

Violations of Economic, Social and Cultural Rights in Vietnam

Alternative Report on the Implementation of the
UN International Covenant on Economic, Social and Cultural Rights
in the Socialist Republic of Vietnam



Joint Report by
Vietnam Committee on Human Rights (VCHR)
FIDH - International Federation for Human Rights
Geneva, 10 November 2014

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Violations of Economic, Social and Cultural Rights in the Socialist Republic of Vietnam

An Alternative Report to the 53rd Session
of the Committee on Economic, Social and Cultural Rights (CESCR)
on the Combined Second to Fourth Reports of Vietnam
United Nations, Geneva, 10 November 2014

Introduction

The Vietnam Committee on Human Rights (VCHR) and FIDH - International Federation for Human Rights welcome the report submitted by the Socialist Republic of Vietnam on its implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The organisations nevertheless regret that, whereas States Parties have an obligation under Articles 16 and 17 of the Covenant to submit regular periodic reports to the Committee, Vietnam has not submitted a single report for the past 21 years. After acceding to the ICESCR in September 1982, its first report was filed in 1993. The current document groups the second to fourth reports and covers the period from 1993 to 2008, with some facts updated to 2010.

Vietnam's submission is therefore not only long overdue, but also out of date. Much of the information in the report is obsolete. References to articles of the Constitution, the Land Law, the Labour Code, and the Law on Trade Unions (all amended or replaced during the reporting period) are no longer relevant. Laws adopted after 2008, many of which impose serious restrictions on human rights, are not covered in the submission.

By delaying its reports over decades, Vietnam is not only failing to comply with UN reporting obligations, but also seriously undermining opportunities to strengthen protection of its citizens' economic, social, and cultural rights. Since the policy of “*đổi mới*” (renovation), was launched in the late 1980s, Vietnamese society has undergone profound transformations, moving from a planned economy supported by massive subsidies from the former Soviet bloc to a “*free market economy with Socialist orientations*”. These changes have undoubtedly improved the economic situation and lifestyle of millions of Vietnamese. But they have also given rise to complex economic, social, cultural, and political challenges. If the CESCR experts are not provided with timely and relevant data, they cannot fully evaluate these challenges and make fitting recommendations to improve the protection of economic, social, and cultural rights in Vietnam.

It is regrettable, moreover, that during the Universal Periodic Review of Vietnam in February 2014, Vietnam rejected 45 recommendations made by UN member states, many of which concerned economic, social, and cultural rights.¹

¹ Report by the Working Group on the Universal Periodic Review: Vietnam. A/HRC/26/6, 2 April 2014, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/129/10/PDF/G1412910.pdf?OpenElement>

FIDH and VCHR have closely monitored the situation of human rights in Vietnam since it acceded to the ICESCR in 1982, and are deeply concerned that violations of these rights are increasing in many domains. Because the subject and time-scope is so vast, we have limited the report to specific areas in which rights abuses are particularly salient, but they represent only the tip of the iceberg. Our findings are based on information from civil society activists in Vietnam, state-controlled media, UN agencies, and academic research, as well as reports from four UN independent experts who made official visits to Vietnam between 2010 and 2014.²

Main concerns: rising wealth disparity and social inequity

Since Vietnam opened to a free market economy under the policy of *đổi mới* (renovation), it has undergone rapid growth and economic transformation, and has substantially reduced poverty within its 90-million population. At the same time, however, two decades of *“đổi mới”* – which combines economic liberalization and one-party political control - has led to an alarming increase in wealth disparity. Whilst these growing disparities are not always apparent in commonly-used indicators (Vietnam’s Gini Index for 2012 was 35.6),³ they are glaringly obvious in people’s everyday lives.

For example, Vietnam ranks high in the increase of the number of super rich people (people with assets of over US\$30 million). Yet at the same time, one in every five Vietnamese (20.7%) lives under the poverty line, and 8% live in extreme poverty.⁴ Millions of others live just above the poverty threshold and remain vulnerable to falling back into poverty at the slightest shock.

Wealth disparities are especially apparent between the majority Viet or Kinh people and Vietnam’s 53 ethnic minority groups, who live mainly in the mountainous regions. The ethnic minorities are amongst the poorest people in Vietnam. Whereas only 12.9% of Kinh people are poor, over 66% of ethnic minorities live under the poverty line. Following an official visit to Vietnam in 2010, the UN Independent Expert on Human Rights and Extreme Poverty Magdalena Sepúlveda noted that *“glaring disparities in income, employment, health coverage, education and access to other government services have formed along ethnic lines”*, with *“deep-rooted inequality”* affecting vulnerable groups such as ethnic minority women and children.⁵



Elderly people are particularly vulnerable group

² The UN expert on Minority Issues (5-15 July 2010), the UN independent expert on the question of human rights and extreme poverty (23-23 August 2010), the UN Special Rapporteur in the field of cultural rights (18-29 November 2013) and the UN Special Rapporteur on Freedom of Religion or Belief (22-31 July 2014).

³ The Gini index measures the extent to which the distribution of income or consumption expenditure among individuals or households within an economy deviates from a perfectly equal distribution. A Gini index of 0 represents perfect equality, while an index of 100 implies perfect inequality (World Bank, 2013).

⁴ *“Well Begun, not yet done: Vietnam’s remarkable progress on poverty reduction and the emerging challenges”*, World Bank in Vietnam, Hanoi 2012.

⁵ *“Vietnam: UN expert urges stepped-up efforts to combat poverty”*, UN News Centre, Hanoi, 31 August 2010.

A report issued by the World Bank in 2012 analyses these growing inequalities.⁶ Based on extensive field research, the report warns that wealth disparity is not just a gap in income. It is a spiral effect comprising inequality in outcome (disparities in income, consumption, and wealth), inequality of opportunities (driven by factors such as gender, ethnicity, location, religious affiliations, political views or parental characteristics) and also inequality in social and political capital (measured in terms of connections, voice and influence). Without connections with “*those who do politics*” (i.e. Vietnamese Communist Party members and their families), people receive unequal treatment in all aspects of their lives, including health, education and other public services, employment opportunities and access to land.

In its periodic report to the Committee on the Elimination of all Forms of Racial Discrimination (CERD) in 2012, the Vietnamese government acknowledged the “*negative effects*” of “*đổi mới*” such as “*the increasing income gap, urban-rural disparity in living standards, and the diminishing capacity of integration by vulnerable groups, such as women, children, ethnic minorities, persons with disabilities etc.*”⁷

But these are not mere “*negative effects*”. Alongside endemic official corruption and power abuse at the national, district and local levels, these inequalities are rooted in political factors such as the lack of civil and political rights, the absence of a free press, free trade unions, independent civil society movements or an independent judiciary in Vietnam’s one-party state. Without these crucial mechanisms and safeguards, victims of abuses of economic, social and cultural rights have no means to defend their rights.

As the UN expert on minority issues Gay McDougall stressed after her visit to Vietnam, social inequality can only be solved if “*everyone in Vietnam [can] enjoy the full range of civil, cultural, economic, political and social rights*”. She urged Vietnam to “*take into account the universality and indivisibility of all human rights, and promote simultaneously and harmoniously all civil, political, economic, social and cultural rights.*”⁸

The legal framework: Using the law to restrict human rights

In its submission to the CESCR, Vietnam lists extensive laws and programmes adopted by the government as evidence of the protection of economic, social, and cultural rights. In practice, however, many of these laws are not implemented, arbitrarily interpreted due to vague and imprecise wording, or totally inconsistent with the rights guaranteed in the ICESCR. FIDH and VCHR are particularly concerned that Vietnam continues to adopt restrictive human rights legislation despite its international obligations, and is using the law as a tool to restrict its citizens’ fundamental rights.

For example, the Constitution (amended in 2013) prohibits discrimination (Article 16) and guarantees the protection of human rights (Article 14). However, it also provides for restrictions on human rights in an overly broad range of circumstances including “*national defence, national security, social order and security, social morality and the health of the community*” (Article 14.2).

Article 4 of the Constitution stipulates that “*the Communist Party, (...) acting upon the Marxist-Leninist doctrine and Ho Chi Minh thought, is the leading force of the State and*

⁶ “*Well Begun, not yet done: Vietnam’s remarkable progress on poverty reduction and the emerging challenges*”, World Bank in Vietnam, Hanoi 2012.

⁷ Vietnam country report on implementation of ICERD, 21 September 2011, CERD/C/VNM/10-14, Paragraph 5.

⁸ UN News Centre, Hanoi, 31 August 2010: Vietnam: UN expert urges stepped-up efforts to combat poverty.

society". The political mastery of the Vietnamese Communist Party (VCP) is routinely invoked by the state to criminalize the expression of opinions and religious beliefs outside VCP doctrine. As such, it is a serious impediment to the enjoyment of human rights.

Vietnam's **Criminal Code** contains a whole chapter on "*crimes infringing upon national security*" (Chapter IX). This "*catch-all*" concept is used to sanction the peaceful exercise of economic, social and cultural rights. It provides harsh penalties (up to life imprisonment or the death penalty) for vaguely worded offences such as "*activities aimed at overthrowing the people's administration*" (Article 79); *spying* (Article 80); "*circulating propaganda against the Socialist Republic of Vietnam*" (article 88), "*undermining national unity, sowing divisions between religious believers and non-believers*" (Article 87), or "*fleeing abroad or defecting to stay overseas with a view to opposing the people's administration*" (Article 91), which is frequently used to imprison ethnic Montagnards fleeing Vietnam to escape forced displacement from their ancestral lands or suppression of their cultural rights.

In February 2013, 22 peaceful environmentalists in Phu Yen Province were sentenced under Article 79 to prison terms ranging from 10 years to life in prison. The group ran an eco-tourist company at the Da Bia Tourist Resort in Phu Yen, and had signed a contract with the local

authorities to protect the forest and environment. They believed in a future "Utopia" in which science, nature, and humankind would be harmoniously balanced, and held conferences to disseminate their beliefs. State media reports acknowledged that the group was "non-violent", but labelled it as "politically reactionary" and "anti-state".⁹



Pham Van Thu and the Cong An Bia Son group in Phu Yen at the trial on 4 February 2013. Pham Van Thu received a life sentence.

Chapter XX of the Criminal Code on "*crimes of infringing upon administrative management order*" hands down lesser sentences (fines, non-custodial reform or imprisonment from six months to seven years) on crimes such as "*abusing democratic freedoms and rights to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens*" (Article 258). This article virtually nullifies the guarantees enshrined in Article 14 of the amended Constitution that "*human rights in the political, civic, economic, cultural and social fields are respected*" in Vietnam.

The UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt, following an official visit to Vietnam in July 2014, expressed concern about the "overly-broad" wording of Article 285 which does not define what acts constitute "abuse". "*The wide and vague formulation of Article 285 gives the relevant authorities carte-blanche to sanction people for all sorts of activities,*" he said.¹⁰

⁹ "22 Members of a nonviolent group condemned to harsh prison terms for "subversion" in Vietnam", Vietnam Committee on Human Rights, 4 February 2013, http://www.queme.net/eng/news_detail.php?numb=1998

¹⁰ Press Statement on the visit to the Socialist Republic of Vietnam by the Special Rapporteur on Freedom of Religion of Belief, Hanoi 31 July 2014.

