

## APPENDIX II

### A

1. The UK Operational Guidance Note on Vietnam 2009<sup>1</sup> (which UNHCR relies on as support for the statement that only people with “heightened religious or political profiles are likely to face scrutiny, investigation and interrogation rising to the level of persecution” when they return to Vietnam) assesses the likelihood of persecution by the Vietnamese authorities:

(a) for reasons of actual or imputed political opinion, as follows:

*“3.6.11...The Vietnamese authorities may take serious action against individuals involved with opposition political parties/ organizations who they believe pose a threat to the state and this treatment may amount to persecution. Where an individual is able to demonstrate that they have taken part in opposition political activities and as a result of these will come to the attention of the authorities, and face a serious risk of persecution on account of their activities, a grant of asylum will be appropriate.”* [Emphasis added]

(b) for reasons of ethnicity, in the following manner:

*“3.7.11...members of Minority Ethnic Groups who are involved in anti-government activities and/or who are associated with opposition political parties or minority religious groups may come to the adverse attention of the authorities and may face persecution...Where an individual is able to demonstrate that they have taken part in opposition political activities or anti-government protests and as a result of this will come to the attention of the authorities and face a serious risk of persecution on account of their activities a grant of asylum will be appropriate.”* [Emphasis added]

(c) and for religious reasons (and in particular for the claims of members of unregistered religious groups), as follows:

*“3.8.12 Members of unregistered religious groups usually face more difficulties than members of registered communities and may face intimidation and harassment. The levels of ill-treatment suffered will vary depending on religion and the attitude of local officials and in the majority of cases this will not amount to persecution. Therefore a grant of asylum or Humanitarian Protection will not be appropriate. However, in particular cases, for example those involving ethnic minorities belonging to unregistered Protestant groups, the level of ill treatment may amount to persecution, and therefore in these cases a grant of asylum will be appropriate.”* [Emphasis added]

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<sup>1</sup> United Kingdom: Home Office, *Operational Guidance Note: Vietnam*, 9 June 2009, available at: <http://www.unhcr.org/refworld/docid/4a2f6abc2.html> [last accessed 3 November 2009]

2. The United States Commission on International Religious Freedom 2008 Report<sup>2</sup> (the “USCIRF 2008 Report”) stated that:

*“...religious communities and individuals viewed as political or security threats by the Vietnamese government face continued harassment, detention, or arrest. These include ethnic minorities, both Buddhist and Protestant, whose religious practice is viewed, in the words of a government training manual, as something to be “resolutely overcome.””* [Emphasis added]

## **B**

1. It is noted in the USCIRF 2008 Report<sup>3</sup> that:

*“Testimony by recently released detainees indicates that the Vietnamese government arrested many whose only “crime” was affiliation, whether through employment, church, or family with individuals suspected of “anti-government” activity.”* [Emphasis added]

2. A Human Rights Watch assessment<sup>4</sup> states that:

*“In an effort to eradicate dissent and independent religious activities among the Montagnards, the Vietnamese authorities have harassed, threatened, beaten, detained, and imprisoned not only Montagnards perceived to be high profile leaders, but followers, “helpers”, and people simply trying to flee the country to seek asylum elsewhere.”* [Emphasis added]

## **C**

1. The USCIRF 2008 Report<sup>5</sup> stated that:

*“The Central Highlands region, the scene of protests for land rights and religious freedom in 2001 and 2004 that were violently dispersed by the authorities, continues to be the site of particularly severe religious freedom and other human rights violations. Since the demonstrations, officials have imprisoned those believed to have organized or taken part in the protests and those who sought asylum in Cambodia during police crackdowns after the demonstrations. Some Montagnard villages and communes remain under tight government control, and no international observer has been allowed unobstructed access to the region. Even “approved” churches face problems in this region; one-third of the SECV churches in Dak Lak province that were closed in 2001 continue to face serious restrictions on their activities and police regularly break up meetings.”* [Emphasis added]

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<sup>2</sup> USCIRF Annual Report 2008 - Vietnam, 1 May 2008, which is available at: <http://www.unhcr.org/refworld/docid/4855699537.html> [last accessed 3 November 2009]

<sup>3</sup> Ibid.

