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# **VIETNAM: SITUATION OF INDIGENOUS MINORITY GROUPS IN THE CENTRAL HIGHLANDS**

**A Writenet Report**

**commissioned by United Nations High Commissioner for Refugees,  
Status Determination and Protection Information Section (DIPS)**

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## List of Acronyms

ASEAN	Association of South East Asian Nations
CEM	Committee for Ethnic Minorities
CEMMA	Committee for Ethnic Minorities and Mountainous Areas
CIA	(United States) Central Intelligence Agency
CPA	Comprehensive Plan of Action
CPC	Country of Particular Concern
ECOSOC	Economic and Social Council
ECVN	Evangelical Church of Vietnam
ECVNS	Evangelical Church of Vietnam (South)
EU	European Union
FCSP	Fixed Cultivation and Sedentarization Programme
FULRO	Front Unifié de Lutte des Races Opprimées - United Front for the Struggle of the Oppressed Races
GDP	Gross Domestic Product
HEPR	Hunger Eradication and Poverty Reduction
HH	Household
IRFA	International Religious Freedom Act
MDG	Millennium Development Goal
MFI	Montagnard Foundation Inc
MHRO	Montagnard Human Rights Organization
MoU	Memorandum of Understanding
NEZ	New Economic Zone
NGO	Nongovernmental Organization
SF	State-owned Farm
SFE	State Forestry Enterprises
SRV	Socialist Republic of Viet Nam
TRP	Transnational Radical Party
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
US(A)	United States (of America)
USCIRF	US Commission on International Religious Freedom
VHLSS	Vietnam Household Living Standard Survey [2002-]
VLSS	Vietnam Living Standard Survey [1993, 1998]
VND	Viet Nam Dong
WHO	World Health Organization
WTO	World Trade Organization

## **Executive Summary**

In 2001 and again in 2004, protests erupted in the Central Highlands region of the Socialist Republic of Viet Nam when thousands of ethnic minorities gathered to demonstrate against government policies. The subsequent security crackdown, combined with what minorities claimed were long standing repressive attitudes and policies toward religion and land rights in the Central Highlands, has resulted in several waves of the region's minority people fleeing to Cambodia where they claimed asylum and sought refugee status. This phenomenon brought in the participation of UNHCR, who has attempted to broker solutions to the refugee problem, with some people being resettled in third party countries while others have been repatriated to Vietnam. This paper provides an assessment of the problems in the Central Highlands and looks at the aftermath of the 2001 protests and their effect on refugee movements, and the involvement of UNHCR in this situation. The paper also updates the current social, economic and political situation in the Central Highlands and in Vietnam generally to see what effect current trends may have on future refugee outflows and on the ability of repatriated persons to reintegrate into Vietnam.

From the perspective of finding solutions to the refugee outflows, the situation has been complicated, as Vietnam never considered the fleeing minorities to be refugees, but rather illegal migrants who were induced into leaving by outside émigré organizations. A troubling aspect of the problem is that many of those who fled Vietnam have been documented to have been forcibly repatriated by Cambodian police in contravention of the 1951 refugee convention. Those that were able to be interviewed by UNHCR have in some cases claimed that they were promised support for their land rights movement if they made it to Cambodia and met with UN officials. These factors have all complicated efforts to find a solution to the problem. A tripartite agreement between UNHCR, Vietnam and Cambodia was tried in 2002 but fell apart; however, a 2005 agreement to repatriate refugees under controlled conditions is currently continuing. UNHCR has been criticized in some quarters, however, about the appropriateness of voluntary repatriation given the difficult task of independent monitoring of the reintegration of refugees in Vietnam.

