: “These acts of misusing religion to violate the law and destabilize Hmong ethnic communities in Muong Nhe, Dien Bien, should be promptly terminated. The instigators should be exposed and strictly punished under the law.” (*Quan Doi Nhan Dan*, May 8, 2011.)
- According to the Hmong asylum seekers who are applicants in these cases, however, there was no discussion of seeking independence or autonomy among those who joined the gathering in Muong Nhe. Instead, they say they gathered because of long-standing grievances over government confiscation of their land and persecution of them as Protestants.

Restrictions on Media Access and Mobility

81. Radio Free Asia -- a United States government-supported service that broadcasts to Asian countries whose governments deny freedom of expression -- reported that after the incident the Vietnamese government did not allow journalists or representatives of foreign governments or international organizations to enter the region. The reason stated was poor weather conditions. (AFP, May 6, 2011; Radio Free Asia, May 13, 2011.) Foreign media were finally authorized to visit Muong Nhe on May 26-27. (*Quan Doi Nhan Dan* [People’s Army], May 29, 2011.)

82. According to a number of the applicants in these cases, freedom of mobility for Hmong Protestants in Vietnam was further restricted after the May 2011 gathering. Prior to the gathering, a permit was required only to travel outside the province. After the gathering, Hmong villagers are not allowed to travel outside their own villages without a permit.

Subsequent Arrests and Mistreatment of Hmong

83. An unconfirmed number of Hmong who had gathered in Muong Nhe were detained in the months following the gathering.

- On May 12, Ministry of Foreign Affairs spokeswoman Nguyen Phuong Nga stated the authorities have arrested “a number of extremists” but provided no information about the numbers, identities, or whereabouts of those arrested. (“Vietnam: ‘Extremists’ detained in Hmong gathering,” Associated Press, May 12, 2011.)
- The official state media in Vietnam have reported on the detention and arrests of Hmong in conjunction with the unrest, such as the eight who were sentenced to prison in March 2012 (see paragraph 87, below.)
- Christian Solidarity Worldwide (CSW), a respected international non-governmental organization based in London, has reported that up to 130 participants may have been arrested and detained at the time of the gathering. (CSW, “Vietnam: eight Hmong sentenced following last year’s cult gathering in Dien Bien province,” March 16, 2012.)
- The applicants state that in the weeks and months after the gathering of Hmong Protestants in May 2011, many Hmong Protestants were detained and/or subjected to physical violence:
 - a. Applicant “F” reports that Mr. Giang A Su, a leader of an unregistered church in Lao Cai province, was summoned to the district office in December 2011 for his alleged participation in the gathering. He was detained there for two days. When the police released Mr. Giang A Su they threatened to re-arrest him soon. Mr. Giang A Su did not attend the May 2011 gathering.
 - b. Applicants “G” and “A” report that Mr. Vang A Chu and Mr. Ly A Chi from Nam Nhu III village in Dien Bien province were arrested in August 2011.
 - c. Applicants “G”, “A” and “B” report that Mr. Giang A Vang from Dien Bien was arrested after the gathering. Reports by the government-run news media confirm the arrest and conviction of a Mr. Vang A Giang.
 - d. Several applicants, including “B” and “E”, report that on December 12, 2011, police in Dak Lak province shot and killed a Hmong man who had participated in the gathering while he was in hiding in the jungle. He was from Cu Pui commune, Krong Bong district in Dak Lak.

84. Vietnamese police also attempted to arrest a number of the applicants for their participation in the gathering:

- Applicant “F” said that on December 29, 2011 four policemen surrounded his home at approximately 5:00 AM to arrest him. He was not home and evaded arrest.

