Joint Submission to the Universal Periodic Review of Vietnam

46th Session of the UN Universal Periodic Review

The State of Freedom of Religion or Belief and Indigenous Peoples and Ethnic Minorities in the Socialist Republic of Vietnam

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Introduction

This joint submission is compiled by the Boat People SOS (BPSOS) in partnership with grassroots organisations, including the Evangelical Church of Christ of the Central Highlands, H'mong for Human Rights, Montagnards Stand for Justice (MSFJ), and Advocates for Faith and Justice in Vietnam. It addresses the following areas of concern that have received numerous recommendations from Vietnam's third Universal Periodic Review (UPR) in January 2019: (1) Freedom of Religion or Belief and (2) Freedom of Expression.

Freedom of Religion or Belief

During the January 2019 UPR, Vietnam accepted recommendations from Lao People's Democratic Republic¹, Brazil^{2, 3}, Greece⁴, Italy⁵, Kenya⁶, Luxembourg⁷, and Kenya⁸, and accepted in Part from Poland⁹, United States of America¹⁰, while not accepting the recommendation from Croatia¹¹.

Forced renunciation of faith

Forced renunciation of faith continues in many northern provinces. In the past 12 months we have documented a significant number of incidents in Ky Son District, Nghe An Province, where

¹ 38.169 Take steps to preserve and promote vibrant and diverse religions and beliefs in Viet Nam

² 38.170 Take measures to combat violence and harassment motivated by religious belief, ethnic discrimination and inequality

³ 38.174 Consider revising national legislation, including the law on belief and religion and the media laws, in order to harmonize it with international standards regarding the right to freedom of expression and of religion

⁴ 38.173 Fully implement the recently enacted law on freedom of religion or belief

⁵ 38.199 Enhance efforts to guarantee freedom of religion or belief, also by further reducing administrative obstacles to peaceful religious activities and by combating violence and discrimination on religious grounds

⁶ 38.210 Safeguard freedom of religion and belief for all in Viet Nam

⁷ 38.277 Protect religious and ethnic minorities, and refrain from imposing legal restrictions on them

⁸ 38.289 Continue its efforts to prevent and reduce statelessness through, among others, enabling reacquisition of Vietnamese nationality, and prevent children's statelessness

⁹ 38.193 Ensure full implementation of its international human rights obligations regarding freedom of religion and belief by reviewing the law on belief and religion to bring it into line with article 18 of the International Covenant on Civil and Political Rights

¹⁰ 38.205 Ensure consistent implementation of the law on belief and religion, particularly at the local level, including with respect to registration of Protestant groups and other groups in Northwest Highlands provinces, remove undue restrictions on access to religious materials and clergy for those imprisoned and cease any harassment of independent groups on account of their religion

¹¹ 38.212 Review the law on religion and belief to enable religious groups to practice freely (Canada); Review the 2016 law on belief and religion and bring it into conformity with international human rights standards and freedom of religion or belief standards

Hmong Christians have been threatened with eviction, arrest, confiscation of property and revocation of personal documents for refusing to abandon their faith. Even though many of the victims are members of the government-sanctioned Evangelical Church of Vietnam – North (ECVN-North), this church has not spoken out on their behalf.

As illustration, three Hmong sisters from Nghe An Province recently fled to Thailand, two carrying each an infant while the third one had to leave her two sons behind. They had managed to conceal their Christian faith for 5 years before being discovered by government authorities, who immediately banished them from their village and threatened them with imprisonment should they return. They are all members of ECVN – North, which has been legally recognized by the government.

Vietnam's policy of forcing Hmong Christians to abandon their faith has even affected American citizens. In August of last year, a naturalized U.S. citizen of Hmong ethnicity and a resident of Wisconsin was visiting his wife and their four children, aged 6 to 13 years old, in Nghe An Province. During a house inspection, the local police found out that he was a Christian; they expelled him from the district. After he returned to the United States, the police tried to force his wife to also renounce her Christian faith, which she refused. The police confiscated her personal documents and the birth certificates of her children and threatened her with imprisonment. She fled to Dak Lak Province, taking her children along. Without the required personal documents, they cannot register to stay legally in the new location, not even temporarily. The wife, who earned a livelihood through farming, has no farmland to work on and cannot find legal employment anywhere. Her children cannot go to school and do not have access to basic social services or benefits. Undocumented in their own country, their circumstances are dire and precarious.