During the **Universal Periodic Review** (UPR) of Vietnam in February 2014, several countries called for the revision or abrogation of these provisions, notably articles 79, 88, and 258, but Vietnam refused their recommendations.¹¹ In fact, since the visit of the UN Working Group on Arbitrary Detention to Vietnam in 1994, several UN mechanisms have denounced the inconsistency of national security provisions with international human rights laws, in particular Article 79, which makes no distinction between acts of violence - such as terrorism - and peaceful acts of expression or association. Yet Vietnam continues to use Article 79 to crack down on peaceful activities, despite its international obligations.

Ordinance 44 on “*Regulating Administrative Violations*” (2002) empowers local-level policemen and officials to detain suspected “national security” offenders for six months to two years under house arrest, in mental hospitals or in “education and rehabilitation camps” without any due process of law. It is routinely used to detain religious and political dissidents exercising legitimate peaceful activities, e.g. land rights activist Bui Thi Minh Hang, arrested on 28 November 2011 and interned in Thanh Ha Education Centre for 24 months of administrative detention simply for staging a silent protest in Ho Chi Minh City. Conditions in these camps are abysmal.¹²

A number of **control mechanisms** severely restrict the exercise of human rights in Vietnam. Citizens are especially penalised by “*hộ khẩu*”, or system of household registration. This is an obligatory prerequisite for access to housing ownership, health care, education, and other key public social services. Persons who do not have *hộ khẩu* are virtually illegal citizens.¹³ The local security warden (*công an khu vực*) is responsible for delivering or withdrawing the *hộ khẩu*. This gives the local policemen immense discriminatory powers over the residents under their charge (approx. 300 people), which they use and abuse at will.

¹¹ Report of the UPR Working Group, Viet Nam, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/26/6/Add.1 http://lib.ohchr.org/HRBodies/UPR/Documents/Session18/VN/A_HRC_26_6_Add.1_VietNam_E.doc

¹² Decree 76/2003/ND-CP on “education camps” prescribes detention conditions far below minimum international standards. Inmates engaged in hard labour are allowed a mere 800 grammes of meat or fish per month, two sets of underwear per year, one blanket every two years and floor space (not beds) for sleeping. According to inmates’ reports, even these quotas are not met in practice. “*Banned Civil Society Voices: Violations of Human Rights in Vietnam*” - FIDH and VCHR Joint Submission to the Second Universal Periodic Review of Vietnam, June 2013. http://www.queame.net/eng/doc/UPR-Vietnam-2014_Banned_Civil_Society_Voices.pdf

¹³ *Social Protection for Rural-Urban Migrants to Large Cities in Vietnam*, Le Bach Long, Institute for Social Development Studies, published in *Social Protection in Asian Cities*, UN ESCAP 2009: “Each household is given a household registration book (*sở hộ khẩu*) which lists the names, sex, date of birth, religion and occupation of all household members and their relationship with the household head. All residents are exclusively categorized into five groups, namely:

- KT1: Residents (including both non-migrants and migrants) with permanent household registration at place of current residence;
- KT2: Intra-district migrants who have permanent household registration at the province/city of current residence;
- KT3: Migrants who do not have permanent registration at the place of current residence but have temporary registration for 6-12 months with the possibility of extension;
- KT4: Migrants who do not have permanent registration at the place of current residence but have temporary registration for 1-6 months;
- Non-registered residents: Those who do not belong to any of the above category.

Despite recent relaxation, conditions for changing status from temporary to permanent residents are strict, requiring migrants to have formal employment, home ownership, and in residence for at least three years.

Although there have been reforms of this system, it remains one of the government's most pervasive and discriminative means of control. Ethnic Christian minorities who belong to "unrecognised" Protestant house churches are confronted with a truly Kafkaesque dilemma. If they write "Protestant" in the religion category when applying for *hộ khẩu*, their application is routinely refused. If they put their religion as "none", Security Police prevent them from gathering for prayers and religious services. In many cases, ethnic Christians are denied the right to obtain any legal documents at all. In 2012, the Committee on the Elimination of Racial Discrimination (CERD) urged Vietnam to "*considering the amendment of the household registration system*" because of the prejudice it caused to ethnic and religious minorities.¹⁴

Discrimination on religious grounds is a deliberate policy, orchestrated at the highest levels of the government and state. Religious activities are regulated by the "*Ordinance Regarding Religious Beliefs and Religious Activities*" which came into effect on 15 November 2004, and **Decree 92**, enacted in 2012, which gives guidelines for its implementation. The Ordinance imposes strict controls on religions, including a system of registration for religious organizations and congregations. Those "not recognized" by the state are considered illegal. Under the Ordinance, religious education is subordinated to the "*patriotic*" dictates of the VCP; worship may only be carried out in approved religious establishments; it is forbidden to "*abuse*" religious freedom to contravene prevailing VCP policies (Article 8.2). Religious activities deemed to "*negatively affect the unity of the people or the nation's fine cultural traditions*" are banned (Article 15).¹⁵ Decree 92 sparked off strong protests from Buddhists, Protestants, and leaders of other faiths in Vietnam. They describe the decree as a "*significant step back for religions*", because it gives the government more legal tools to control and repress religions.¹⁶

In its report to the CESCR, Vietnamese government cites its accession to core human rights treaties as evidence of its respect for human rights. However, as the UN expert on extreme poverty and human rights Magdalena Sepúlveda reminded Vietnam after her country visit, "*being party to international human rights instruments is not sufficient: international standards must be incorporated into domestic legislation.*"¹⁷

Implementation of the International Covenant on Economic, Social and Cultural Rights

Article 1: The right to self-determination

1.1 – *All peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development.*

¹⁴ Concluding Observations of the Committee on the Elimination of Racial Discrimination, CERD/C/VNM/10-14 March 2012.

¹⁵ VCHR Submission to the UN Special Rapporteur on Freedom of Religion or Belief in preparation for his visit to Vietnam, June 2014.

¹⁶ Government Decree 92 tightens controls on religions in Vietnam, International Buddhist Information Bureau, 29 November 2012; "*Vietnam's New Religion Decree Termed a Step Backward - Legal recognition will now take at least 23 years*", Morning Star News, Ho Chi Minh City, January 24, 2013.

¹⁷ UN News Centre, Hanoi, 31 August 2010: "*Vietnam: UN expert urges stepped-up efforts to combat poverty*"

In Vietnam's one-party state, citizens are not free to determine their political status. The election process is controlled at all levels by the Vietnamese Communist Party (VCP). There are no opposition parties. Non-VCP candidates may apply to stand for election, as well as self-appointed candidates, but they must be approved by the Fatherland Front, a VCP-controlled umbrella organisation. In the last elections in 2011, 91.6% of the National Assembly's 500 seats were won by VCP members.

In its report to the CESCR, Vietnam states that “consultations with the people in the decision-making process are crucial to the country's right of self-determination”.¹⁸ However, citizens who express opinions contrary to the central VCP line during public consultations risk harassment, intimidation, and even prosecution. In January 2013, when the VCP canvassed public opinion on amendments for the new Constitution, thousands of people signed petitions calling for the abrogation of Article 4 on the mastery of the Community Party. Not only did their views go unheeded, but many faced serious repercussions. On 26 February 2013, Nguyen Duc Kien, a journalist on the state-run newspaper “*Family and Society*” was fired and threatened with prosecution for posting critical comments about the draft Constitution on his personal blog.

KẾT QUẢ BIỂU QUYẾT		
THỜI GIAN	00:00	
THAM GIA	488	97.99%
TÁN THÀNH	486	97.59%
KHÔNG TÁN THÀNH	0	0.00%
KHÔNG BIỂU QUYẾT	2	0.40%

A typical vote at the Vietnamese National Assembly: Participation – 97.00%: Votes for – 97.59%: Votes against – 0: Abstentions – 0.40%

The right to political participation, guaranteed by Article 28 of the Constitution and described in Vietnam's report as “*the most important political right*”, is extremely limited, especially for indigenous peoples. Ethnic minorities accounted for only 11% of provincial people's committee members (local authorities) in 2004-2009¹⁹. Representation in the National Assembly is higher (over 17%) due to the government's policy of “quotas”. However, most ethnic minority Deputies are significantly less educated than the Kinh Deputies, and have limited knowledge of the law and legislative process. No ethnic minority Deputy or staff member speaks a foreign language. The Vietnam Fatherland Front and the Communist Party choose ethnic minority candidates on the basis of criteria which make them untrustworthy to their communities – they must speak good Vietnamese and most have obtained university qualifications in boarding schools far from their communities. The National Assembly's Council on Ethnic Minorities is the main channel for addressing ethnic minority affairs, but it is a top-heavy structure that often bypasses consultations with minority people at the grass-roots levels.²⁰ There is no law on ethnic minorities.

Whereas many ethnic minorities have their own village constitution and regulations, these are not recognised in Vietnamese law.²¹ Ethnic minorities have little say in the selection of their representatives to the municipal and provincial People's Committees or the National Assembly, nor opportunity to participate in the decision-making process about policies that

¹⁸ Paragraph 32, page 9.

¹⁹ Vietnam country report on implementation of ICERD, 21 September 2011, CERD/C/VNM/10-14.

²⁰ Representation from the top: Ethnic minorities in the National Assembly of Vietnam, Sonia Palmieri, Inter-Parliamentary Union and UNDP report, 2010.

²¹ Report of the Independent Expert on Minority Issues, Gay McDougall, Mission to Vietnam, 5-15 July 2010, A/HRC/16/45/Add.2.

affect them, in contradiction with Vietnam's international human rights obligations, including the UN Declaration on the Rights of Indigenous Peoples, on which Vietnam voted in favour. In 2009, for example, the National Assembly's Council on Ethnic Affairs adopted Decision 236 establishing committees for socio-economic development among disadvantaged ethnic communities in mountainous areas between 2011 and 2015. These committees are set up at the central level and managed by the Council itself, dismissing contacts with local authorities which have more contacts with the ethnic communities. The World Bank has warned that, in Vietnam, *"this top-down approach of making assumptions about what people want and what they need without asking them has failed almost everywhere in the world and is outdated. Indigenous knowledge and local practice should be informing the work of scientists, and researchers should clearly be taking local knowledge into account when designing new technologies to make them locally suitable"*.²²

Article 2: Non-discrimination

2.2: States Parties undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or status.

