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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Jubilee Campaign, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2019]

* Issued as received, in the language(s) of submission only.

Statelessness as a form of punishment against Hmong and Montagnard Christians in the Socialist Republic of Viet Nam

Jubilee Campaign draws the Council's attention to the dire conditions faced by ethnic and religious minorities in the Socialist Republic of Viet Nam. For the past 20 years, many provincial governments have excluded Hmong and Montagnard Christians from the most basic rights otherwise available to citizens as punishment for not renouncing their Christian faith. We have documented some 2,000 households, totaling about 10,000 individuals, who have been affected. The actual number may be much higher.

About half of these victims come from the Hmong population, an indigenous minority in the Northwestern Mountainous Region of Viet Nam where many provinces, such as Son La and Lai Chau have resorted to forceful measures to prevent the Hmong from converting to Christianity. Hmong Christians have been ordered to renounce their faith, those who resisted were evicted from their villages. They migrated to other provinces in northern Viet Nam and to the Central Highlands, where they formed new communities in uninhabited areas, usually at the edge of the jungle. Local governments do not register them as legal residents, creating constant insecurity.

Without household registration, the displaced Hmong Christians cannot apply for citizenship ID cards; married couples are not issued marriage certificates; children are often denied birth certificates -- those lucky enough to get birth certificates do not have their father's name listed and are considered fatherless. With or without birth certificates, these children are not admitted into school for lack of household registration. Without citizenship ID cards, stateless Hmong cannot get employment, apply for a business license, open a bank account, or even use the public library. They do not have access to public benefits, social welfare, public health care... In brief, they are not treated as citizens in their own country. They have been rendered stateless because of their Christian faith.

Stateless Hmong Christian Households:

- 71 households in the Tá Phì Chà worship group of Chung Chày Commune, Mường Nhé District, Điện Biên Province.
- 6 households in the worship group at the source of Nậm Hạ Creek, Kan Hồ Commune, Mường Tè District, Lai Châu Province. The worship group started meeting in 2013 and have not been issued papers.
- 5 households in Huổi My Hamlet, Sam Kha Commune, Sốp Cộp District, Son La Province. The local government expelled them; they moved to the Central Highlands but have not been issued papers.
- 10 Protestant households in Sông Mã District, Son La Province the government deprived them of their ID papers and residency.
- Approximately 30% of Hmong residents are Protestant in the districts of Mường Nhé and Nậm Pồ, Điện Biên Province and have no ID and residency papers.
- 328 Protestant households in Đăk Ngo Commune, Tuy Đức District, Đăk Nông Province have not been issued papers.
- 188 Protestant households in Đam Rông District, Lâm Đồng Province have no basic personal and residency papers after living there for more than 16 years.
- Over 650 Protestant households in Đak Lăk Province, have no basic personal and residency papers after living there more than 10 years.

Stateless Montagnard Christians:

Gia Lai Province has a similar policy towards the Montagnards, who are linguistically, culturally, and ethnically diverse. In the Ia Grai District we count over 1000 households of stateless Montagnard Christians. In the villages of Grang Commune nearly 17% of the households are stateless for having resisted the district government's order to abandon their Christian faith. By using statelessness to punish Hmong and Montagnard Christians, the Government of Viet Nam violates the International Covenant on Civil and Political Rights (art. 24), the UN Convention on the Rights of the Child (art. 2 and 7), the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5), and the International Covenant on Economic, Social and Cultural Rights (art. 11, 12 and 13). It also violates many provisions of its own domestic laws.

Keeping the Hmong and Montagnard Christians stateless violates Article 24 of Viet Nam's Constitution of 2013 and Article 6 of the Law on Belief and Religion, which states that:

- Everyone has the right of belief and religion, to follow a religion or not. All religions are considered equal by law.
- The State respects and protects the right of belief and religion.
- It is unlawful to violate the right of belief and religion of others.