There is a pressing need to understand the socio-economic and political situation in the Central Highlands, and to analyze what impact current developments in these areas may have on refugee outflows, as well as the ability of returnees to reintegrate. These concerns include continued high levels of minority poverty, population in-migration, environmental degradation and unequal distribution of natural resources leading to conflicts over land and religious freedom, and questions about the role of outside émigré organizations in the above issues. The 2001 and 2004 protests have in fact instigated some policy changes in Vietnam, despite some fears that government responses would be limited to accusations of foreign meddling in Vietnam's security. Yet, the government has also chosen to focus on development issues in the Central Highlands, including new poverty reduction programmes, programmes to redistribute land to ethnic minorities, and policies to allow more liberalized freedom of religion to the evangelical Protestants that dominate minority areas. These policies may have a positive impact on reducing future outflows and on assisting repatriated returnees, but for many of these programmes, it is too soon to assess the true impacts.

# 1 Introduction

In February of 2001, several thousand ethnic minorities in the Central Highlands region of the Socialist Republic of Viet Nam (SRV) took to the streets in provincial capitals to demonstrate against the government. Further protests occurred again in April of 2004, with even more violence than was reported in 2001. Western observers noted that these were the most serious instances of public dissent to have taken place in Vietnam since reunification of North and South in 1976.<sup>1</sup> The 2001 protest resulted in several waves of the region's minority people fleeing to Cambodia, where they claimed asylum and sought refugee status. This phenomenon brought in the participation of UNHCR, who has attempted to broker solutions to the refugee problem, with some people being resettled in third party countries while others have been repatriated to Vietnam.<sup>2</sup>

The protests have been attributed to several factors. Hanoi's official position has been that the protests are the work of "outside forces" who are bent on disturbing internal unity and national security. The US-based Montagnard Foundation Inc (MFI), has been singled out for causing unrest, and the Foundation's leader, Kok Ksor, has been branded a "terrorist" and "separatist".<sup>3</sup> Because Vietnam believes the protests to have been instigated from outside, the government has consistently maintained that the minorities who have fled to Cambodia are not refugees, but "illegal migrants". Others, including international human rights observers, have asserted that the protests were an attempt by minorities to voice their discontent with Vietnamese government policies on such volatile issues as land rights and freedom of religion. They have also claimed that those minorities who fled to Cambodia face well-founded fears of discrimination and recrimination should they be repatriated to Vietnam.<sup>4</sup>

This paper looks at the problems in the Central Highlands, particularly since 2002 when the involvement of UNHCR increased. This paper thus forms an update to a previous Writenet report from January 2002 on the situation.<sup>5</sup> This paper picks up where the previous one left

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<sup>1</sup> News reports on the 2001 protests include: Agence France Presse, Vietnam Closes Off Strife-torn Highlands as It Sends in the Army, 8 February 2001; Reuters, Vietnam Media Acknowledges Widespread Unrest, 8 February 2001; United Press International, Vietnam Struggling to End Highlands Unrest, 13 February 2001

<sup>2</sup> United Nations High Commissioner for Refugees, Talks on Future of Vietnamese Minorities, 26 July 2001 (news stories); United Nations High Commissioner for Refugees, Viet Nam/Cambodia: Meeting on Montagnards, 18 January 2002 (briefing notes); United Nations High Commissioner for Refugees, UNHCR Signs Agreement with Viet Nam, Cambodia on Montagnards, 26 January 2005 (news stories)

<sup>3</sup> Vietnam News Agency, Ksor Kok's True Face Unmasked, 27 May 2001; Báo Trung, Chắc Chắn Có Ai Đó Đứng Sau Kịch Bản Tây Nguyên [Surely There is Someone Standing behind the Tay Nguyen Incidents], *Tuổi Trẻ* [Youth Newspaper], 28 April 2004; Báo Trung, Chân Dung Những Thuộc Hạ Của Ksor Kok [Portrait of Ksor Kok's Subordinates], *Tuổi Trẻ* [Youth Newspaper], 21 May 2004; Vietnam News Agency, FULRO Leaders' Identities Discovered, 31 December 2004