Vietnam's report focuses on non-discrimination regarding ethnic minorities, noting that Vietnam *"prohibits any acts of discrimination or splitting up"* (paragraph 54). In recent years, the argument of *"splitting up"* has been invoked to justify sustained police repression and violations of the cultural rights of Christian Montagnards in the Central Highlands, who are accused of aspiring to set up a "Dega Protestant" state. In fact, a study by the UN High Commissioner on Refugees based on interviews with Montagnard asylum seekers in Cambodia revealed that very few Montagnards were calling for political autonomy, simply for the respect of their economic, social and cultural rights and protesting forced evictions from their ancestral lands.²³ At least 250 Montagnards arrested in massive demonstrations against land confiscation and violations of religious freedom in 2001 and 2005 are still detained, and the crackdown continues. In 2010 in Gia Lai Province alone, more than 70 Montagnards were detained for protesting abuses of their economic and cultural rights.²⁴ In 2010, Protestant Pastors Y Du and Y Co from ethnic minorities received harsh prison sentences on charges of "subversion" for refusing to renounce membership of "unrecognized" house-church denominations. They were brutally beaten in prison.²⁵

Ethnic minorities suffer discrimination in all aspects of their daily lives. Government policies are largely conceived on the basis of negative stereotypes that are deeply-ingrained in the thinking and everyday language of the majority Kinh, including *"campaigns to change the "cultures" of minority areas, including eradicating religion, primitive beliefs, superstitious taboos and wasteful social ceremonies. Such interventions are intended to move the ethnic minorities up the "civilization ladder" and to facilitate their "catching-up" with the Kinh majority or even promote "Kinh-isation."*²⁶

²² *"Explaining ethnic poverty in Vietnam, a summary of recent trends and current challenges"*, Rob Swinkels and Carrie Turk, World Bank, Vietnam 2006.

²³ US Commission on International Religious Freedom Annual Report, Washington D.C. 2011.

²⁴ Human Rights Watch, *"Montagnard Christians in Vietnam, a case study in religious repression"*, 2011.

²⁵ Christian Solidarity Worldwide, Briefing Paper 2011.

²⁶ *"Ethnic minority poverty in Vietnam"*, Working Paper, February 2010, Chronic Poverty Research Centre, UK, Vietnam Academy of Social Sciences, Hanoi and National Economics University, Hanoi.

The UN Independent Expert on Minority Issues emphasized this tendency in her report on her visit to Vietnam in 2010: “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.”²⁷

The lack of government initiatives to combat these stereotypes at a national or local level explains in part why, although Vietnam has devoted significant resources to ethnic minority development, its programmes have not only failed to improve the living standards of minority groups, but have sometimes further disadvantaged them.

Because of these stereotypes, for example, ethnic minorities have less access to credit than Kinh people. Commercial banks routinely refuse to grant large loans to members of ethnic minorities because they believe they are too “backward” to handle them, as reported by Ede minorities in Dak Lak.²⁸ Because of this discriminatory attitude, Ede people do not apply for large loans, knowing that they will never obtain them.

Discrimination on grounds of **religion, political opinion, property, birth or status** is also a serious impediment to the enjoyment of economic and social rights in Vietnam. Members of “non-recognized” religious groups (i.e. those unwilling to join state-sponsored religious organizations) such as the Unified Buddhist Church of Vietnam (UBCV), Hoa Hao, Cao Dai, “house church” Protestants, Khmer Krom Buddhists, are routinely denied the obligatory residence permits (*hộ khẩu*) and face discrimination in employment, health care and education. They are also subjected to systematic harassments, police surveillance and house arrest without charge.

Those who denounce violations of ESC rights are frequently assaulted and intimidated by plain-clothed security agents, arrested, and sentenced to harsh prison terms. In the four-year period between Vietnam’s first and second Universal Periodic Review (2009-2014), FIDH and VCHR compiled cases of scores of bloggers, human rights defenders and peaceful activists detained for their advocacy of economic, social, and cultural rights.²⁹ They include Nguyen Hoang Quoc Hung and Doan Huy Chuong, sentenced respectively to nine and seven years in prison in 2010 for peacefully advocating worker rights; Nguyen Ngoc Cuong, condemned to seven years in prison in 2011 for distributing leaflets protesting land rights abuses; lawyer Huynh Van Dong, disbarred from the Dak Lak Bar Association in 2011



Land rights activist Ho Thi Bich Khuong campaigns against forced evictions before her arrest in 2011

²⁷ Report of the Independent Expert on Minority Issues, Gay McDougall, Mission to Vietnam, 5-15 July 2010, A/HRC/16/45/Add.2, (paragraph 77).

²⁸ Report of the Independent Expert on Minority Issues, Gay McDougall, Mission to Vietnam, 5-15 July 2010, A/HRC/16/45/Add.2.

²⁹ FIDH and VCHR Joint report to the second UPR of Vietnam, June 2013.

for defending seven land-rights activists at a trial in Ben Tre; Ho Thi Bich Khuong, land rights activist, charged with “*propaganda against the Socialist Republic of Vietnam*” (Article 88 of the Criminal Code) in December 2011 and sentenced to five years prison and three years of house arrest for aiding farmers to file complaints against forced evictions.³⁰



Citizens protest a government exhibition in Hanoi on the Land Reforms in North Vietnam (1949-1957) which they claim distorted the truth (September 2014). The exhibition was later closed down.

The World Bank quotes widespread incidents of **discrimination on grounds of status**, whereby people without connections in the Vietnamese Communist Party (VCP) have less opportunities and access to public services: “*Money is not enough. Money without connections cannot get you a job in the public sector*”. Former state employees and VCP cadres are more likely to be given priority over other ordinary people for administrative procedures and even health care: “*In hospital, if you are an average person you will not get the same treatment as the privileged*”.³¹

Finally, a pervasive mechanism of discrimination in access to health and education is the system of household registration, or *hộ khẩu* (see above). People without permanent residence status (“temporary migrants” of KT3 and KT4 status) have to pay higher prices for electricity and pipe water consumption compared to local residents. The *hộ khẩu* is also required to obtain birth certificates for newborns.³² Parents who are refused *hộ khẩu* cannot obtain birth certificates, and thus cannot register their children for schooling. They also cannot obtain government-provided financial support for disadvantaged pupils to cover textbook or learning aids, nor access free medical care and other welfare bonuses, since these all require that pupils have permanent household registration status. Rural-to-urban migrant workers, or ethnic minorities who are denied *hộ khẩu* because of their religious affiliations or non-sedentary lifestyle, thus suffer grave denial of economic and social rights in all aspects of their daily lives.

Articles 6 & 7: The right to work and the right to just and favourable conditions of work

6.1: States Parties recognize the right to work which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right;

³⁰ Arbitrary Detention in the Socialist Republic of Vietnam, testimony by Vo Van Ai, VCHR President, to the US Congress Tom Lantos Human Rights Commission Hearing on “Vietnam: Continuing Abuses of Human Rights and Religious Freedom”, 15 May 2012.

³¹ “*Well Begun, not yet done: Vietnam’s remarkable progress on poverty reduction and the emerging challenges*”, World Bank in Vietnam, Hanoi 2012.

³² Decree 81/1998/ND-CP.

7.1: States Parties recognize the right of everyone to the enjoyment of just and favourable conditions of work.

In the rural areas, the right to work and to enjoy just and favourable conditions of work are seriously impeded by government programmes such as forced population displacement and state appropriation of land for development purposes. This is particularly serious in ethnic minority areas where people are also affected by spontaneous and state-sponsored migration of Kinh people and forced culture of cash crops on their ancestral lands.

UN Expert on Minority Issues Ms. Gay McDougall expressed grave concern in her report to the UN following her visit to Vietnam about the displacement of minorities and the confiscation of ancestral lands on which their livelihoods depend. She noted that *“large areas of fertile lands have been turned over to industrial crops, including coffee and rubber, whilst massive in-migration of ethnic Kinh has put additional pressure on scarce available land”*.³³

Population displacement because of **investment and infrastructure projects** has negatively impacted ethnic minority communities in many areas. One example is the Son La hydro-power plant which required the forced displacement of some 91,000 people, most of them minorities, from the provinces of Son La, Lai Chau and Dien Bien. The Vietnamese government describes this as a success story. However, according to the Vietnam Union of Science and Technology Associations (VUSTA), this relocation has caused trauma and in many cases left displaced people without basic infrastructures or agricultural land. *“Resettled communities are not given adequate assistance in their transition to alternative forms of upland agriculture production suitable to their new localities, leading to greater food insecurity and signs of increased poverty,”* VUSTA reports.³⁴



Son La hydro-power plant

Employment discrimination is caused by the **influx of Chinese workers** to work on China-funded mega-industrial projects in the electricity, cement, building and chemical sectors. Today, Chinese contractors are involved in almost 90% of energy projects in Vietnam.³⁵ The contractors insist on bringing in Chinese labourers instead of employing Vietnamese, ostensibly because it saves paying the costs of interpreters. In fact, economic reasons are not the main motivation, because these Chinese labourers are paid between three to six times more than Vietnamese labourers doing the same work.³⁶ According to statistics from the Ministry of Labour, War Invalids and Social Affairs (MOLISA), in May 2011 there were 74,000 foreign workers in Vietnam, of which 90% of employees were Chinese. At the Vung Ang Special Economic Zone in the central coastal province of Ha Tinh, the Taiwan-based

³³ *“Well Begun, not yet done: Vietnam’s remarkable progress on poverty reduction and the emerging challenges”*, World Bank in Vietnam, Hanoi 2012.

³⁴ Follow-up study on impacts of resettlement of Son La hydropower plant, VUSTA, Hanoi 2008.

³⁵ *“Firm to sue Chinese contractor for abandoning power project,”* DPA 20 August 2014.

³⁶ *“Thousands of Chinese work without permits in Vietnam,”* Tuoi Tre News, Ho Chi Minh City, 27 March 2014, <http://tuoitrenews.vn/society/18634/thousands-of-chinese-work-without-permits-in-vietnam>

group of Chinese and Taiwanese contractors (the Formosa Group) has reportedly asked to bring in 10,000 foreign workers, 90% of whom are Chinese, to work on this massive industrial complex.³⁷ By giving in to China's conditions to import their own workers, Vietnam is breaking its own law. According to Le Quang Trung, deputy head of MOLISA's Employment Department, under Vietnamese laws and regulations "*unskilled foreign workers are not allowed to be employed in Vietnam. Vietnam only recruits foreign managers, directors, experts, and technical workers. But if Vietnamese workers meet the standards required for such jobs, they must be recruited in place of foreigners*".³⁸ Furthermore, such situation has generated violence against Chinese migrant workers. There have been numerous reports of assaults against Chinese workers, including fatal incidents.³⁹

In urban areas, many workers are subjected to **sweatshop conditions in the workplace** and receive wages that do not keep pace with the rocketing prices in housing, electricity, and fuel, especially in Hanoi and Ho Chi Minh City. Following a financial crisis in 2008, many workers lost their jobs or were obliged to accept lower wages. As a result, urban poverty has risen sharply, a situation which is further exacerbated by the growing influx of rural-to-urban migrants (mostly farmers and agricultural workers who have lost their lands). This migration has in turn increased rural poverty, since these migrants send money back to their families, but with the rising prices, their remittances have declined.