Forced conversion of faith

In June and July of 2023 alone, hundreds of Montagnard Christians have been forced to leave their unregistered, unaffiliated house churches and join the government-backed Evangelical Church of Vietnam (ECVN) – South. An entire congregation of 200 members of the Good News Mission Church in Dak Lak Province ceased to exist due to forced conversion.

The government has refused to consider and even harassed and/or fined Montagnard evangelists who submitted requests asking for clarification and guidance on a provision in the Law on Belief

and Religion that appears to authorize independent religious groups to practice their religion without registration with, or approval by their commune governments. On 10 June 2022, Cu Mgar District government fined Y Thinh Niê, Y Don Niê and Y Čung Niê for religious practice "without the prior approval of the Commune's People's Committee" and for observing on 22 August 2021 the International Day Commemorating the Victims of Acts of Violence Based on Religion or Belief and in December 2021 the International Human Rights Day.

On 6 September 2022, a joint communication on their case was sent to the Vietnamese Government by the Mandates of the Special Rapporteur on freedom of religion or belief; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on minority issues, pointing out that the government was not in compliance with its own law:

"According to the Law on Belief and Religion (02/2016/QH14), a religious organization is "a group of believers, dignitaries, religious officers and clergypersons of a religion, which is organized according to a certain structure recognized by the State in order to carry out religious activities". As per art. 17 of the Law on Belief and Religion, the registration of religious collective practice is not restricted to religious organizations. According to art. 17, religious practice could be requested by a group of believers of a religion who do not belong to a religious organization recognized by the State if requirements contained in art 16 are met (namely having their own tenets and canon laws; the name of the group wishing to carry out collective religious practice is not identical with that of an existing religious organization). Moreover, the Law on Belief and Religion explicitly requires "belief activities of a belief establishment" to be registered, "except for lineal ancestor worship houses" (paragraph 1 of art. 12). Nonetheless, the Law does not seem to establish explicitly a similar obligation to register religious practice for believers not affiliated to a religious organization who wish to conduct collective religious activities."¹²

¹² AL VNM 4/2022, 6 September, 2022, available at:

https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=27538

Government-created churches as instruments of repression

The Vietnamese government has increasingly used government-created religious organizations to subdue and/or eliminate religious groups that resist government control. The Buddhist Church of Vietnam (BCV) is a clear example. It was created by the government in 1981 a few months after the government outlawed the Unified Buddhist Church of Vietnam (UBCV).

Based on outrageous allegations by two BCV monks, in 2019 the police in Long An Province decided to prosecute a small Buddhist group named Thien Am Ben Bo Vu Tru (Zen Hermitage on the Edge of the Universe). These allegations included distorting Buddha's teaching, using Buddhist terminologies, and wearing Buddhist outfits without BCV's prior approval, and characterizing, in a private conversation, one of these two BCV clerics as ignorant. In July of last year, the People's Court sentenced its 90-years old founder and five of his disciples to a total of 23.5 years in prison. Three human rights lawyers who represented them recently fled to the U.S. to avoid arrest.

Similarly, the Cao Dai Church was banished in early 1990s. In 1997, the government created a new Cao Dai Sect and transferred all facilities of the Cao Dai Religion's Holy See to this sect. Subsequently, sect members have seized over 300 temples from Cao Dai followers, often using violence and with the support of the police. Cao Dai followers attempting to enter their temples have been brutally beaten by sect members. To a casual observer, the Cao Dai religion is thriving, but that appearance is deceiving because those occupying Cao Dai temples and the religion's Holy See are not members of the original Cao Dai Church. In August 2023, a Texas court ruled that the government-created Cao Dai Sect is a criminal organization under the U.S. Racketeer Influenced and Corrupt Organizations (RICO) Act and that it must pay \$200,000 in damages caused to two Cao Dai followers and a Cao Dai Temple in Dallas.

