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

Joint written statement* submitted by Jubilee Campaign, non-governmental organizations on the roster

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

[21 August 2019]

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

Item 5: Interactive Dialogue with the Special Rapporteur on the Rights of Indigenous People

Deprivation of Cultural Rights of Stateless Hmong Christians in the Socialist Republic of Viet Nam

At least 10,000 Hmong Christians have become functionally stateless due to the Socialist Republic of Viet Nam policy towards them. The local government frequently enlists villagers, police officers and government officials when forcing Christians to return to the traditional ancestor's cult. The victims are often expelled from their community. Boat People SOS has submitted reports on such incidents. When victims fled or were expelled, they had to move to locations where other displaced Hmong Christians could be found, albeit in an extremely deprived state – being undocumented in their own country. A smaller number of Montagnards in the Central Highlands also experience this plight.

1. Summary of the written and oral statement at the 40th Human Rights Council Regular session

Denial of household registration and ID documents has been used by some provinces to make at least 10,000 members of banned churches “stateless”, denying them access to public benefits such as health care and education, and basic rights such as the right to own property, use land, obtain a business license marriage certificate and birth certificates; public schools frequently restrict the enrollment of such children.

The household register enables the exercise of the basic civil rights because everyone must register their permanent residence in a specific district. To establish formal residency in another district, they must purchase land, or rent a house with an official lease, or marry into a family who already holds permanent residency there and move in with the spouse and their family; or with the spouse, rent a house with an official lease. Without a valid household register, it is not possible to apply for the national ID card which is the proof of citizenship. Birth registration is another proof of citizenship in Viet Nam, but children of parents without household registration are often not issued birth certificates. For already vulnerable communities, statelessness exacerbates poverty and other negatives.

2. Cultural Rights Issues Resulting from Expulsion of Victims or Persecution Leading to Forced Migration

The United Nations has affirmed that cultural rights are inseparable from human rights.

“...Article 27 of the Universal Declaration of Human Rights states that “everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.” Cultural rights are, therefore, inseparable from human rights, as recognized in Article 5 of the 2001 UNESCO Declaration on Cultural Diversity... This includes the right ... to know, understand, visit, make use of, maintain, exchange and develop cultural heritage and cultural expressions...” – UNESCO Fact Sheet on the Right to Culture.

In remote areas of Northwestern Viet Nam and the Central Highlands, settled communities are limited with respect to amenities. When a Hmong group relocates to a more sparsely populated area, away from these communities, the situation worsens; cell phone reception is poor and access to education difficult. The individual's identity as a member of the community where they grew up, went to school, got married, can be seriously affected.

The Special Rapporteur in the field of cultural rights, Karima Bennouna describes cultural rights as being:

*“...a broad range of issues, such as expression and creation, including in diverse material and non-material forms of art; information and communication; language; identity and belonging to multiple, diverse and changing communities; development of specific world visions and the pursuit of specific ways of life; education and training; access, contribution and participation in cultural life; the conduct of cultural practices and access to tangible and intangible cultural heritage...
The right to education, enshrined in numerous international instruments, in particular articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, and articles 28 and 29 of the Convention on the Rights of the Child...”*

Many other references to cultural rights can be found in provisions and instruments relating to minorities...and indigenous peoples...”¹

The World Bank describes Indigenous peoples as:

“...culturally distinct societies and communities. The land on which they live and the natural resources on which they depend are inextricably linked to their identities...”²

For Hmong whose statelessness arises from government policy, cultural rights are severely restricted. The Doan Ket Community serves to illustrate this.

Migration History of Doan Ket and Other Communities

From 2001 to 2006, provincial governments in Northern Viet Nam promulgated policies aimed at tightly controlling religions with a major focus on Hmong Protestant communities, by banning religious activities, arresting and persecuting those who participated in religious rites. This caused a number of communities to dissolve or lose members because they had only two alternatives: remain and give up their religion, or relocate. Many communities migrated from the Northern provinces to the Central Highlands.