- Applicant “C”: said that on October 18, 2011 at approximately 5:00 PM the police arrived at the home of his sister, where he was hiding, to arrest him. He was just outside the house. The applicant fled and the police followed in pursuit.
- Applicant “A” said the police came to arrest him on two occasions. On June 14, 2011 at 5:00 AM, eight policemen came to his home. Again on July 29, 2011 at 10:00 PM the police came to arrest him. He was not home on either occasion.
- Applicant “B” said that the police came armed to arrest him at his home a total of four times starting on July 14, 2011. After the first police visit to his home, the applicant went into hiding. On July 19 the police followed the applicant’s brother to his hiding place. The applicant and his brother saw the police and ran into the forest. The pursuing police fired three shots at the applicant as he fled.
- Applicant “D” said the commune police came to arrest him a total of three times. First, on September 19, 2011 about five armed policemen came to his home at nighttime. He was on his farm at the time. Approximately a week later at 8:00 AM, five policemen came to arrest him. He was not home; his wife was home alone. On October 30, 2011 at 3:00 AM the policemen came to his home to arrest him again. He was on the farm at that time.
- Applicant “G” said that the police came to look for him about two months after his return from the gathering. They first came on August 15, 2011. The police did not state the precise reason for their visit. He was not home. The police came to search for him two more times. In the two later visits the police explicitly stated that they were there to arrest the applicant.
- Applicant “E” reported that police came to his village in June 2011 to arrest him and two other participants in the gathering. The three men escaped into the forest. In December 2011, the police pursued and found them. The applicant and one of the other two men managed to escape deeper into the forest, and eventually to flee the country, but the third man was shot and killed on December 12 (see paragraph 83(d), above). The applicant reports that he submitted photographs of his friend’s body but that he was not given an opportunity to discuss these photographs during his UNHCR refugee status determination interview.

85. Arrests and detentions have not been limited to those who actually participated in the gathering. Family members of protestors who are in hiding have been detained and abused in search of information on the whereabouts of their relatives:

- Applicant “B” reports that Mr. Giang A Din, a man of approximately 40 years old who lived in in Dak Nong province, was arrested. Mr. Giang A Din himself did not attend the gathering; someone in his family did.
- Applicant “B” also reports that Mr. Mua A Xa, about 20 years old, who lived in Dak Nong province was arrested around the beginning of October 2011. Mr. Mua A Xa himself did not attend the gathering in May 2011; one of his family members attended the gathering.
- Applicant “G” reports that in mid-July, police beat Mr. Sung A Sao, a church leader from Dien Bien province. Mr. Sung A Sao himself did not attend the gathering; members of his congregation did.

86. Family members of those who went into hiding were threatened and beaten by the police:

- Applicant “F” was in hiding when the police came to arrest him at home. The police forced the applicant’s father to lead them to the hiding place of the applicant. Being warned by his wife, the applicant fled to a new location. When the police could not find the applicant at the original hiding place, the father of the applicant was beaten; his face and back were severely injured as a result.
- Applicant “A” was not home when the police came to visit. As a result of his absence, the police hit the applicant’s wife and she fell to the ground.
- Applicant “F” was not home when the police came to arrest him. His parents and wife were home at that time. The police held a gun to the applicant’s father’s head and threatened to arrest him in place of the applicant.
- Applicant “G” was in hiding when the police came to arrest him. The wife of the applicant was home. The police pointed a gun at the applicant’s wife’s chest, demanding to know the applicant’s whereabouts.

Imprisonment

87. Vietnamese state media reported that on March 13, 2012, the Dien Bien Provincial People’s Court sentenced eight Hmong to terms of up to two-and-a-half years’ imprisonment plus two years’ house arrest on charges of “disrupting security”. State media accounts alleged that the eight, plus two Hmong “ringleaders” who remained at large (Vang A Ia and Thao A Lu), had incited ethnic Hmong to claim a government land grant in order to establish a separate Hmong state. Sentenced to 30 months were Giang A Si and Vang A Giang. Sentenced to two years were Mua A Thang, Thao A Khay, Chang A Do, Thao A Lau, Cu A Bao, and Giang Seo Phu. (BBC Vietnamese Service, March 14, 2012; *Cong An Nhan Dan* (People’s Police) newspaper, March 14, 2012, Radio Free Asia, March 14, 2012; AFP, March 14, 2012.)