Expropriation of church property

The Vietnamese Government's land grab policy often severely infringes upon the right to religious freedom or even threatens the very existence of entire religious communities.

A. Loc Hung Vegetable Garden in Ho Chi Minh City

In the first week of 2019, the government of Tan Binh District, Ho Chi Minh City mobilized hundreds of public security officers and demolition workers to destroy an entire Catholic community that had existed since 1954 and that in recent years served as sanctuary for at-risk

human rights defenders and victims of government persecution. This community, popularly known as "Vuon Rau Loc Hung" (Loc Hung Vegetable Garden), is part of the Loc Hung Parish and most families in this community earned their living by growing vegetables that they sold at the local markets.

In 1954, as close to one million North Vietnamese migrated South under the Geneva Accord, the Catholic Mission of Son Tay allowed a number of Catholic families evacuating from North Vietnam to settle on 4.8 acres of land that it owned. The tenants paid monthly rent, at a reduced rate, to the mission. Located adjacent to this community was a transmission station with transmission antennas operated by the French government on land loaned from the mission. The operation of this emission station was transferred to the government of the Republic of Vietnam in 1954. The ownership of the 4.8 acres of land was transferred to the Archdiocese of Saigon. Inhabitants of the Vuon Rau Loc Hung continued to pay rent.

After 1975, the Communist government took over the telecommunication station; the inhabitants of Vuon Rau Loc Hung continued to occupy the land that they rented. Responding to the Prime Minister's Directive 24/1999/CT-TTG about land survey, community members at Vuon Rau Loc Hung tried to register their land use right but the local government refused to process their applications without any official explanation. In 2002 the occupants were notified that their land had been re-zoned for an economic development project without the public consultation process as required by law.

In March 2008, the local authorities sent in hundreds of police officers combined with security forces in an attempt to dismantle all houses, but they were met with strong resistance by the inhabitants. Then in August 2009, the inhabitants were informed that the government authorities would send troops to demolish facilities illegally erected – they were wooden sheds constructed by the inhabitants to store gardening equipment and products. The government's attempt at land grab failed, again.

On December 29, 2018, the People's Committee of Tan Binh District notified community members of the decision to dismantle all structures illegally erected after January 1, 2018. On January 4, 2019 hundreds of police officers escorted a large contingent of demolition workers showing up at Loc Hung Vegetable Garden. Using bulldozers, they demolished most of the homes, including those built prior to 2018. On January 8, they returned to finish off the

demolition – all 127 homes in the community were destroyed. Responding to public outcry, the government issued an official statement that this was not an attempt to expropriate land, only an operation to remove structures illegally built. However, on January 10 the government cleared the land and then posted a billboard indicating all 4.8 acres of land of the community had been rezoned for a complex of education buildings. Allegedly the government had bypassed the required process of consultation and compensation negotiation with the residents as required by law.

This land grab was not only illegal, but it targeted a tight-knit Catholic community that had developed its own culture and lifestyle over the past 65 years. This community also served as sanctuary for victims of government persecution and at-risk human rights defenders. It is believed that the government wanted to "flush" them out. They included former prisoner of conscience Pham Thanh Nghien (5 years and 4 months of imprisonment), her husband former prisoner of conscience Huynh Anh Tu (14 years), Nguyen (son of blogger Dieu Cay), journalist Pham Doan Trang, Bui Thi Kim Phuong (wife of prisoner of conscience Nguyen Bac Truyen, who is serving 11-years prison sentence), etc. Also affected were 18 disabled veterans in a housing project built by the Redemptorist Order. Thus, the land grab effectively victimized not only close to one thousand parishioners of Loc Hung Parish, but also several human rights defenders and victims of persecution.

On 4 January 2019 Cao Ha Truc, a de facto community leader, was abducted from his home by the police. Police officers in civilian clothes covered his head with a black hood. He was taken to an unknown location where interrogators hit him in the face and on his head. He was left without food; thirsty, he asked for water but was denied. Then he was moved by car to another location, which later he recognized to be the police station of Ward 10, Tan Binh District.