Statelessness - Major Barrier to Cultural Rights

Without land, jobs, houses, and schools, they lived in makeshift tents and worked as seasonal laborers for the locals who owned the land. After multiple requests from the new settlers, the Dak Nong Province government took measures to resettle them in 2009 – 2010 and allocated 400 m² of residential land and one hectare of cropland per household for growing cashews and coffee. Still, more Hmong migrated to this community. Approximately 170 households in Doan Ket Village are still without household registration and live in makeshift tents.

The poor transportation infrastructure hampers travel and commerce. The only road leading to Doan Ket Village is dusty in the dry season and extremely muddy in the rainy season, sick persons and pregnant women have died on the way to hospitals. Communication infrastructure is primitive, with no internet and weak cell phone signals. Coffee growing is affected by the weather and coffee beans processing technology underdeveloped. Hmong students do not have the proper papers and are denied financial assistance received by other low-income students; they face many other difficulties, not to mention cultural deprivation.

3. Cultural Rights Issue: Funeral Rites

For a number of Hmong who wanted to develop old customs, the government used harassment and violence to force them to return to the unhygienic and costly funeral rite consisting of (a) keeping the corpse of a loved one in the house for seven days; (b) killing cattle as an offering to the deceased which is unaffordable for many. In 1989, Duong Van Minh, a Hmong Christian, urged his people to shorten and simplify the rite through using simple ceremonial accessories instead of the 7-day mourning and killing cattle. Many Hmong listened and built storage sheds (2 square meters each) to store funeral accessories that the entire village could share. In 2008 the authorities of the provinces of Cao Bang, Bac Kan, Thai Nguyen and Tuyen Quang started to force these Hmong to return to the ritual of the past. The police, militia, local government officials and thugs demolished the sheds. A number of victims rebuilt and restocked the sheds. The government and its thugs cracked down again, causing injuries to victims and detained several of them. This cycle of violence continued over the next seven years until the government suppressed the new funeral rite.

In October 2013 some Hmong villagers came to Hanoi to ask the central government to intervene, to look for relatives who had been taken away by the police during the raids to destroy the sheds, and petition for the release of Mr. Duong Van Minh who had been arrested. On October 23, 2013, the government cracked down viciously, arrested several victims, and deported others to their communities.

¹“Legal Framework and Thematic Issues Addressed by the Special Rapporteur.” <www.ohchr.org/Documents/Issues/CulturalRights/SummaryThematicIssues_EN.doc> accessed 19 August 2019.

² “Indigenous Peoples.” *World Bank*, <www.worldbank.org/en/topic/indigenouspeoples> accessed 19 August 2019.

4. Recommendations

Jubilee Campaign urges the Human Rights Council to raise the issue of statelessness and cultural rights with the Socialist Republic of Viet Nam and ensure that it:

1. Cease the expulsion of Hmong and Montagnard communities from their ancestral lands;
2. Issue birth certificates to all children bearing both parents' names, and facilitate their full access to education and all benefits programs;
3. Issue citizenship IDs to all individuals without it, and household registration to all families without it;
4. Issue marriage certificates, backdating to the actual wedding date;
5. Eliminate any barriers - whether relating to language, financial or transportation - to accessing and applying for other legal documents to ensure and prove the commitment of the Socialist Republic of Viet Nam to remove systematic discrimination of the Hmong and other indigenous peoples residing in Viet Nam;
6. 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 IDs and household registration as punitive measures against those who defend their faith; and
7. Grant freedom to the Hmong and other indigenous minorities to practice their faith freely according to Article 18 of the Universal Declaration of Human Rights and allow them to develop and practice their customs, including burial rites, according to article 12 (1) of the Universal Declaration on the Indigenous and Tribal Peoples Convention.

Boat People SOS NGO(s) without consultative status, also share the views expressed in this statement.