<sup>4</sup> Taken from a briefing note prepared by Human Rights Watch for Asylum Access in October 2009

<sup>5</sup> USCIRF Annual Report 2008 - Vietnam, 1 May 2008, which is available at: <http://www.unhcr.org/refworld/docid/4855699537.html> [last accessed 3 November 2009]

2. The United States Commission for International Religions Freedom Report 2009<sup>6</sup> (the “**USCIRF Report 2009**”) states that:

“...Also in the past year, *Montagnard Protestants have been subject to a number of short-term detentions, disappearances, and one possible beating death in custody.* According to reports from NGOs and several members of the European Parliament, Montagnard Protestant Puih H'Bat was arrested in April 2008 for leading an illegal prayer service in her home in Chu Se district, Gia Lai province – an area where there have been protests over land rights and religious freedom abuses in the past.

... Also in the same Gia Lai province district, *as many as 11 Montagnard Protestants were detained in February 2009, after police reportedly entered a worship service and asked everyone present to renounce their faith or join the officially recognized Southern Evangelical Church of Vietnam (SECV). Everyone who refused was arrested.* Nine were released a month later, and two remain in detention at this writing. The State Department was able to confirm, from other religious leaders in the region, that these individuals were arrested for trying to organize an independent Protestant organization, an activity the Vietnamese government has refused to allow in this area since the large religious freedom protests in 2001 and 2004....

...In March 2008, religious leaders from the Inter-Evangelistic Movement (IEM) in Bien Phuoc were reportedly beaten and insulted by police when they traveled to Dak Nong province to hold services. *On November 11, 2008, Vietnamese government officials issued fines and summons to everyone affiliated with an independent Protestant church of EahLeo hamlet, Dak Lak province. Charges were later filed accusing the church of operating an illegal Bible school for people outside the province, and ordering it to dismantle the school and to cease religious activity because it was not legally recognized.* The church continues to meet in another location. Also in November, in EaSup hamlet, Dak Lak province, police and provincial officials confiscated lumber purchased to build a chapel and issued an order telling the church in EaSup not to meet. *In December 2008, hundreds of police and provincial officials destroyed a new Protestant church structure in Cu Dram hamlet; ethnic minority Protestants who protested the demolition were beaten with sticks and electric prods, some were severely injured and later were refused medical treatment.* Leaders of this Cu Drom hamlet church continue to be threatened with arrest at this writing. *Other independent ethnic minority congregations in EaSol and Thay Ynge hamlets and Krong Bong district of Dak Lak report that their leaders are regularly summoned to police stations and forced to sign papers agreeing that they will not gather "new" Christians for worship and that churches cannot be organized with believers from other hamlets or districts.* Vietnamese government policy does not permit anyone who belongs to an unofficial religious group to speak publicly about their beliefs.”

3. And Human Rights Watch has stated that:

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<sup>6</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2009 - Countries of Particular Concern: Vietnam*, 1 May 2009, available at: <http://www.unhcr.org/refworld/docid/4a4f27302.html> [last accessed 3 November 2009]

“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”<sup>7</sup>

And that:

*“Since May [2009], more than 30 Montagnard Christians belonging to independent house churches in Gia Lai province have been arrested, with some severely beaten, for holding unsanctioned prayer meetings in their homes. In addition, nine Montagnards were sentenced in recent months to prison terms of up to 12 years on national security charges, joining another 300 Montagnards imprisoned since 2001.”*<sup>8</sup>

And that:

*“During 2009, Human Rights Watch received credible reports of police and government authorities raiding Montagnard house churches in the Central Highlands. They arrested, and in some cases severely beat, Montagnard Christians for refusing to join state-sanctioned church organizations, protesting or complaining about confiscation of their farm land, suspected links with Montagnard activists in the US, or trying to seek political asylum in Cambodia or Thailand....*