In the Vietnamese tradition, evicting people from their residence as they prepared to welcome the lunar new year is considered utterly immoral and unacceptably cruel. According to traditional beliefs, the first day would define the rest of the lunar year. Becoming homeless and deprived of livelihood as lunar new year approaches would have dire emotional impact on the victims. Apparently, the local authorities wanted to send a clear message to Loc Hung parishioners that they must expect even worse in the new year. The residents of Loc Hung Vegetable Garden have since filed many petitions with the HCM City authorities as well as with the central government in Hanoi without success.

B. Thien An Abbey

The government of Thua Thien - Hue Province has for four decades targeted for expropriation the 107 hectares of pine forest belonging to the Thien An Abbey of the Benedictine Order. In 1998, the government confiscated 49 hectares of this land.

Starting in early 2016, the government again targeted the remaining 58 hectares of land belonging to this abbey. On 4 January 2016, a group of strangers attacked the Monastery's abbot, Priest Anthony Nguyen Van Duc, with a caustic substance causing severe burns to his right cheek and neck. On 28 June 2017 the government sent over 100 plain-clothed police agents to physically assault monks and priests at the monastery, causing serious injuries to four monks-intraining who continue to suffer post-traumatic stress disorder to this day. The mob also destroyed church properties and religious icons, including the statue of Jesus Christ on the crucifix. With the help of a local lawyer, Priest Anthony Duc filed a petition requesting investigation by the police. The police did not initiate any investigation. With the help of BPSOS, the abbot also submitted a report to the UN Special Rapporteur on FORB.

On 10 and 11 August 2020, the Thua Thien – Hue government sent an unruly mob to harass and terrorize the monks, violating its own COVID-19 social distancing order. Witnesses identified several government officials among the mob. The violent attack was captured on video. A few days later, the radio and television station of Thua Thien – Hue government ran a documentary titled "A number of monks of Thien An Monastery grabbed land, distorted the truth." The documentary falsely accused the monks and priests of Thien An Monastery of taking lands from local residents.

Probably due to international pressure, in September 2021, the new Chairman of the People's Committee of Thua Thien - Hue Province led a high-level government delegation to visit Thien An Abbey, during which he announced his willingness to resolve the land dispute through peaceful negotiation. It appears that he has since reneged on this promise. Meanwhile, Priest Anthony Duc passed away on 23 December 2022 in exile. Recommendations:

- End the practice of forced renunciation and forced conversion of faith and sanction government officials committing such gross violations of freedom of religion or belief;
- (2) End *de facto* immunity for members and clerics of state-sanctioned churches who violate the right to religious freedom of others, particularly members of unregistered religious groups;
- (3) Establish a task force at the central government level to resolve disputes between provincial or local government authorities and religious communities or organizations over already expropriated property and property targeted for expropriation.

Rights of Indigenous Peoples and Ethnic Minorities

During the January 2019 UPR, Vietnam accepted recommendations from South Africa¹³, Madagascar¹⁴, Sudan¹⁵, the State of Palestine¹⁶, and Luxemburg¹⁷.

Until now, the Vietnamese Government continues to resist recognizing indigenous populations. Vietnam's 27 July, 2023 response¹⁸ to the 6 September, 2022 joint communication by several UN Special Rapporteurs¹⁹ stated: "In Viet Nam, there are no indigenous people, nor do there exist so-called "indigenous Montagnard" and "some individuals and organizations with bad intentions often take advantage of the concept of "indigenous people" to spread false information, distort the situation in Viet Nam…".

In another communication dated 10 May 2023 to UN Special Rapporteurs, the Vietnamese Government stated outright that *"The concept of "indigenous peoples" is not suitable with the*

¹³ 38.25 Consider submitting in due course the national report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination

¹⁴ 38.95 Strengthen efforts deployed to combat and eliminate discrimination against vulnerable groups

¹⁵ 38.100 Support and ensure the rights of vulnerable groups

¹⁶ 38.126 Continue to focus on ensuring sustainable livelihoods and improving the quality and accessibility of services especially for vulnerable groups

 ¹⁷ 38.277 Protect religious and ethnic minorities, and refrain from imposing legal restrictions on them
¹⁸ Rely No. 126/VNM.23. Available at:

https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=37632

¹⁹ Communication letter AL VNM 4/2022. Available at:

https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=27538

characteristics, history of establishment and development of ethnic groups in Viet Nam. In other words, in Viet Nam, there is no concept of indigenous peoples".