By keeping wages low (the minimum wage is fixed by the government), Vietnam has succeeded in attracting significant foreign investment. In 2014, the minimum wage was between US\$ 90–128 per month, depending on the location.⁴⁰ This is far below the monthly minimum salaries in neighbouring countries. According to the Japan External Trade Organization, the average monthly wage of a Vietnamese worker in Hanoi in 2013 was US\$145, whereas the average wages in Jakarta, Manila, Kuala Lumpur and Singapore ranged from US\$ 239 to \$1,230.⁴¹ Indeed, many firms which initially invested in China are now relocating to Vietnam because of lower wages. Worker rights are routinely sacrificed in the race to keep wages low. Workers operating in toxic or dangerous environments are often not supplied with protective clothing, and work-related accidents and deaths rose by 3.5% in 2014. Poor conditions in the workplace have seriously impacted workers' health. A study of 237 small and medium-sized enterprises conducted between 2000 and 2012 in southern Vietnam in the textile, footwear, mechanics and food-processing fields revealed that workers in 50% of these firms were exposed to excessive noise and dust levels, as well as toxic chemicals. Many firms had no proper ventilation, and temperatures ran as high as 40°C. Eight

³⁷ "*Taiwanese group requests thousands of workers for Vietnam project*", Radio Free Asia, 28 August 2014, <http://www.rfa.org/english/news/vietnam/workers-08282014174146.html>

³⁸ "*Thousands of Chinese work without permits in Vietnam*", Tuoi Tre News, Ho Chi Minh City, 27 March 2014, <http://tuoitrenews.vn/society/18634/thousands-of-chinese-work-without-permits-in-vietnam>

³⁹ "*Anti-Chinese Violence Convulses Vietnam, Pitting Laborers Against Laborers*," New York Times, 15 May 2014, http://www.nytimes.com/2014/05/16/world/asia/anti-chinese-violence-turns-deadly-and-spreads-in-vietnam.html?_r=0

⁴⁰ The minimum wage for 2015 will be increased by US\$14-18 per month, but it remains amongst the lowest in the region. "*Vietnam's minimum wage to increase in 2015*", Thanh Nien News, 6 August 2014. <http://www.thanhniennews.com/society/vietnams-minimum-wage-to-increase-1418-per-month-in-2015-29590.htm>

⁴¹ "*Thousands of Chinese work without permits in Vietnam*", Tuoi Tre News, Ho Chi Minh City, 27 March 2014. <http://tuoitrenews.vn/society/18634/thousands-of-chinese-work-without-permits-in-vietnam>

percent of the workers were diagnosed with serious hearing impairment, skin illness, silicosis, and lead and insecticide poisoning.⁴²

Discontent in the workplace is exacerbated by the **growing inequalities and wealth disparity** between workers and the management due to corruption and abuse of power. The 2012 World Bank report noted that Vietnamese people found rising inequalities due to higher wages, hard work or education as “acceptable”, while those generated through the illegitimate use of power or influence were “unacceptable”. *“Without [unfair] power and connections, the directors just differ from the workers by some coefficient of basic salary. Because they have power and information [...] they have used this to become richer”*.⁴³

Indeed, the government has founded its whole development strategy on its industrious, docile and low-paid workforce,⁴⁴ and turned a blind eye as Vietnamese Communist Party (VCP) and government officials arrange deals for investors and receive handsome pay-offs in return. In this climate of corruption, a new class of business-minded VCP cadres has emerged who use their positions to enrich themselves, often at the workers’ expense. High-ranking VCP veterans such as the late General Vo Nguyen Giap have denounced the powers and impunity of VCP members and their families who *“buy positions, power, diplomas and degrees, buy off the winning tender for their commercial ventures, even “buy” their way out of punishment and prison.”*⁴⁵ The World Bank expressed concern that these rising inequalities in opportunities and incomes would be perpetuated in future generations unless Vietnam takes urgent measures to stem this trend.⁴⁶



Children working in a factory in Ho Chi Minh City,
Photo Blue Dragon Foundation

Child labour is a serious concern. Many poor children from the provinces fall victim to trafficking rings who bring them to the big cities with promises of work, then force them into virtual slavery. The Blue Dragon Children’s Foundation, a charity based in Ho Chi Minh City that helps rescue these children, say that children are forced to work from 6am until midnight with no wages, and are regularly beaten. In one factory in Ho Chi Minh City, they found 14 children working, sleeping, and eating in a small room with the

machines. *“The factory owner only let them go to the bathroom for eight minutes per day, including brushing their teeth, washing and going to the toilet,”* said Blue Dragon’s lawyer Van Ta Ngoc.⁴⁷

⁴² *“Poor working conditions lead to health problems”*, Vietnam News Service, 28 December 2012. <http://vietnamnews.vn/social-issues/employment/234663/poor-working-conditions-lead-to-health-problems.html>

⁴³ *“Well Begun, not yet done: Vietnam’s remarkable progress on poverty reduction and the emerging challenges”*, World Bank in Vietnam, Hanoi 2012.

⁴⁴ *“Over the last 20 years, Vietnam has successfully attracted foreign investment because of its low-cost labour force”*, Deputy Prime Minister Nguyen Thien Nhan, Vietnam News Service, January 15 2008.

⁴⁵ *“Open Letter to the CPV leadership”*, General Vo Nguyen Giap, Hanoi, 3 January 2004.

⁴⁶ *“Well Begun, not yet done: Vietnam’s remarkable progress on poverty reduction and the emerging challenges”*, World Bank in Vietnam, Hanoi 2012.

⁴⁷ *“Vietnam’s lost children in labyrinth of slave labour”*, BBC, 24 August 2013.

<http://vietnamhumanrightsdefenders.net/2013/08/26/vietnams-lost-children-labyrinth-slave-labour/>

Although the Vietnamese Constitution specifically prohibits child labour (Article 37), in 2013 the Ministry of Labour, Invalids and Social Affairs (MOLISA) issued Circular 11, which authorizes “*light work*” for children between 13 and 15 years old. The list of authorized work includes tasks such as “*mat weaving, making incense, weaving net, making home appliances and fine art crafts from wicker, rattan and bamboo, rearing silk worms, packing candy*”. These tasks are unsuitable for children, and incompatible with ILO labour standards. Indeed this Circular, which legalizes a form of child labour, is gravely inconsistent with the rights enshrined in the ICESCR.

Trafficking for labour exploitation has become a lucrative business. Vietnam earns substantial revenues from the “export” of workers to countries such as the United Arab Emirates, Taiwan, Malaysia, Saudi Arabia, and South Korea. On arrival in these countries, workers are often compelled to work in substandard conditions for little pay and with no access to legal recourse. Vietnamese labour export companies, most of which are state-affiliated, often charge excessive recruitment fees, which put workers in a state of debt bondage for years. In 2013, the US State Department put Vietnam on its “Tier 2 Watch List” for human trafficking. The report noted that “*some recruitment companies did not allow workers to read their contracts until the day before they were scheduled to depart the country, and workers also reportedly signed contracts in languages they could not read*”. The report also stated that Vietnam “*did not provide adequate legal protection from forced labor or assistance to victims in Vietnam or abroad*”.⁴⁸ Vietnam has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Article 8: Trade union rights

1.a: States Parties to the present Covenant undertake to ensure the right of everyone to form trade unions and to join the trade union of their choice.

There are no independent trade unions in Vietnam. All unions are under the umbrella of the Vietnam General Confederation of Labour (VGCL), which functions under the control of the Vietnamese Communist Party. Its role as a “*socio-political organization*” is enshrined in Article 9 of the Constitution. Free trade unions outside VGCL structures are prohibited. The Labour Code, revised in 2012, gives workers a limited right to strike, principally in foreign-owned factories. But strikes are prohibited in sectors that the government considers to be of “*public service*”, important to the national economy or defence, and the Prime Minister can “*terminate*” any strike perceived as “*detrimental to the national economy or public safety*”. On 8 May 2013, the government issued Decree 41 which prohibits strikes in a list of 34 sectors and state owned companies in which strikes are prohibited (including the post office, telecommunications, energy, etc).⁴⁹

Under Vietnam’s current development strategy, which prioritizes the interests of employers and investors, workers complaints are rarely heeded and may be suppressed by legal sanctions. In 2008, following a series of strikes prompted by a sharp increase in prices of

⁴⁸ US Department of State, 2013 Report on Trafficking in Persons.

⁴⁹ Decree 41/2013/ND-CP - <http://english.luatvietnam.vn/default.aspx?tabid=754&id=5A66FC97-5478-4214-AB0A-7A57088510FF&rurl=%2fVL%2f727%2fDecree-No-412013ND-CP-dated-May-8-2013-of-the-Government-detailing-the-implementation-of-the-Labor-Co%2f5A66FC97-5478-4214-AB0A-7A57088510FF%2fdefault.aspx>

food, housing, and fuel, the government responded by adopting Decree 11, which obliges workers to pay three months salary in compensation to their employers for “*losses and damages*” if their strike is ruled illegal.⁵⁰ Under Vietnam’s Labour Law, any strike not organized by the VGCL is illegal. No strikes in 2013 were organized by the VGCL.

Since the VGCL does not defend their rights, workers resort to “illegal” or wildcat strikes as their only recourse. According to economist Phan Chi Lan, “*in recent years, the number of strikes has greatly increased. Hundreds of strikes take place each year, but they are basically all wildcat strikes, with no involvement of trade unions. Workers are legitimately raising the problem that trade union officials in Vietnam are paid by the bosses, so they inevitably stand up for the bosses’ interests and not those of the workers*”.⁵¹ In March 2014, when police used tear gas to suppress a strike in Binh Duong involving over 1,000 workers, VGCL representatives made no attempt to intervene.

Article 11: The right to an adequate standard of living

One of the most serious problems in Vietnam, which has sparked off widespread protests and led to serious violations of economic, social, and cultural rights is the question of land ownership. Over 70% of the population live in the rural areas, and farmers rely on the land as their sole source of livelihood.

Under Vietnam’s socialist system, the land belongs to the people but is managed by the state. People do not own their land, but are issued with land-use rights certificates (LURCs) which are valid for 50 years for agricultural purposes (70 years for other purposes). During the term, farmers reserve rights to transfer as well as lease and mortgage the given land. The state can forcibly recover the land at any time for a whole range of reasons, including for projects of public interest, national defence, and socio-economic development projects. Under the amended 2013 Land Law, people are given merely a 90-day notice of the confiscation of land. Local Communist Party authorities (“People’s Committees”) at the provincial, city, district, and commune levels are in charge of implementing forced evictions and fixing the rates of compensation. Given the high level of corruption amongst local officials, this system is tantamount to land grabbing and exposes farmers to grave violations of their rights.

Under Decree 64, issued in 1993, each commune is allowed to convert no more than 5% of its farmland for public purposes such as schools, health care centres, and community houses. However, this quota is rarely respected. In the suburbs of Hanoi alone, according to the municipal branch of the Natural Resource and Environment Department, more than double this amount of farmland has been converted by local officials for unlawful purposes with a total lack of transparency.⁵² Poor people in Hanoi told the World Bank that “*many owners of bogus projects have exploited loopholes under Decree 64 to appropriate land from local farmers with false claims of using it for public utilities*”.⁵³

⁵⁰ “*Providing for compensation done damage caused by unlawful strikes to employers*”, Decree 11/2008/ND-CP, January 2008.