88. It should be noted that “Vietnamese courts remain under the firm control of the government and the Vietnam Communist party and lack independence and impartiality. Political and religious dissidents are often tried without the assistance of legal counsel in proceedings that fail to meet international fair trial standards. Defense lawyers who take on politically sensitive cases are intimidated, harassed, debarred, and imprisoned.” (HRW World Report 2012.)

Conclusion

89. It is evident that the May 2011 unrest in Muong Nhe and the government crackdown on Hmong Protestants was not an isolated incident based solely on “cult-like beliefs” by Hmong Protestants that a Hmong messiah would arrive on May 21, 2011. During the last decade, there has been growing discontent among the Hmong in the Northern and Central Highlands regarding confiscation of their land and inability to freely practice their religion. The level of religious persecution of Hmong Protestants during the last decade has remained steady, with local officials often basing the official confiscation of Hmong land on the fact that many Hmong Protestants refuse to renounce their religion. Issues of religious repression, discrimination against the Hmong as an ethnic minority and as Protestants, and land confiscation are often intertwined, with authorities making threats such as “If you don’t renounce your religion, you have no place here - - we will take your land and force you out.”

90. All the applicants whose cases are discussed in this declaration have experienced past persecution and/or threats of imminent persecution on account of their religion, ethnicity, and/or peaceful expression of political opinion. Nevertheless, all applicants have been rejected in their first-instance UNHCR refugee status determination proceedings.

91. The UNHCR rejection notices in these applicants’ cases were virtually identical in almost all cases. The notices conceded that the applicants “would continue to face restrictions on religious practice” if they were to return to Vietnam, and that “there will be some form of controlling and monitoring of some organized activities especially those that the government perceives as political activism or a challenge to its rule.” Yet the notices inform the applicants that “it is however assessed that such restrictions are unlikely to affect in a fundamental way. Based on this determination, it is assessed that the restriction on religious practices that you are likely to face upon return does not rise to the level of persecution.” The applicants who participated in the Muong Nhe gathering are also informed that “it is concluded that there is no reasonable likelihood that you would be individually targeted and held responsible for it by the Vietnamese government for your participation.” Finally, the notices state that since the applicants left -- that is, escaped from -- Vietnam illegally, “You may face prosecution and/or punishment for violation of a law of general application in your country of origin. However, based on your profile and the available information, the Office concludes that the law is not persecutory or that it would be applied in a persecutory way.”

92. Declarants respectfully suggest that the UNHCR rejection notices contain serious errors both with respect to the facts of these cases and in the application of UNHCR’s own rules and standards. As noted above, all the applicants escaped from Vietnam after having been persecuted for their participation in the Muong Nhe event and/or for previous political and religious activities, or, in the case of a few applicants, having been credibly threatened with imminent persecution for these activities. Since their departure from the country the family members of several applicants have been relentlessly persecuted about their activities, their alleged relationships with “reactionary organizations,” and their whereabouts. These applicants therefore find it difficult to understand the reasoning behind the conclusory observation that whatever may happen to them will “not rise to the level of persecution.”

93. The reference in the UNHCR rejection notices to the applicants’ “profile” -- which, like everything else in the notices, is identical in all notices and contains no discussion of individual applicants’ particular circumstances -- suggests that the adjudicators are applying a “heightened

profile” test that has also been applied in other refugee status determination cases involving members of ethnic minority groups from Vietnam. This test effectively imposes a requirement that an applicant show that he or she has already been singled out by the authorities in order to show a well-founded fear of persecution. This violates two fundamental principles of refugee law, both of which are set forth in UNHCR’s “Note on the Standard of Proof in the Refugee Cases.” Paragraph 19 of the UNHCR Note states that “[w]hile past persecution or mistreatment would weigh heavily in favor of a positive assessment of risk of future persecution, its absence is not a decisive factor.” And paragraph 17 of the Note adds that “jurisprudence largely supports the view that there is no requirement to prove well-foundedness conclusively beyond doubt, or even that persecution is more probable than not. To establish ‘well-foundedness,’ persecution must be proved to be reasonably possible.”