Thus, the Vietnamese Government does not recognize the Khmer Krom in the Mekong Delta region, the H'mong in the Nothernwestern Mountainous Area or the Montagnard (Degar) in the Central Highlands as indigenous peoples.

Statelessness of the H'mong

Over the past three decades, tens of thousands of H'mong have become practically stateless due to their conversion to the Christian faith. H'Mong in Vietnam made first contact with Christianity in 1987. Responding to the rapid growth of the H'Mong Christian population, the government launched a series of measures, including policy directives and training manuals issued to local officials, to eliminate or discourage the practice of Protestantism among the H'Mong population. The communist regime continued to view the growth of Protestantism among the H'Mong population in the Northwestern Mountainous Region as a potential threat to national security.

From 2001 to 2006 governments of several northern provinces, including Dien Bien, Lai Chau, Lao Cai and Ha Giang, promulgated policies to rein in the spread of Christianity. H'Mong Protestants were given only two alternatives: to give up their Christian faith or leave their home village. Those who continued to participate in religious rites would be arrested or persecuted, their homes destroyed, their farmlands confiscated, and their families evicted from the village.

Following eviction and years of wandering from village to village, many H'Mong Protestants formed new communities in uninhabited areas in nearby provinces; others migrated to the Central Highlands in search of a safe haven. Some H'Mong Christians had fled to China, Laos and Myanmar where they live illegally among local H'Mong communities. In addition, an estimated 600 H'Mong Christians are seeking asylum in Thailand – they are part of the growing population of "urban refugees" in that country.

Subdivisions 179 is a prominent example of locally displaced H'mong because of their religions who continue to face persecution after their relocation to the Central Highlands. Subdivision 179's residents had migrated to the Lam Dong Province from different areas in Northern Vietnam. For more than 20 years, they have lived without any documents and practically been treated as stateless. In 2020, with the help of BPSOS and ADF International through advocacy and legal actions, Subdivision 179 started to receive the attention of the Central Government and a token number of residents got their first National Identification Cards in 2021. However, the authorities soon paused the issuance of ID cards to additional community members and by late 2022 started to target community representatives who interacted with the government and worked closely with BPSOS on this effort. Three members of the group had to flee to Thailand where they sought refugee protection from Office of the UN High Commissioner for Refugees (UNHCR).

Faced with endemic poverty, women and young girls from these disadvantaged Hmong and Montagnard communities have signed up with the state-run labor export program, hoping to be able to financially support their families. A disproportionate number of them became victims of labor trafficking²⁰. Victims who were rescued and repatriated have received no assistance from the government, and there has been practically no investigation let alone prosecution of their traffickers²¹.

Land grab targeting Montagnard (Degar) in the Central Highlands

Most Montagnard households are significantly poorer than the average Vietnamese household. Although the National Assembly recently promulgated a resolution aiming to have agricultural companies give back some land to ethnic families, typically the land returned to the people is of poor quality or too far from where they live, according to Professor Đặng Hùng Võ, formerly vice minister of Natural Resources and the Environment. He said that the lack of suitable cropland is a key issue for poverty-stricken ethnic communities in remote areas²².

²⁰ "2023 Trafficking in Persons Report: Vietnam." State Department, https://www.state.gov/reports/2023-trafficking-in-persons-report/vietnam/. Accessed 11 October 2023.

²¹ "The Indigenous World 2022: Vietnam." IWGIA, 1 April 2022, available at:

https://www.iwgia.org/en/vietnam/4659-iw-2022-vietnam.html. Accessed 11 October 2023.