⁵¹ “*Wildcat strikes, no trade union freedom*”, Radio Free Asia, 22 April 2014.

⁵² “*Hanoi cracks down on misuse of farmland*”, Vietnam News, Hanoi, <http://vietnamnews.vn/society/234846/ha-noi-cracks-down-on-misuse-of-farmland.html>

⁵³ “*Well Begun, not yet done: Vietnam’s remarkable progress on poverty reduction and the emerging challenges*”, World Bank in Vietnam, Hanoi 2012.

As Vietnam pursues its economic transformation, the state is confiscating great expanses of farmland on behalf of private investors to build housing estates, shopping centres, industrial zones, golf courses or hotels. In principle, legislation requires the state to notify the farmers well in advance and provide compensation or resettlement, but in practice these laws are either not implemented or flawed by official corruption, abuse of power, and a lack of mechanisms to assess the market value of confiscated lands. According to Ms. Pham Chi Lan, an



Security Police arrest a protester during forced eviction

economist and former adviser to the Vietnamese Prime Minister, “*Compensation rates are very low and those who take the land profit greatly. The land laws have many loopholes which have created fertile ground for all those who, with the support of local governments, take the land from people for personal benefit*”.⁵⁴ As a result, hundreds of thousands of farmers and their families have been dispossessed, sometimes after working for generations on their lands. The World Bank reports that about one million hectares of agricultural land was confiscated

for development projects from 2001-2010, and over 700,000 disputes over land have been recorded in the past three years alone, mostly concerning compensation.⁵⁵



“Victims of Injustice” protest State confiscation of land

Widespread anger and frustration has sparked off a **massive protest movement** called the “Victims of Injustice” (*Dân Oan*). Beginning in the late 1980s, the movement has literally exploded in recent years. Hundreds of thousands of farmers regularly march from the countryside to Hanoi or Ho Chi Minh City and camp outside

the government’s Complaints Office or the National Assembly to demand a settlement for their grievances. The government has reacted by routinely arresting and assaulting peaceful protesters. In an effort to prevent such protests, in 2005, the government adopted Decree 38

⁵⁴ “*In Vietnam, rage growing over loss of land rights*”, Associated Press, <http://bigstory.ap.org/article/vietnam-rage-growing-over-loss-land-rights>

⁵⁵ “*Well Begun, not yet done: Vietnam’s remarkable progress on poverty reduction and the emerging challenges*”, World Bank in Vietnam, Hanoi 2012.

which bans demonstrations outside public buildings, and Circular 09, which bans gatherings of more than five people without permission from the authorities.⁵⁶

The authorities have often used disproportionate violence and arbitrary arrests to repress protests against **state land grabbing and forced evictions**, with several serious incidents in 2012 alone. On 24 April 2012, in Van Giang, Hung Yen Province, 3,000 security forces attempted to forcibly evict 166 families from their lands to build a massive development project (Ecopark), wounding and arresting many villagers. On 9 May 2012, in Vu Ban, Nam Dinh Province, hundreds of riot police armed with electric truncheons sought to evict local farmers from their lands. The farmers, mostly women and elderly people, donned mourning turbans and staged a peaceful sit down. Many were



Police seek to evict Doan Van Vuong and his family in Tien Lang, 2012.

wounded or arrested as police brutally disbanded their peaceful protests. In April 2014, protests by hundreds of people resisting expulsion from their homes in Duong Noi, near Hanoi were violently suppressed by police, and at least seven people were arrested.

Sometimes, forced evictions have tragic consequences. In Tiên Lang near Haiphong in January 2012, farmer Doan Van Vuon resisted attempts to forcibly evict his family from lands he had spent 18 years transforming from useless swamplands into a viable aquaculture farm. In desperation, he shot at police, wounding six officers, and was sentenced to five years in prison. Although such violence must not be condoned, his case illustrates the deep frustration of farmers against the injustices of the present land rights system.



Villagers protest land seizures in Con Dau

In the Catholic parish of **Con Dau**, on the outskirts of Danang, central Vietnam, the authorities forcibly expelled families and razed homes to build a luxury tourist resort. The area of Con Dau includes a cemetery that has been used by Catholics for over 135 years. In 2010, when the expulsion began, police intervened to prevent a burial, resulting in serious riots and the arrests of 59 people. Hundreds of families have been expelled.

More raids took place on 27 March 2014, when police arrived at dawn with bulldozers and demolished several homes. In March 2014, the United Nations experts on housing, culture, minorities and religion issued a joint statement denouncing this incident as “*a clear case of land grabbing for the benefit of private entrepreneurs and at the expense of local*

⁵⁶ Circular 09/2005/TT-BCA.

communities". They called on Vietnam to intervene urgently on behalf of the last remaining residents.⁵⁷

Citizens who **denounce state land grabbing** face serious reprisals. In October 2013, **Nguyen Manh Ha**, a former inspector of the Government Inspectorate of Vietnam, and his colleague **Tran Anh Hung** leaked to the press a draft government report on a controversial urban development project in Danang which was very critical of the local authorities. The men said they disclosed it to the media to help residents with their denunciations and complaints. The two were sentenced to five and six years in prison respectively on charges of "intentionally revealing State secrets" (Article 263.2 of the Criminal Code).

Forestry land is a particular problem in Vietnam, especially for ethnic minorities. Living primarily in wooded, highland areas, they are far more dependent on forestry than the Kinh. Yet in the Central Highlands, only 3% of households have long-term rights to forestry land.⁵⁸ State Forestry Enterprises currently control 40% of the 11 million hectares of land classified as forests, and only a fraction of this is allocated to households. Major government programmes to protect the forests and prevent deforestation, such as the Forest Strategy 2006-2020, have negatively impacted ethnic minorities. Decided at a national level with very limited consultation with local residents in these areas, these programmes take little or no account of poverty and livelihood improvement. Many ethnic minorities live in forests which are now under strict protection. Since the authorities propose no alternative means of survival, they find themselves deprived of their livelihood, with very few means to survive.⁵⁹

Land rights issues have seriously impacted women. Lack of implementation and awareness, insufficient information, widespread official corruption and the lack of an impartial judiciary in Vietnam have resulted in mass abuses of women's right to land. Although the revised Land Law entitles women to register Land Use Rights Certificates along with their husbands, this is not widely implemented, resulting in prolonged denial of women's access to land.⁶⁰ Widows find themselves expropriated without the slightest compensation when their husband dies. Banks refuse to give loans to widows because the LURCs only mention the deceased husband's name. Ethnic minority women are particularly penalized, since regulations are not translated into their languages.

Articles 12 & 13: The right to health and education

12.1: States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

13.1: States Parties to the present Covenant recognize the right of everyone to education;

13.2.a: Primary education shall be compulsory and available free to all.

Economic liberalisation under the renovation policy (*đổi mới*) has seriously restricted the access of poor people to basic social services such as health and education. The Vietnamese

⁵⁷ "Viet Nam land grabbing case needs to be urgently addressed" UN Special Rapporteur on the right to housing, Raquel Rolnik, UN Special Rapporteur in the field of cultural rights Farida Shaheed, UN Special Rapporteur on freedom of religion or belief Heiner Bielefeldt and UN Independent Expert on minority issues Rita Izsák 26 March 2014.

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14438&LangID=E>

⁵⁸ Statistics collected by Vietnam Household Living Standard Survey, 2004, cited by World Bank.

⁵⁹ Idem, note 58.

⁶⁰ US Aid, Vietnam: Property Rights and Resource Governance Profile 1, 2013.

government has adopted a policy called “*socialization*”, which stresses the sharing of social costs and responsibilities for health and education between individuals and the state. In its 2012 report, the World Bank regrets that this policy has led to “*rising social disparities, including school enrolments and access to health services*”.⁶¹ Indeed, with the introduction of “user fees” over two decades ago, health and education have become “paying commodities”, penalizing poor families and forcing many poor children, particularly girls, to drop out of school at a very early age.

Education

Ethnic minority children are particularly disadvantaged: up to 20% of young women from ethnic minorities report that they have never attended school.⁶² Overall, one in every three ethnic minority children does not receive secondary education, and only 50% of children in the northwestern highland regions complete primary education, compared to 90% in the Red River Delta.



A school for ethnic minority children

Lack of education means a lack in opportunities, and this is one more factor in the rise of social inequality in Vietnam. Unequal education quality starts from an early age. In Quang Nam, for example, “*the disparity can be found from the preschool level. The poor households, who do their best, can send their kids to school[s] that cost 500,000 VND [US\$24] per month. The better-off households, on the contrary, send their kids to key schools that ask for fees of 700,000 to 900,000 per month. The diet and care services among these schools are different*”.⁶³

Official corruption and graft seriously affects education opportunities. Poor students who graduate from university often cannot find good jobs because they cannot pay the bribes requested by employment agencies, whereas “*many with poor academic performance somehow passed university exams and were placed in a job after graduation*”.⁶⁴

The **teaching of history in schools** in Vietnam does not conform to ICESCR provisions. Following her visit to Vietnam in November 2013, UN Special Rapporteur in the field of Cultural Rights Farida Shaheed expressed regrets that “*only one history book is in use in schools*” in Vietnam.⁶⁵ Recalling her 2013 thematic report to the UN General Assembly, Ms. Shaheed stressed that “*history teaching should promote critical thought, analytic learning and debate, enabling a comparative and multi-perspective approach rather than moulding*

⁶¹ “*Well Begun, not yet done: Vietnam’s remarkable progress on poverty reduction and the emerging challenges*”, World Bank in Vietnam, Hanoi 2012.

⁶² UN Independent Expert on Issues of Human Rights and Extreme Poverty, see note 5.

⁶³ “*Well Begun, not yet done: Vietnam’s remarkable progress on poverty reduction and the emerging challenges*”, World Bank in Vietnam, Hanoi 2012.

⁶⁴ Idem, 2012 World Bank Report.

⁶⁵ Special Rapporteur in the field of cultural rights, Visit to Viet Nam, 18 - 29 November, 2013 Preliminary conclusions and recommendations,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14038&LangID=E>

children into a unidimensional perspective. This entails in particular the use of a wide array of teaching materials, including textbooks from a range of publishers."⁶⁶

FIDH and VCHR have obtained history textbooks published by Vietnam's Ministry of Education and Training in 2013, and share the concerns of the UN Special Rapporteur. Vietnam's textbooks are not only unidimensional, but they also contain affirmations on historical events that are seriously contested by contemporary historians in Vietnam.⁶⁷ It is therefore regrettable that schoolchildren do not have access to history books other than the textbook published by the State.