*The harassment and arrest of Montagnard Christians in the Central Highlands for participating in independent house churches is not a new phenomenon. In 2007, for example, the government recognized-Evangelical Church of Vietnam reported that an Ede Christian died in in Phu Yen province after being detained and beaten by police for not renouncing his religion...*

In many areas, authorities at the least discourage people from following their religion but in many instances order people to stop practicing their religion.”<sup>9</sup> [Emphasis added]

## D

1. The US Department of State Annual Country Report 2008 (the “**US Country Report for 2008**”) <sup>10</sup>states that:

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<sup>7</sup> Human Rights Watch, *World Report 2009 (Events of 2008)*, 15 January 2009. Available at: <http://www.hrw.org/en/world-report/2009/vietnam> [last accessed 3 November 2009]

<sup>8</sup> Human Rights Watch, *Vietnam: Government Rejects UN Proposals to Improve its Rights Record*, 25 September 2009, available at: <http://www.unhcr.org/refworld/docid/4ac06f172c.html> [last accessed 3 November 2009]

<sup>9</sup> Report prepared by Human Rights Watch for Asylum Access Thailand, October 2009.

<sup>10</sup> U.S. Department of State, *Country Report on Human Rights Practices 2008: Vietnam*, 25 February 2009. Available at: <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119063.htm> [last accessed 3 November 2009]

“The law mandates that the government act in a timely and transparent fashion, *but the approval process for registration and recognition of religious organizations was sometimes slow and nontransparent.*”

2. The USCIRF 2008 Report<sup>11</sup> states that:

“Not all religious groups are eligible for registration. *Independent Hoa Hao and Cao Dai groups, and some Mennonite, Baptist, and other house church Protestants in the Mekong Delta, Central Highlands, and northwest provinces have not been allowed to register....*

*...improvements often depend on the province, minority members' religious affiliation, and the goodwill of provincial officials. In the Central Highland province of Gai Lai, for example, ethnic Montagnard Protestants associated with the government-approved Southern Evangelical Church of Vietnam (SECV) have established a positive working relationship with the provincial officials, which has led to the re-opening of many religious venues closed after 2001, new religious training courses for pastors, and the construction of at least one new church building. However, in other ethnic minority areas of the Central Highlands and central coast region, there were reports of restrictions, land seizures, discrimination, and other abuses of religious freedom. It was also clear that government officials, even in Gai Lai province, remain wary of independent Protestant groups not affiliated with the SECV....*

*...As many as 700 of the 1,250 churches and meeting points closed after 2001 have since been re-opened. However, religious freedom improvements depend upon province, religious affiliation, and the goodwill of local and provincial officials. For example, severe restrictions on the activities of religious groups and believers in parts of Dak Lak, Dak Nong, Kontum, and Bien Phouc provinces continue....*

*...Religious leaders in the Central Highlands have reported that progress made in the previous year has, for the most part, stalled. New legal registrations and recognitions have stopped, officials are refusing to approve new building permits, and the authorities have not renewed permission to hold additional religious education classes. Over the past year, even members of the government-approved SECV have been subjected to beatings and other ill-treatment, arrests, and various restrictions, including government discrimination. According to the State Department, one-third of the SECV churches in Dak Lak province that were closed in 2001 continue to face severe restrictions on their activities. Police regularly prevent people from gathering and break up meetings, halting religious activity in as many as 100 congregations.” [Emphasis added]*

3. Furthermore, the US Department of State 2008 Report on International Religious Freedom (the “**U.S. Religious Freedom Report 2008**”)<sup>12</sup> stated:

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<sup>11</sup> USCIRF Annual Report 2008 - Vietnam, 1 May 2008, which is available at:

<http://www.unhcr.org/refworld/docid/4855699537.html> [last accessed 3 November 2009]

<sup>12</sup> United States Department of State, 2008 Report on International Religious Freedom - Vietnam, 19 September 2008, available at: <http://www.unhcr.org/refworld/docid/48d5cbd069.html> [last accessed 3 November 2009]

“Government practices and bureaucratic impediments restricted religious freedom and growth. The constitutional right of freedom of belief and religion continued to be interpreted and enforced unevenly. In some areas local officials allowed relatively wide latitude to believers; in other provinces believers were sometimes subject to harassment from local officials....