²² The majority of ethnic minorities in Vietnam still live in difficulty - why is 'hunger eradication and poverty reduction' not effective? - "Đa số các sắc tộc thiểu số tại Việt Nam vẫn sống khó khăn - việc 'xóa đói, giảm nghèo' sao chưa hiệu quả?" Radio Free Asia, 16 July 2021, https://www.rfa.org/vietnamese/in_depth/is-the-policy-to-support-ethnic-minorities-effective-07162021125555.html. Accessed 11 October 2023.

In early 2023, the Lam Dong Provincial Government, in collaboration with a developer, orchestrated the confiscation of lands in K'Ren Hamlet under the pretext of a water catchment project at Lake Ta Hoet, which has supported the life and livelihood of surrounding K'Ho communities for generations. However, evidence has surfaced indicating an ulterior motive: the subsequent sale of the seized lands to the Han Viet Company for the construction of a golf course and holiday resort. This raises concerns about corruption, lack of transparency, and the blatant disregard for the rights of the indigenous people.

The affected K'Ho indigenous people, predominantly Evangelist and Catholic, faced significant challenges during the land-clearing process. Religious leaders were coerced by the government authority to convince their followers to surrender their lands. Despite opposition from some local religious leaders, 110 households have been evicted, with 76 households expected to be impacted later. Importantly, those forcibly evicted from their homes and farmlands have received minimal resettlement assistance and financial compensation. The compensation offered was lower than initially promised, with residents receiving only 170 million VND (approx. 7000 USD) per 1000 m2 for residential land and 20 million VND (approx. 800 USD) per 1000 m2 for agricultural land. Only 30% of the impacted households have received their compensation so far, and those without proper land title were only compensated for their agricultural lands. The lack of proper resettlement plans and fair compensation further exacerbates these indigenous people's vulnerabilities, leaving them marginalized and disenfranchised²³.

Similarly, in 1993 the local government of Cu Mgar District, Dak Lak Province assigned to Buon Ja Wam Forestry One Member LLC the right of use over 6,940 hectares of forest and forest land in the two communes of Ea Kiet and Ea Kuêh. In 1996, this company signed a contract to lease to local households 400 hectares of land for cultivation, and collect products every year. However, since 2016, many households have stopped delivery products because the company did not provide manure, water, seeds... to the tenants as supposed to. In 2018, this company filed a lawsuit against 13 households for not fulfilling their contractual obligations to lease the land. In March 2022, hundreds of farmers in Cu M' Gar District for several days

²³ "UNPO and Montagnards Community Report: Land Confiscation and Injustice against K'Ho Indigenous People in K'Ren Hamlet, Lam Dong Province, Vietnam." The Unrepresented Nations and Peoples Organization (UNPO), 9 March 2019, https://unpo.org/article/22055?fbclid=IwAR1kAO21A-

icle2rGOlcs4J17fUw56eqUitObMj6BeUkDwhWrbuqgsHsbXQ. Accessed 11 October 2023.

protested the unfair practice. The Ede indigenous people in the Ea Kiet commune, Cu M'Gar district, Dak Lak province gathered together to claim their land rights – essentially their ancestral lands were taken from them and assigned to a company, which turned around and exploited them. In an online news article, an executive of Buon Ja Wam Forestry One Member LLC accused the protesters of "being agitated by some bad elements."²⁴

Recommendations:

- Implement fair and transparent procedures for land acquisition and compensation at market value for indigenous communities affected by development projects.
- (2) Take immediate steps to address the statelessness among the H'mong and other marginalized indigenous communities by issuing legal identity documents to all residents, including those who have historically been denied citizenship.
- (3) Officially recognize the existence of Indigenous Peoples within the territory of Vietnam. This recognition should encompass but not be limited to the Khmer Krom, the H'mong, and the Montagnard (Degar) populations.

²⁴ ""Dak Lak: Farmers protest against forestry company for refusing to accept "slavery." - Đắk Lắk: Nông dân biểu tình phản đối công ty lâm trường vì không chịu "cảnh nô lệ."" Radio Free Asia, 17 March 2022, https://www.rfa.org/vietnamese/news/vietnamnews/dak-lak-farmer-protests-land-appropriation-03172022080321.html. Accessed 11 October 2023.