Prominent academics and teachers in Vietnam have also raised concerns on this issue. In 2011, many teachers were horrified by statistics revealing that **over 90% of students** had below-average marks in history at university entrance exams. Professor Dương Trung Quốc, member of the National Assembly and Secretary-General of the Vietnamese Association of Historical Studies, said that history teaching was too "*politicized*", causing students to lose all interest in the subject. "*History teaching in schools has become an arena for propaganda, designed to instill in students a number of values imposed from above*". For the past few decades, he said, "*history books in Vietnam have been entirely devoted to "the liberation of our people", "four thousand years struggle of resistance", so everything is explained from a political perspective. This may be acceptable in times of war, when the people are bent on defeating the enemy. But it is very different in times of peace. It is precisely this "politicization" that has sclerosed the teaching of history and made [young] people lose their trust in history*".⁶⁸

Human right education is also an issue of concern. Whereas Vietnam has acceded to several core human rights treaties and is currently a member of the UN Human Rights Council, training manuals for schools and universities explain human rights in terms which are totally inconsistent with internationally-recognized human rights. In 2012, the Ministry of Justice published a series of textbooks for schools and universities in a campaign to enhance people's understanding of the law. One of these, entitled "*Some facts on Legislation regarding Human Rights: a teachers' manual for classes on civic education and law*", requires teachers to train students in human rights from a perspective close to the "Asian values" argument which rejects the universality of human rights, in contravention of the ICESCR:

"In a world of increasing diversity, approaches to human rights issues should harmoniously combine common standards and principles of international law with specific historical, political, economic and social conditions as well as cultural and religious values, beliefs and customs of each country and region. No country has the right to impose any political, economic or cultural model on others. [...] the rights and

⁶⁶ Special Rapporteur in the field of cultural rights, Idem footnote 74.

⁶⁷ For example, History Book No. 9 on "*Contemporary Vietnamese history from 1945 until the present day*" (ref. 2H91613, Ministry of Education Publishing House, Ho Chi Minh City) describes Land Reforms in North Vietnam (1953-1956) as a "great success", noting that "certain mistakes had been made" but were promptly corrected by the Party. Yet many Party members, academics and people from former North Vietnam state that possibly hundreds of thousands of people were unjustly executed in the land reforms. According to "*The History of the Vietnamese Economy*", Vol. 2, 2005, edited by Dang Phong of the Institute of Economy, Vietnamese Institute of Social Sciences, Hanoi, mass mobilization and land reform campaigns were launched in 3,314 communes with a total population of 10 million. It concluded that 71.66 % of victims were wrongly classified in this campaign. This contrasts starkly with the textbook's version of events.

⁶⁸ "*Sách giáo khoa hiện nay làm học sinh không tin cậy vào môn lịch sử*", Interview with Prof. Dương Trung Quốc, Lịch sử Việt nam, 14 October 2013.

freedom of each individual can only be protected and promoted on the basis of respect for the common rights and interests of the nation and community, and one's rights must be accompanied by his/her obligations to the society.

“Given differences in political regime, development level, cultural value and historical background, approaches to human rights might vary from country to country. Vietnam's position is that no country has the right to use human rights as a means or pretext to interfere into another country's internal affairs, create confrontation and political pressures, even use force or impose conditionalities in economic and trade relations with others”⁶⁹ (extracts translated by the Vietnam Committee on Human Rights).

Health Care

Access to health care is also seriously penalized by **endemic corruption**. Vietnamese media investigations reveal that the prices of medicines have been falsely inflated by up to 500% due to collusion between pharmaceutical companies and hospitals. The state-controlled newspapers *Tuổi Trẻ* (Youth) and *Phụ Nữ* (Women) reported that pharmaceutical firms collude with local manufacturers to manipulate prices and sell medicine to customers at more than five times their original costs, although the maximum profit allowed by law is 90%.⁷⁰ A survey by the Hanoi University of Pharmacy in 2011 reported that 40 to 60% of prices were used to “persuade” doctors to prescribe medicines or pay commission fees to hospitals. Doctors admitted taking cash and non-cash offers to make up for their low salaries, and said it was common for commissions from the pharmaceutical industry to become their main source of revenue.⁷¹ These practices are well known to the government, but little action has been taken to address this critical problem.

Many Vietnamese cannot afford health access because of the exorbitant prices of medicines, most of which are not covered via the national health system. According to a 2013 report by Oxfam, the prices of patented (new) medicines in Vietnam are up to 50 times higher than the international reference, and many patients with life-threatening diseases such as cancer or Hepatitis B or HIV-AIDS go without treatment because they simply cannot afford the high prices.⁷²

Discrimination in access to health care seriously penalizes the growing number of illegal **drug users and addicts in Vietnam**, many of whom are also HIV infected. Today, over a quarter of a million people in Vietnam live with HIV,⁷³ many of whom are drug users. Although the government has made some efforts in recent years, drug use and HIV are branded as “*social evils*” and victims suffer grave abuses of their rights. “*HIV-positive people who inject drugs face heavy stigmatization. They are intent on keeping their HIV status secret from family and community, which often results in their seeking testing and treatment at a very late stage of infection,*” says Dr Loc Thanh Hai, Chief of the Outpatient Clinic at the

⁶⁹ “Some facts on Legislation regarding Human Rights: a teachers’ manual for classes on civic education and law”, December 2012, Communications department for Legal Education, Ministry of Justice, Hanoi.

⁷⁰ *Thanh Niên News*, 13 July 2012, Ho Chi Minh City, <http://www.thanhniennews.com/society/inflated-drug-prices-aggravating-burden-of-healthcare-6233.html>

⁷¹ *Idem*, *Thanh Niên News*, 13 July 2012, Ho Chi Minh City.

⁷² *Putting Public Health at Risk: US Proposals under TPPA to exacerbate Vietnam’s access to medicines crisis*, Oxfam, 4 March 2013.

⁷³ UN AIDS 2013 report, <http://www.unaids.org/en/dataanalysis/datatools/aidsinfo/>

Thanh Hoa City Health Centre.⁷⁴ Many are dismissed from their jobs when they are discovered to be HIV-positive and subjected to humiliation at every level.

A recent study entitled “*Understanding and Challenging Stigma towards Injecting Drug Users and HIV in Vietnam: Toolkit for action*” published by the Institute of Social Development Studies and the International Center for Research on Women, gives strong anecdotal evidence of existing stigma and trauma. It identifies widespread violations of the rights of drug users and HIV victims, such as the right to equality and dignity, right to freedom from degrading treatment, right to health care, privacy and the right to work. The organizations called on Vietnam to implement a rights-based approach to guide public policies in solving this grave problem.⁷⁵

Although Vietnam has signed (but not ratified) the Convention on the Rights of Persons with Disabilities (CRPD) in October 2007, little has been done to improve the condition of disadvantaged people. **Autistic children face serious problems.** The Hanoi-based National Hospital of Pediatrics reports that the number of children diagnosed with autism in 2007 was 50 times higher than in 2000, yet there are no public schools for autistic children. Parents of autistic children are forced to leave their jobs to move to big cities where private specialized schooling is available. But these schools are expensive and children are often ill-treated. A reporter from *Thanh Nien* (Youth) newspaper who spent two weeks working undercover with a hidden camera at the Anh Vuong Special Primary School in Ho Chi Minh City captured footage of routine use of torture and abuse at the unlicensed school for disabled children.⁷⁶

Investment projects being conducted in Vietnam also lead to violations of the right to health of those affected by the projects. One particularly controversial project is that of bauxite



Open Bauxite mine in the Central Highlands

mining in the central Highlands. The US\$15 billion project tendered by the Vietnamese government to Chinese mining giant Chinalco entails open-cut mining of bauxite ore to make alumina (the powder used to produce aluminum). This process has stripped vast mountainsides of vegetation, laid waste to entire valleys, and left mounds of toxic red sludge. In addition to impacts on other economic, social, and cultural rights (such as those generated by forced evictions of ethnic minorities in the area), such projects can generate severe impact on people’s health. In Lam Dong Province, where the Tan Rai bauxite-Aluminum complex has been operating for

the past two years, local people are suffering from respiratory problems and permanent inflammation, crops have been destroyed, and many local people have been forced to move

⁷⁴ “*Early HIV treatment: Tackling HIV among injecting drug users in Vietnam*”, WHO, Vietnam, July 2014. <http://www.who.int/features/2014/tackling-hiv/en/>

⁷⁵ “*Understanding and Challenging Stigma towards Injecting Drug Users and HIV in Vietnam: Toolkit for action*”, Institute of Social Development Studies and the International Center for Research on Women, Hanoi 2011. <http://www.icrw.org/files/publications/Toolkit%20for%20action%20-%20Reducing%20stigma%20toward%20drug%20addiction%20and%20HIV%20in%20Vietnam.PDF>

⁷⁶ “*Parents of autistic children in Vietnam livid about lack of educational resources*”, Thanh Nien News, Ho Chi Minh City, 4 August 2014.

away because of the foul smell from bauxite kilns.⁷⁷ Experts, scientists, and various activists and human rights defenders, including Buddhist dissident Thich Quang Do, have decried the project as an “environmental disaster”. However, the government has continued bauxite exploitation despite its toxic effects. Prime Minister Nguyen Tan Dung has described it as “*a major policy of the Communist Party*”.

Article 15: Cultural rights

15.1a: States Parties to the present Covenant recognize the right of everyone to take part in cultural life; and undertake to respect the freedom indispensable for scientific research and creative activity.

The 2013 Vietnamese Constitution enshrines the right to carry out scientific and industrial research, engage in literary and artistic creation, and participate in cultural life (Articles 41 and 42), and Vietnam’s country report to the CESCR gives a long list of laws that regulate the framework of this right. The difference, however, lies in the word **freedom**, which the CESCR deems indispensable for artistic creativity and scientific research. In Vietnam, artists, academics, and scientists are not always free. The government and the Vietnamese Communist Party (VCP) define culture as a tool for “*building and defending the Socialist fatherland*”.⁷⁸ On the basis of ill-defined concepts of “*preserving fine traditions*” or “*doing away with bad practices*”, the state can authorize or ban cultural activities at will. There is no definition of the space or limits of creation or research and people cannot know on which side of this invisible line their work may fall.

There are no privately-owned publishing houses in Vietnam. Even the religious communities cannot print their own books. There are no independent newspapers or media. Internet penetration is high in Vietnam (over 30% of the population has access to Internet) and blogs are extremely popular. However, Internet, blogs and social networks such as Facebook are subjected to legal restrictions and controls. Bloggers, writers, and artists who express critical views on government policies risk fines or even prosecution under vaguely-worded provisions in the Criminal Code on “national security” or “abusing state interests” (see above “legal framework”).

Following a visit to Vietnam in November 2013, UN Special Rapporteur in the field of Cultural Rights Farida Shaheed expressed particular concern about the use of Article 88 of the Criminal Code on “*disseminating propaganda against the Socialist Republic (SRV)*” to imprison artists. She called on Vietnam “*ensure greater freedom of artistic expression and creativity, in accordance with international standards*”.⁷⁹ Article 88 carries prison sentences of up to 20 years. In 2012, two young song-writers, Viet Khang and Tran Vu Anh Binh, were sentenced respectively to four and six years in prison followed by two years’ house arrest under Article 88 for writing protest songs about the Vietnamese government’s repression of peaceful demonstrations against China’s encroachments on Vietnamese waters and lands.