*...For example, the Central Highlands province of Gia Lai closely followed government policy and registered all of the SECV "meeting points" in the province pending their future recognition. However, in neighbouring Dak Lak and Binh Phuoc Provinces, many SECV "meeting points" remained unregistered. In certain cases recognized and unrecognized Protestant groups were able to overcome local harassment or to overturn negative local decisions after they appealed to higher-level authorities.” [Emphasis added]*

4. The USCIRF Report 2009<sup>13</sup> states that:

...there continue to be serious problems in the implementation of the Ordinance, with reports that some provincial officials ignore recognition applications, require them to include the names of all religious adherents in a church, or pressure religious leaders to join groups already given legal recognition, despite theological or other objections.... Religious groups whose applications for legal recognition are denied or who do not meet the Ordinance's vague standards are technically illegal and can be closed without warning.”

“In the past year, religious groups were harassed and their venues destroyed because they did not have legal status. *In addition, there were reports that ethnic minority Protestants were arrested and detained for over a month because their meeting point was not legally recognized or because they were not affiliated with the government approved religious organization.*”

5. And the US Department of State Report on International Religious Freedom 2009 (the “**U.S. Religious Freedom Report 2009**”)<sup>14</sup> states that:

“Despite progress during the reporting period, significant problems remained with the implementation of the legal framework on religion, especially at the provincial and village levels. *These included the slow pace, in some cases inaction, of registration of Protestant congregations in the north and the Northwest and Central Highlands; inconsistent application of procedures for the registration of congregations; and other cumbersome legal requirements and restrictions on religious recruitment.* In some areas where registration has been slow, Protestant congregations experienced harassment...

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<sup>13</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2009 - Countries of Particular Concern: Vietnam*, 1 May 2009, available at <http://www.unhcr.org/refworld/docid/4a4f27302.html> [last accessed 3 November 2009]

<sup>14</sup> United States Department of State, *Report on International Religious Freedom - Vietnam*, 26 October 2009, available at: <http://www.unhcr.org/refworld/docid/4ae860f8c.html> [last accessed 3 November 2009]

*...Because of the lack of due process and inconsistent oversight, religious activities can be subject to the discretion of local officials.* In some cases local officials reportedly told religious leaders that national laws do not apply to their jurisdictions. In other cases different provinces applied the same laws differently.

The Government remained concerned that some ethnic minorities in the Central Highlands were operating a self-styled "Dega Church," which reportedly mixes religious practice with political activism and calls for ethnic minority separatism. *This complicated the registration process for other churches in the area.* [Emphasis added]

## E

1. The U.S. Country Report on Human Rights Practices 2008<sup>15</sup> stated that:

*"On May 1, Y Ben Hdok, a Montagnard from Dak Lak, died while in detention in the Buon Ma Thuot provincial police station. Police detained him on April 28 for questioning regarding his suspected involvement in inciting demonstrations. Officials stated that the suspect hanged himself during a break in questioning, but family members said his corpse was bruised. No investigation was carried out, and the family reportedly refused to authorize an autopsy..."*

*...In April a fresh wave of demonstrations in the Central Highlands resulted in dozens of reported arrests and detentions of individuals suspected of organizing the protests. Local observers reported the demonstrations were prompted by ethnic minority groups protesting local land use policies....*

*...Some members of ethnic minority groups in the Central and Northwest Highlands continued to complain that they had not received proper compensation for land confiscated to develop large-scale state-owned coffee and rubber plantations. Several residents attributed the cause of the April demonstrations in the Central Highlands to ethnic minority frustration and discontent over policies regarding state land use."*  
[Emphasis added]

2. Human Rights Watch has stated that:

*"In April 2008, police and soldiers forcibly dispersed Montagnard Christians demonstrating in the Central Highlands, and arrested dozens of protesters. In August*