This also violates Viet Nam's Law on Children of 2016, which guarantees that:

- Children have the right to registration of birth, death, family name, nationality; the father, mother, ethnicity and gender are determined according to the provisions of law (Article 13).
- Children have the right to the best possible health care, priority access, use of preventive services and medical examination and treatment (Article 14).
- Children have the right to get education and learning to fully develop and reach their best potentials (Article 16, Clause 1).
- Children are equal in access to learning and education opportunities, in the development of their gifts, talent, creativity and ingenuity (Article 16, Clause 2).

This law also states the duties of the State to ensure the exercise of children's rights and obligations, to not discriminate against children, and to ensure the best interests of the child in all decisions related to the child (Articles 5, 42, 43, 44, 45 and 46).

Not resolving the stateless situation of the Hmong Protestants violates Viet Nam's Residence Law of 2006, which guarantees that:

- Citizens have the right to select and decide on their places of permanent or temporary residence in accordance with the provisions of this law and other relevant law provisions (Article 9, Clause 1).
- The State shall adopt policies and uniform measures to better ensure the freedom of residence of citizens. The State guarantees the right to freedom of residence of citizens. Agencies, organizations and individuals that infringe upon citizens' right to freedom of residence must be strictly dealt with (Article 5).

Prohibited acts under this Law include:

- Obstructing citizens' right to freedom of residence (Article 8, Clause 1).
- Abuse of regulations on household registration in order to limit the lawful rights and interests of citizens (Article 8, Clause 2).

Additionally, there are other laws governing citizen's rights, and the State's duties and obligations with respect to them.

We respectfully recommend the UN Human Rights Committee raise the issue of statelessness among Hmong and Montagnard Christians with the government of the Socialist Republic of Viet Nam and ensure that it:

- (1) Issue birth certificates to all children bearing both parents' names, and facilitate their full access to education and all benefits programs;
- (2) Issue citizenship ID to all individuals without it, and household registration to all families without it;
- (3) Issue marriage certificates, backdating to the actual wedding date;

- (4) Eliminate any barriers (i.e. language, financial, transportation) to accessing and applying for other legal documents as a way to reinforce and prove their commitment against the systemic discrimination imposed upon the Montagnard peoples and other indigenous peoples residing in Viet Nam; and
- (5) Ensure that local and provincial governments stop their policies of forcing Hmong and Montagnard Christians to renounce their faith, and of using denial of citizenship ID and household registration as punitive measures against those who defend their faith.

Additionally we would like to reiterate our recommendations to the Government of the Socialist Republic of Viet Nam, which have been offered in the joint report submitted by BPSOS, Institute on Statelessness and Inclusion, and Statelessness Network Asia Pacific for the third Universal Periodic Review of Viet Nam:¹

- (1) Fully promote, respect, protect and fulfil its obligations towards stateless persons under international human rights law;
- (2) Collaborate with civil society actors to ensure that reforms aimed at addressing statelessness are effectively implemented;
- (3) Publish information on the size and profiles of the stateless populations in Viet Nam and the barriers these populations face in acquiring or confirming citizenship there;
- (4) Guarantee access to fundamental human rights without discrimination, particularly with respect to ethnic and religious minorities such as the Hmong and Montagnard communities;
- (5) Develop and implement civil documentation and registration campaigns that support people who are stateless or at risk of statelessness to acquire and confirm citizenship and obtain civil documentation. Such activities should focus on supporting populations residing in border areas and in remote and hard to reach locations;
- (6) Reform the residential registration system, so that access to fundamental human rights is not restricted by one's status within the residential registration system;
- (7) Ensure universal birth registration in Viet Nam, as a tool for protecting the right to a nationality and preventing statelessness, in compliance with Viet Nam's obligations under article 7 of the CRC (to register all births immediately) and the Sustainable Development Goals, which aim under goal 16.9: "by 2030 provide legal identity for all including birth registration";
- (8) Ensure all children in Viet Nam have access to education, irrespective of their documentation status; and
- (9) Ratify and fully implement the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the 1951 Convention relating to the status of Refugees and its 1967 Protocol.

¹ <http://dvov.org/wp-content/uploads/2018/07/ISI-UPR-Submission-Viet-Nam-For-Website.pdf>