⁷⁷ “*Sickness, foul smell from bauxite mining mar Vietnam province*”, Tuoi Tre News, 17 September 2014. 18/9/2014: <http://tuoitrenews.vn/features/22495/sickness-foul-smell-from-bauxite-mining-mar-vietnam-province>

⁷⁸ 1999 SRV Press Law, Article 6.2.

⁷⁹ Special Rapporteur in the field of cultural rights, Visit to Viet Nam, 18 - 29 November 2013, Preliminary conclusions and recommendations, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14038&LangID=E>

The laws on cultural rights cited in Vietnam's report contain limitation clauses which are vaguely-defined and incompatible with the ICECSR. They include:

- The **Publications Law** (2004), which prohibits a range of publication activities such as “*spreading reactionary ideologies, social evils, superstition, undermining fine traditions or customs, negating revolutionary achievements*”;
- The **Cinematography Law** (2006) and its **Implementation Decree** (2010), which prohibit all footage deemed to “*spread propaganda against the SRV, undermine great national unity*” or even “*trigger panic and obscure feeling before supernatural and devil forces*”;
- The **Law on Cultural Heritage** (2001, amended in 2009) prohibits “*taking advantage of the protection and promotion of the values of cultural heritages to carry out superstitious activities or commit other illegal acts*”; it stipulates that the state has the mandate to “*promote the fine customs and traditions in the nation's life-style and way of life; do away with bad customs and practices harmful to the people's cultural life*”.
- **Decree 97** (2009), which limits private research organisations to a list of 317 topics and bans them from publishing results bearing on government policies.⁸⁰ The Vietnam Institute of Development Studies, Vietnam's first independent think-tank, decided to close down rather than submit to the Vietnamese Communist Party's dictates. “*It is impossible to limit the right to do research on life into a list, no matter how long the list is*”, the Institute stated on its website. “*Such provisions will bind the hands of scientists who study independently*”. Decree 97 applies to all organisations registered under the **Vietnam Union of Sciences and Technology Associations** (VUSTA). Since many civil society groups are affiliated to VUSTA, Decree 97 is a serious impediment to research and free speech in Vietnam.
- **Internet Decree 72** (2013), which requires Internet companies and providers in Vietnam to cooperate with the government in enforcing the prohibition of a range of vaguely-defined acts of expression.⁸¹ “*Prohibited acts*” include “*abusing the provisions and use of the internet and information on the web*” to “*oppose the Socialist Republic of Vietnam*”; “*undermine the grand unity of the people*”, “*damage the prestige of organizations and the honour and dignity of individuals*”, and “*undermine the fine customs and traditions of the nation*” (Article 5). Article 25 requires the filtering of any information on the Internet based on the interpretation that such information is amongst the “*prohibited acts*” outlined in Article 5. Foreign Internet Service Providers will have to provide information about their users when requested by investigative bodies.

Decree 72 also limits freedom of expression on **social networks**. Under Article 20, personal blogs and social network accounts may only contain “*information of a personal nature*”. Users are forbidden to post “*general information*” such as press articles on their accounts. In October 2013, netizen Dinh Nhat Uy received a 15-month suspended prison sentence posting articles and critical comments on his Facebook account. He was charged with “*abusing*

⁸⁰ “*New Vietnam law shuts down independent think tank*”, DPA, September 15, 2009.

⁸¹ Decree 72/2013/ND-CP on Management, Provision, Use of Internet Services and Information Content Online which came into effect on 1 September 2013

democratic freedoms to encroach on the interests of the State” under Article 258 of the Criminal Code.

The growing **tourist industry** in Vietnam has generated substantial resources, but has also had detrimental impacts on people’s cultural rights, especially in ethnic minority areas. In recent years, the government has encouraged the revival of many antiquated rites, festivals, and folklore in order to attract tourists to these localities. However, as the UN Special Rapporteur in the field of Cultural Rights observed, “*local people are not the primary benefits of the revenue generated*”. The UN expert expressed particular concern that “*people are asked to perform rather than live their own cultures, either to retain artificially specific aspects of their culture to satisfy the tourists’ demands, or, conversely, to modify certain aspects of their culture to satisfy those demands such as modifications of food or accommodation patterns, or the foreshortening of customs*”.⁸²

Cultural activities of the ethnic minorities are determined by the Vietnamese Communist Party (VCP), without consultation with local populations. In June 2013, the VCP Central Committee adopted a resolution on “*building and developing an advanced Vietnamese culture imbued with national identities*”.⁸³ Hoang Tuan Anh, Minister of Culture, Sport, and Tourism explained that the government would implement this resolution with an emphasis on “*the education of ideology, morality, and a civilized lifestyle, following President Ho Chi Minh’s moral example*”. Vietnam’s country report to the CESCR further stressed that its policies aim to “*preserve selectively*”, *safeguard and promote typical cultural values, phase out the obsolete*”.⁸⁴ Activities to be “*phased out*” include “*superstition, tradition of votive papers and social evils*” (paragraph 592). Since there is no clear definition of “*superstition*” in Vietnam’s legal system, this policy exposes ethnic minority peoples to arbitrary sanctions and prosecution.

“Evil practices” are often invoked to suppress cultural rights.

In March 2014, seven ethnic Hmong followers of the Duong Van Minh faith in Tuyen Quang were sentenced to prison terms of up to two years in a series of trials because of their religious practices. They built “funeral homes” (*nhà đôn*) where the bodies of the deceased are kept before burial so that their families can visit them. The authorities condemned it as an “*evil practice*”, destroyed the funeral homes and beat and arrested those who objected. The seven Hmongs were convicted on charges of “*abusing democratic freedoms and rights to encroach on the interests of the State*” under Article 258 of the Criminal Code.



Hundreds of ethnic Hmong in Tuyen Quang protest the detention of Duong Van Minh followers

Religion and spiritual practices are fundamental to cultural life, and freedom of religion or belief is enshrined in the Vietnamese Constitution (Article 24). However, Vietnam imposes a

⁸² Special Rapporteur in the field of cultural rights, Visit to Viet Nam, 18 - 29 November, 2013.

⁸³ 5th plenum of the 8th Communist Party Central Committee Resolution, June 2013.

⁸⁴ Vietnam Country report to CESCR, paragraph 556.

system of registration and control which is incompatible with international human rights laws, and seriously penalizes religious followers. Only religious groups recognized by the state are allowed to practice religious activities, and all others are declared illegal.



Smashed Buddha statues on Ba Ra mountain

The **Unified Buddhist Church of Vietnam (UBCV)**, formerly Vietnam's largest religious organization, is not recognized by the state, and its followers are subjected to systematic harassment, intimidation and arbitrary house arrest. Since Vietnam's first UPR in 2009, the authorities have intensified repression against UBCV members, prohibiting celebration of key Buddhist festivals such as Vesak (Buddha's Birthday) and Vu Lan (Wandering Soul's Day), subjecting UBCV monks to beatings, house arrest and surveillance, harassing Buddhists who frequent "reactionary" UBCV pagodas and smashing Buddha statues.⁸⁵

UBCV monk Thich Thanh Quang was beaten by hired thugs under the eyes of the police in August 2012.⁸⁶ In a crackdown on the UBCV in January 2014, Buddhist nun Thich Nu Dong Hieu was slapped by security agents until she fainted and

hundreds of members of the Buddhist Youth Movement (*Gia đình Phật tử Việt Nam*) were placed under house arrest, including the movement's leader Lê Công Cầu. Police confiscated his laptop and mobile phone and threatened to prosecute him for posting articles on the Internet supporting the UBCV.⁸⁷

UBCV leader Thich Quang Do, 86, has been held under different forms of detention for over three decades. He is currently under house arrest at the Thanh Minh Zen monastery in Ho Chi Minh City. He is held under constant police surveillance, and denied freedom of movement. A UK Parliamentary delegation visiting Vietnam in 2013 was prohibited from meeting Thich Quang Do by the Vietnamese authorities.⁸⁸

Followers of all non-recognized religions, including Hoa Hao, Cao Dai, Protestants and Khmer Krom Buddhists suffer similar restrictions, harassments, and intimidation in all aspects of their daily lives.

⁸⁵ In December 2012, the Government Board of Religious Affairs (GBRA) ordered the destruction of Buddha statues in a Buddhist site on Ba Ra Mountain in Binh Phuoc Province to make place for a tourist centre. The Commission mandated to oversee the "removal" of the statues was made up of officials from the GBRA, the People's Committee and the State-sponsored Vietnam Buddhist Sangha. The destruction operations were led by the head of the Binh Phuoc office of the GBRA Nguyen Huu Tu. Buddhist monk Thich Ngo Chanh denounced the smashing of the statues and posted footage and interviews in a YouTube in May 2013.

⁸⁶ Police harass and intercept UBCV monks and lay-followers to prevent celebrations of Memorial Day in Hue, International Buddhist Information Bureau, 8 Jan. 2014 http://www.queme.net/eng/news_detail.php?numb=2207

⁸⁷ "The State's Policy of Repression against the Unified Buddhist Church of Vietnam", Testimony to US Congressional Hearing on Human Rights in Vietnam, Vo Van Ai, 14 April 2013.

http://www.queme.net/eng/news_detail.php?numb=2046

⁸⁸ "British Parliamentary Delegation is barred from visiting Buddhist leader Thich Quang Do", IBIB 5 June 2013, http://www.queme.net/eng/news_detail.php?numb=2085



Plain clothed Security agents assault UBCV monk Thich Thanh Quang in Danang

UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt urged Vietnam to allow religions to operate outside state-sponsored channels. *“Granting autonomy for religious communities to function independently would be a litmus test for the development of freedom of religion or belief in Viet Nam. In the current situation, their ability to operate as independent communities is unsafe and restricted.”* In conclusion, he noted that *“serious violations of freedom of religion or belief are a reality in Viet Nam”*.⁸⁹

Vietnam's extraterritorial obligations under the ICESCR

Finally, evidence has shown that Vietnamese companies operating abroad have been involved in systemic human rights violations, contributing to environmental degradation and violations of the economic, social, and cultural rights of affected communities. This is notably the case of investments projects in rubber plantations that have contributed to land grabbing in neighbouring Laos and Cambodia.⁹⁰

States have extraterritorial human rights obligations under the ICESCR.⁹¹ As highlighted by the CESCR in recent concluding observations, states are expected to take measures to address the extraterritorial human rights impacts of their policies (international cooperation, trade and development, etc), as well as the impacts of companies operating in or managed from their territory.⁹²

Recommendations

In view of the persisting violations of economic, social and cultural rights in Vietnam, FIDH and Vietnam Committee on Human Rights urge the Vietnamese government to:

Independence of the judiciary, freedom of expression, and cultural rights

- Immediately and unconditionally release all persons detained for the peaceful advocacy or exercise of their economic, social, and cultural rights, including traditional cultural

⁸⁹ Media statement and Preliminary Observations of the UN Special Rapporteur on Freedom of Religion or Belief, Hanoi, July 2014.