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<sup>15</sup> U.S. Department of State, *Country Report on Human Rights Practices 2008: Vietnam*, 25 February 2009. Available at: <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119063.htm> [last accessed 3 November 2009]

four Montagnards were imprisoned on charges of organizing protests and helping people flee to Cambodia.<sup>16</sup>” [Emphasis added]

Furthermore,

“In mid-April 2008 Montagnards in several districts in Gia Lai and Dak Lak provinces attempted to conduct demonstrations calling for land rights and religious freedom. *Security forces, reportedly including two military divisions, were sent to the villages, barring people from freely leaving their villages for almost two weeks.* As with similar – but much larger protests in the Central Highlands in 2001 and 2004, police and soldiers forcibly dispersed the demonstrators and arrested dozens of Montagnards.<sup>17</sup>” [Emphasis added]

Sanctions imposed on people involved in these demonstrations included:

“• In September 2009, for example, the Gia Lai provincial people’s court sentenced three Montagnards to sentences of 7-10 years. Accused of planning demonstrations, they were charged with “undermining national unity.”

• In a trial on July 21, 2009, three Montagnards from Chu Se district, Gia Lai province – who were arrested in March 2009 - were sentenced to prison terms of 7-12 years on national security charges.

• In April 2009, three Montagnards from Gia Lai province, accused of planning a demonstration, were sentenced to prison terms of up to 12 years on national security charges of "undermining national unity."

• In August 2008, four Montagnards in Dak Nong province were imprisoned on national security charges for allegedly organizing protests in 2008 and helping people flee to Cambodia.”<sup>18</sup>

## F

1. The U.S. Country Report on Human Rights Practices 2008<sup>19</sup> states that:

“Although the government officially prohibits discrimination against ethnic minorities, *longstanding societal discrimination against ethnic minorities persisted.* Despite the country's significant economic growth, ethnic minority communities benefited little from improved economic conditions.” [Emphasis added]

2. The USCIRF Report 2009<sup>20</sup> states that:

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<sup>16</sup> Human Rights Watch, *World Report 2009 (Events of 2008)*, 15 January 2009. Available at: <http://www.hrw.org/en/world-report/2009/vietnam> [last accessed 3 November 2009]

<sup>17</sup> Taken from a briefing prepared by Human Rights Watch for Asylum Access Thailand, October 2009.

<sup>18</sup> Ibid.

<sup>19</sup> U.S. DEPARTMENT OF STATE, *Country Report on Human Rights Practices 2008: Vietnam*, 25 February 2009. Available at: <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119063.htm> [last accessed 3 November 2009]



*“There is also disturbing evidence that provincial officials in the Central Highlands are targeting ethnic minority Protestants for official discrimination. Children are denied access to high school, based on outdated laws prohibiting entrance of children from religious families. There are also reports that Protestants are denied access to government benefits readily available to non-Protestants, including housing and medical assistance programs. In addition, local officials reportedly pressure family elders, threatening to take away their government benefits unless they convince younger family members to renounce their faith. [Emphasis added]*

*Montagnard Protestants have long complained of targeted discrimination, but at least one eyewitness report indicates that provincial officials are being trained in discriminatory tactics. At a 2007 religious training workshop in Kontum conducted by central government officials, local police and government officials were taught how to deny medical, educational, housing, financial, and other government services to "religious families" and families of recent converts. In addition, officials were instructed to divert foreign aid projects from known Protestant villages.” [Emphasis added]*

3. And the U.S. Religious Freedom Report 2009<sup>21</sup> states that:

“There were reports that local officials in rural communities continued to discourage conversion to Protestantism by threatening converts with difficulties in applying for identity-related documents or losing education and social welfare allowances.”