94. Even under the hyper-strict “heightened profile” test, however, the evidence in these applicants’ cases shows that they have a well-founded fear of persecution upon return to Vietnam. Each of the applicants has shown that he does indeed have a “heightened profile” sufficient to have attracted the unwanted attention of the authorities on one or more occasions. Indeed, many of the applicants fled Vietnam under threat of arrest or with the authorities in hot pursuit.

95. The Notices of Decision also appear to assume without analysis that whatever harm applicants do face for having fled the country will amount to lawful punishment under laws of general application rather than persecution motivated by the authorities’ hostility to the applicants on account of their ethnicity and/or their religious and political beliefs and activities. In sharp contrast to the UNHCR Notice of Decisions, however, the Vietnamese law on illegal exit clearly acknowledges that punishment under this law is targeted directly at those who are regarded as enemies of the state. Article 91, on illegal exit, is per se persecutory. Unlike most such laws in other countries around the world, this law does not simply punish illegal exit from the country. Rather, Article 91 punishes only those who flee abroad “with a view to opposing the peoples’ administration.” That is, it explicitly singles people out for criminal prosecution and imprisonment on account of their political opinions. Others who engage in identical conduct for some other motive -- economic, social, or even political so long as the political opinion in question is not anti-government -- are not punishable. The law is therefore not a true law of general application, even on its face; it explicitly limits its sanctions to those who hold a particular political opinion, one of the five grounds specified in the Refugee Convention. No one would argue that a law punishing only persons of color who flee a country, or only Catholics who leave a country, was a law of general application. It is just as frivolous to make such an assertion about a law punishing only anti-government political activists who leave the country. This is an explicit link to one of the five grounds of persecution set forth in the Refugee Convention.

96. As noted above, the Notices of Decision inform applicants that although they can anticipate certain “restrictions” on the free exercise of their religion and on activities the government might regard as political, these restrictions and difficulties are not so severe as to constitute persecution. These statements not only constitute a significant understatement of the mistreatment inflicted on many Hmong -- see paragraphs 25-62 above -- but also appear to misstate the applicable law. The test of whether a person whose government refuses to let him or her exercise an internationally recognized human right faces a risk of persecution comprehends not only whether the denial of the right is itself persecution, but also whether the actions the government is likely

to take against him if he insists on exercising the right may constitute persecution. The applicants in these cases have shown not only that their rights to own property, to practice their religion, and to express peacefully their political opinions are likely to be violated, but also that they have a propensity to resist such violations. Even if the government-imposed restrictions on the free exercise of religion and the government's refusal to return confiscated lands do not themselves amount to persecution, these applicants have a well-founded fear of persecution if there is a reasonable likelihood that they will be persecuted when they attempt to practice their religion in the prohibited ways, to protest these prohibitions by peaceful means such as petitions and demonstrations, and to take similar actions with respect to confiscated lands. The available country of origin information, including but not limited to the recent experiences of applicants themselves and many of their fellow participants in the May 2011 Dien Bien gathering, reflects that the Vietnamese authorities frequently respond to such nonviolent resistance by inflicting imprisonment, torture, cruel and inhuman treatment, and other forms of persecution.

97. Because of the substantial risk that the applicants would be subjected to arrest and torture if returned to Vietnam (see paragraphs 54-62 above), declarants respectfully submit that asylum countries and UNHCR are obligated to abide by Convention Against Torture provisions designed to protect persons from being returned to countries where they would be in danger of torture or face risk to life or risk of cruel and unusual treatment or punishment. Instead, they should be given refugee protection, including the right of non-refoulement.

98. Declarants therefore respectfully request that UNHCR reverse the decisions listed in paragraph 1 on appeal (or, in cases where this has become the only recourse available to the applicant, on motions to reopen and/or reconsider) and recognize the applicants in these cases and all other similarly situated Hmong applicants as refugees.



Nguyen Dinh Thang

August 8, 2012



Grover Joseph Rees

August 8, 2012



Sara Colm

August 8, 2012