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14914&LangID=E>

⁹⁰ “*Rubber Barons*”, Global Witness report, <http://www.globalwitness.org/rubberbarons/>

⁹¹ See notably the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights. The Principles refer to States' obligations under international law and customary law.

⁹² See the concluding observations on Germany (2011), Austria (2013) and China (2014).

practices; make public the names of all prisoners detained under “*national security*” and “*abuse of democratic freedoms*” provisions simply for the peaceful exercise of their economic, social, and cultural rights and allow visits by the International Red Cross and other international observers;

- Immediately revise Articles 258, 79, and 88 of the Criminal Code, as well as all other overly-broad provisions (including those on national security, superstition, the right to leave one’s country) which are inconsistent with human rights guarantees enshrined in the ICESCR;
- Grant autonomy to all religious organizations, as recommended by the UN Special Rapporteur of Freedom of Religion or Belief; re-establish the legal status of the Unified Buddhist Church of Vietnam (UBCV) and all other non-recognised religious organisations and allow them to operate freely without restrictions or harassment; release UBCV leader Thich Quang Do, detained without charge at the Thanh Minh Zen Monastery in Ho Chi Minh City;
- Adopt legislation that fully respects freedom of association and facilitates the establishment and operation of independent NGOs and civil society organizations outside the framework of the Vietnam Fatherland Front to enhance the protection of economic, social, and cultural rights;
- Adopt legislation that fully respects freedom of peaceful assembly and repeal Decree 38/2005 and Circular 09/2005, which prohibits gatherings of more than five people without permission from the authorities;
- Authorise the publication of independent media and revise provisions in the Press Law, Publications Law, Internet Decree 72, and other legislation which restrict the exercise of academic freedom, scientific research, and cultural rights;

Non-discrimination

- Implement the recommendations of the UN Committee on the Elimination of Discrimination against Women;
- Dismantle the control mechanism of the household registration permit (*hộ khẩu*) which creates obstacles for rural-to-urban migrants in accessing education, health and other social services and is used to discriminate against religious, political, and ethnic minority groups, in accordance with the recommendations of the Committee on the Elimination of all Forms of Racial Discrimination;⁹³
- Initiate political reforms to protect citizens against these negative effects and create a climate of diversity and political pluralism so that all citizens may participate in the process of social, economic, intellectual, and political development in Vietnam;
- Recognise the universality and indivisibility of human rights, and promote and protect simultaneously and harmoniously all civil, political, economic, social, and cultural rights, as recommended by the UN Independent Expert on the Question of Human Rights and Extreme Poverty;

⁹³ Concluding Observations of the CERD, CERD/C/VNM/10-14, 9, March 2012.

Trade union rights

- Amend the Labour Code to bring it into line with international labour standards; guarantee the right to peaceful assembly and association;
- Authorise the establishment of independent trade unions which provide invaluable safety nets to prevent discriminatory practices and provide alternative mechanisms to defend economic, social, and cultural rights;

Children

- Immediately repeal Circular 11/2013 authorizing children from 13 to 15 years old to work;

Right to education

- Guarantee academic freedom; introduce a range of textbooks in schools to ensure that history teaching is not based on the unique state-published manual;
- Ensure that human rights education in schools and universities reflects the universality of human rights;
- Guarantee access to free and compulsory education for all children;
- Take the necessary measures to guarantee an inclusive education, including by ensuring children with disabilities can attend regular schools and that teachers are adequately trained and that schools receive adequate support and equipments, in line with CESCR's General Comment No.5.

Right to health

- Ensure greater access to health care without any discrimination; improve access to health care for persons with disabilities, including autistic children;
- Adopt a rights-based approach towards drug users and people infected with HIV in order to combat stigmatization and discrimination which blocks their access to health;

Forced labour and human trafficking

- Take stronger policy and regulatory measures to combat trafficking for labour and sexual exploitation;

Forced evictions and land-grabbing

- Put an immediate end to forced evictions carried out in contradiction with international human rights law, in particular the ICESCR and General Comment No.7 on forced evictions, as well as the basic principles and guidelines on development-based evictions and displacement presented by the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living; ensure that domestic legislation expressly prohibit forced evictions; only very limited exceptions should be admitted, in conformity with the ICESCR. Legislation and policy measures should respect procedural protections, as set out in CESCR's General Comment No.7.

- Take the necessary steps to remove any administrative obstacles that may prevent the issuance of joint land use certificates to husbands and wives.⁹⁴

Trade, business, and human rights

- Promptly study and take effective measures to mitigate the negative impacts of economic liberalization which have led to increasing disparities in the areas of health, education, employment, and other economic, social, and political participation;
- Fulfil obligations under international human rights law to protect against human rights abuses committed by third parties, including business enterprises, and ensure access to judicial and non-judicial mechanisms for victims of corporate-related abuses through policies, regulation, and adjudication;
- Adopt a rights-based approach to economic development to ensure respect and protection of economic, social, and cultural rights, including the rights of all ethnic minorities to genuine participation and negotiation in economic and development decision-making processes that affect them, by obtaining their free, prior, and informed consent through fair, adequate, and transparent procedures.
- Ensure that trade and investment agreements negotiated do not generate or contribute to perpetuate or aggravate human rights violations. In particular, such agreements should include protective and safeguard clauses to ensure that human rights are duly protected, respected, and fulfilled. Agreements should include an obligation to regularly make comprehensive and ongoing human rights impact assessments and provide for effective enforcement mechanisms accessible to affected individuals and communities and provide sanctions in case of violations. Agreements should not hinder the state's ability to respect and fulfil its human rights obligations, including when regulatory measures are needed.
- Ensure measures are taken to reduce poverty, including by reducing inequalities in distribution of wealth, in line with Vietnam's obligations under the ICESCR and with the CESCR's 2001 statement on poverty;
- Ensure that efforts to address poverty of ethnic minorities take fully into account their views, preserve their cultures, languages, traditions and lifestyle, and respect their rights to own and use the lands and territories that are essential to their livelihoods;
- Ensure that adequate and effective measures are taken to ensure that companies, including state-owned companies, respect economic, social, and cultural rights in their operations, including when operating abroad. Such measures should include the establishment of a clear and robust regulatory framework to ensure that their activities respect and promote human rights and to prevent any negative impacts on economic, social, and cultural rights; require mandatory human rights due diligence from companies; adopt appropriate legislative and administrative measures, including sanctions, to ensure legal liability of companies and their subsidiaries for violations of economic, social, and cultural rights, including in their projects abroad.

⁹⁴ Concluding Comments of the CEDAW, CEDAW/C/VNM/CO/6, 2 February 2007, §9

- Undertaking systematic and independent human rights impact assessments prior to approving investment projects;

Ratification of international human rights instruments and cooperation with UN Special Procedures

- Sign and ratify the Optional Protocol to the ICESCR, expressly recognize, through a formal declaration, interstate complaints and inquiries procedures as per articles 10 and 11 of the Optional Protocol and ensure that individuals or groups of individuals are not subject to reprisals for communicating with the CESCR;
- Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;
- Ratify the Convention on the Rights of Persons with Disabilities;
- Ratify the ILO Freedom of Association and Protection of the Right to Organize Convention (87), the Right to Organize and Collective Bargaining Convention (98), the Abolition of Forced Labour Convention (105), the Protocol of 2014 to the Forced Labour Convention (P029), and the Convention concerning decent work for domestic workers (189);
- Extend a standing invitation to all UN Special procedures and respond to requests for visits by the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression and Opinion and the Special Rapporteur on Human Rights Defenders;
- Enable United Nations' experts and independent international human rights organizations to have full access to all sectors of society during visits to Vietnam, in conformity with its international obligations.



VIETNAM COMMITTEE FOR HUMAN RIGHTS

The **Vietnam Committee on Human Rights (VCHR)**, a registered non-profit organisation, was founded in Paris in October 1975 to increase awareness of human rights violations in Vietnam. It is affiliated to the International Federation for Human Rights (FIDH), a Paris-based organisation with 164 affiliate leagues in countries all over the world. The VCHR President Vo Van Ai is a former Vice-President of the FIDH.

The Vietnam Committee on Human Rights :

- wmonitors and reports violations of internationally-recognized human rights in Vietnam;
- wpromotes universal human rights and freedoms for the Vietnamese people ;
- winforms members of Parliament, UN and government agencies, international organizations, labour unions and the media about violations of human rights and worker rights in Vietnam, organises cultural events and public lectures ;
- wcampaigns for the release of prisoners of conscience ;
- wpromotes Vietnamese culture and circulates news and comment on democracy and human rights through the publication of Vietnamese-language books, press releases and reports which are circulated inside Vietnam and to the Vietnamese Diaspora.
- wRuns a weekly radio programme in Vietnamese on religious freedom, human rights and democracy which is broadcast on short-wave in Vietnam and available online.

Human Rights Monitoring

The Vietnam Committee on Human Rights testifies at the UN Human Rights Council and submits regular information to UN Special Procedures. It has submitted Shadow Reports on Vietnam's implementation of the ICCPR, ICESCR, CEDAW and ICERD, and stakeholder submissions to Vietnam's UPR in 2009 and 2014. The Vietnam Committee closely monitors the cases of political prisoners and informs UN agencies and Governments on their status and health. The Committee translates and publishes reports and testimonies sent from political prisoners in Vietnam.

Advocacy

The Vietnam Committee works actively with governments and international organizations to mobilise support for human rights advancement in Vietnam. VCHR staff have testified at hearings at the US House of Representatives and the European Parliament and conducted many advocacy trips in Europe, the USA and Asia (e.g. Australia, Belgium, Canada, Denmark, France, Holland, Japan, Norway, the Czech Republic, Sweden, the UK), meeting with Foreign Ministry officials, legislators, NGOs and labour movements. VCHR advocacy campaigns on religious freedom led to several Resolutions in the European Parliament, most recently an EP Resolution on Freedom of Expression Online and Off-line (2013).

Religious Freedom

VCHR works to promote freedom of conscience and combat religious intolerance in Vietnam. It is a member of EPRID, the European Platform on Religious Intolerance and Belief. VCHR President Vo Van Ai is International Spokesman of the Unified Buddhist Church (UBCV) and Director of the UBCV's information office, the **International Buddhist Information Bureau (IBIB)**.

Publications

VCHR publishes regular reports on the situation of human rights and religious freedom in Vietnam. VCHR-FIDH joint reports include “*Vietnam: From Vision to Facts – Human Rights under its Chairmanship of ASEAN*”; “*Bloggers and Netizens Behind Bars: Restrictions on Internet Freedom in Vietnam*” (2013, published in English, French and Vietnamese). Recent VCHR reports include: “*UBCV: the movement for religious freedom in Vietnam*” (2014); “*Arbitrary Detention in the Socialist Republic of Vietnam*” (2012); “*Rule of Law or Rule **by** Law? Crime and Punishment in Vietnam*” (2011).

VCHR President Vo Van Ai contributes Op-Eds, articles and interviews to many international publications such as the *Wall Street Journal*, *Le Monde*, *Los Angeles Times*, *World Affairs Journal* etc. He is a recipient of the Societa Libera Special Prize for Freedom (Italy, 2011).

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