## G

1. Amnesty International has stated:

(a) In May 2009<sup>22</sup> that:

*“Vaguely-worded offences in the national security section of the Penal Code are used to criminalize peaceful political and religious dissent. Articles 80 (Spying), 87 (Undermining the unity policy), 88 (Conducting propaganda against the Socialist Republic of Viet Nam), and 91 (Fleeing abroad or defecting to stay overseas with a view to opposing the people’s administration) of this section are commonly used to imprison government critics, as is Article 258 (Abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens).*

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<sup>20</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2009 - Countries of Particular Concern: Vietnam*, 1 May 2009, available at <http://www.unhcr.org/refworld/docid/4a4f27302.html> [last accessed 3 November 2009]

<sup>21</sup> United States Department of State, *Report on International Religious Freedom - Vietnam*, 26 October 2009, available at: <http://www.unhcr.org/refworld/docid/4ae860f8c.html> [last accessed 3 November 2009]

<sup>22</sup> Amnesty International, *Socialist Republic of Viet Nam. Submission to the UN Universal Periodic Review: Fifth session of the UPR Working Group of the Human Rights Council*, May 2009 Available at: <http://www.amnesty.org/en/library/info/ASA41/007/2008/en> [last accessed 3 November 2009]

*The length of applicable prison terms ranges from two to 20 years' imprisonment, life imprisonment, or capital punishment....*

The authorities also use administrative detention to place restrictions on the peaceful activities of religious and political dissidents...

A new religious decree came into effect in November 2004, which codifies de facto state control over all aspects of religious life. The decree has been criticized by several religious groups in Viet Nam. While the number of churches recognized by the state has increased during the period under review, *members of churches still not officially approved by the state continue to face repression, including harassment, forced renunciation of their faith, administrative detention and imprisonment...*

... An unknown number of Montagnards from among the more than 250 who were sentenced to lengthy prison terms in connection with the large-scale protests in 2001 and 2004 around land ownership and religious freedom are believed to remain in prison. *Many of them were sentenced to between five and 12 years' imprisonment under Articles 87 (Undermining the unity policy), 88 (Conducting propaganda against the Socialist Republic of Viet Nam), 89 (Disrupting security) and 91 (Fleeing abroad or defecting to stay overseas with a view to opposing the people's administration) of the national security section of the Penal Code....*

...A Memorandum of Understanding (MOU) between Viet Nam, Cambodia and UNHCR, signed in January 2005 to resolve the situation of asylum-seekers, remains in place. *It appears to have been violated by the Vietnamese authorities, with reports that in some cases people who had returned from Cambodia to Viet Nam under the MOU were detained, interrogated and ill-treated.*" [Emphasis added]

(b) And in June 2008<sup>23</sup> that:

"An unknown number of the more than 250 Montagnards sentenced for offences in connection with protests in 2001 and 2004 *and for assisting people to 'escape' across the border into Cambodia remain imprisoned*" [Emphasis added]

2. Human Rights Watch has stated:

(a) In January 2009<sup>24</sup> that:

"*In August [2008] four Montagnards were imprisoned on charges of organizing protests and helping people flee to Cambodia.*" [Emphasis added]

(b) In May 2009<sup>25</sup> that:

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<sup>23</sup> Amnesty International, *Viet Nam: Time to live up to human rights commitment*, 30 June 2008. Available at: <http://www.amnesty.org/en/library/info/ASA41/001/2008/en> [last accessed 3 November 2009]

<sup>24</sup> Human Rights Watch, *World Report 2009 (Events of 2008)*, 15 January 2009. Available at: <http://www.hrw.org/en/world-report/2009/vietnam> [last accessed 3 November 2009]

*Vaguely-worded and loosely-interpreted national security crimes in Vietnam's penal code and other laws are used to imprison political and religious dissidents. These include conducting propaganda against the government (penal code article 88); "abusing democratic freedoms" of speech, press, belief, religion, assembly, and association to "infringe upon the interests of the State" (article 258); "undermining the unity police" (article 87) "disrupting security" (article 89); "causing public disorder" (article 245), and spying (article 80).*

*Other legislation, such as Ordinance 44, "Regulating Administrative Violations," authorizes local officials to arrest and detain in compulsory Social Protection Centers (Trung Tam Bao Tro Xa Hoi in Vietnamese), rehabilitation camps, psychiatric facilities, or under house arrest persons deemed to have violated national security laws, without going through a judicial process. For example, in March 2008, police arrested Bui Kim Thanh, an activist who defended victims of land confiscation, and involuntarily committed her to a mental hospital for the second time in two years. [Emphasis added]*

(c) In September 2009 that<sup>26</sup>:

*"...nine Montagnards were sentenced in recent months to prison terms of up to 12 years on national security charges, joining another 300 Montagnards imprisoned since 2001."* [Emphasis added]

(d) And in October 2009<sup>27</sup> that:

*"Most Vietnamese nationals who are perceived to have fled the country to seek asylum on political or religious grounds will be treated with suspicion upon return to Vietnam, particularly members of groups that are already "suspect" from the point of view of the Vietnamese government; eg Montagnard Christians and land rights activists, as well as members of the banned Unified Church of Vietnam, Hoa Hao Buddhists, and Khmer Krom Buddhists."* [Emphasis added]

3. And the USCIRF 2008 Report<sup>28</sup>, stated:

*"Since the [2001 and 2004] demonstrations, however, Vietnamese officials have imprisoned those believed to have organized the protests, others suspected of taking part, and those who sought asylum in Cambodia during police crackdowns after the*

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<sup>25</sup> Human Rights Watch Universal Periodic Review Submission: Vietnam, 8 May 2009. Available at: <http://www.hrw.org/en/news/2009/05/08/universal-periodic-review-submission-vietnam> [last accessed 3 November 2009]

<sup>26</sup> Human Rights Watch, *Vietnam: Government Rejects UN Proposals to Improve its Rights Record*, 25 September 2009, available at: <http://www.unhcr.org/refworld/docid/4ac06f172c.html> [last accessed 3 November 2009]

<sup>27</sup> Briefing prepared by Human Rights Watch for Asylum Access Thailand in October 2009

<sup>28</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2008 - Vietnam, 1 May 2008*, available at: <http://www.unhcr.org/refworld/docid/4855699537.html> [last accessed 3 November 2009]

demonstrations. Vietnamese security officials have also pursued Montagnards into Cambodia to stop the flow of asylum seekers.”

4. The US Country Report for 2008<sup>29</sup> stated:

*“Courts may sentence persons to administrative detention of up to five years after completion of a sentence. In addition police or mass organizations can propose that one of five "administrative measures" be imposed by people's committee chairpersons at district and provincial levels without a trial. The measures include terms ranging from six to 24 months in either juvenile reformatories or adult detention centers and generally were applied to repeat offenders with a record of minor offenses, such as committing petty theft or "humiliating other persons." Chairpersons may also impose terms of "administrative probation," which generally was some form of restriction on movement and travel. Despite the March 2007 repeal of Decree 31, an administrative measure often used to punish perceived political dissidents, authorities continued to punish some individuals using other vaguely worded national security provisions in the criminal code....*

*... There were a few reports that ethnic minorities seeking to enter Cambodia were returned by Vietnamese police operating on both sides of the border, sometimes followed by police beatings and detentions... ” [Emphasis added]*

5. Finally, Minority Rights Group International, in its 2009 Report on Cambodia<sup>30</sup> stated:

*“Cambodia continues to violate its obligations under the UN Refugee Convention by forcibly returning Vietnamese Montagnards, or Degar, before they are able to apply for asylum. Riot police broke up a demonstration in July 2008 by around 60 Montagnard asylum-seekers in the capital, protesting the forced repatriation of 28 members of their community to Vietnam. During 2008 UNHCR provided shelter in Phnom Penh to approximately 500 Montagnard asylum seekers, including about 200 new arrivals.”*

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<sup>29</sup> U.S. DEPARTMENT OF STATE, *Country Report on Human Rights Practices 2008: Vietnam*, 25 February 2009. Available at: <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119063.htm> [last accessed 3 November 2009]

<sup>30</sup> Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2009 - Cambodia*, 16 July 2009, available at: <http://www.unhcr.org/refworld/docid/4a66d9bdc.html> [last accessed 3 November 2009]