<sup>4</sup> Human Rights Watch, *Repression of Montagnards: Conflicts over Land and Religion in Viet Nam's Central Highlands*, New York, April 2002; Amnesty International, *Socialist Republic of Vietnam/Kingdom of Cambodia: No Sanctuary: The Plight of the Montagnard Minority*, London, December 2002; Human Rights Watch, *Vietnam: New Documents Reveal Escalating Repression*, New York, April 2003; Amnesty International, *Socialist Republic of Viet Nam: Renewed Concern for the Montagnard Minority*, London, April 2004; Human Rights Watch, *Vietnam: Persecution of Montagnards Continues, Dega Christians Targeted in Latest Crackdown*, New York, May 2005; Human Rights Watch, *Vietnam: Torture, Arrests of Montagnard Christians, Cambodia Slams the Door on New Asylum Seekers*, New York, January 2005

<sup>5</sup> Writenet, *Viet Nam: Indigenous Minority Groups in the Central Highlands*, Writenet for UNHCR, January 2002 (*UNHCR RefWorld 2005*, Issue 14, CD 4)

off, and looks at the aftermath of the 2001 protests and their effect on refugee movements; what has happened to successive waves of refugees and the involvement of UNHCR in their situation; and updates the current social, economic and political situation in the Central Highlands and in Vietnam generally to see what effect current trends may have on future refugee outflows and on the ability of repatriated persons to reintegrate into Vietnam.

## 1.1 Background Issues

The Central Highlands of Vietnam are a group of provinces in central Vietnam on the western flank of the Annamite Mountains, forming a high plateau bordering Cambodia and Laos. The area is called *Tây Nguyên* (the Western Plateau) in Vietnamese, and consists of four provinces: Dak Lak, Dak Nong, Gia Lai and Kon Tum. In the past, the province of Lam Dong was often considered to be in the Central Highlands, but was recently transferred to the Southeast region by the government. Additionally, Dak Lak used to be one province, but several districts were carved off for a new province of Dak Nong in 2003. In addition to being geographically different from the rest of Vietnam, the Central Highlands have long been populated by ethnic groups that are distinct from the Vietnamese.

The government of Vietnam officially recognizes 54 ethnic groups, including the Kinh, or ethnic Vietnamese.<sup>6</sup> Minorities make up about 13 per cent of the population. However, within this group classified as “minorities” (*dân tộc thiểu số*), there is great ethnic diversity, encompassing most of the major Asian language groups. The Central Highlands minorities belong to both the Austronesian language family (such as the Gia Rai, Ede, Rag Lai and Cham), and a wide range of Mon-Khmer language groups (including the Ba Na, Bru-Van Kieu, Gie Trieng, M’Nong, Xe Dang and X Tieng, among others).<sup>7</sup>

**Table 1: Populations of Indigenous Minorities in the Central Highlands/Annamite Mountains<sup>8</sup>**

Gia Rai	317,557	Ta Oi	34,960
E De	270,348	Ma	33,338
Ba Na	174,456	Gie Trieng	30,243
Xe Dang	127,148	Co	27,766
Co Ho	128,723	Cho Ro	22,567
Hre	113,111	Chu Ru	14,978
M’Nong	92,451	Chut	3,829
Rag Lai	96,931	Brau	313
X’Tieng	66,788	O Du	301
Bru-Van Kieu	55,559	R’mam	352
Co Tu	50,458		

<sup>6</sup> For more information on the government’s classification system, see Keyes, C., Presidential Address: The Peoples of Asia: Science and Politics in the Classification of Ethnic Groups in Thailand, China, and Vietnam, *Journal of Asian Studies*, Vol. 61, No. 4, 2002; Khong Dien, *Population and Ethno-Demography in Vietnam*, Bangkok: Silksworm Publishers, 2002

<sup>7</sup> For the sake of consistency, this report refers to ethnic groups by the current Vietnamese convention on spellings. These often differ from the English; thus Ede, rather than Rhade, Gia Rai, rather than Jarai, and Ba Na rather than Bahnar. This is done for consistency and does not necessarily imply an endorsement of this classification system.

<sup>8</sup> Viet Nam, General Statistics Office, *Population and Housing Census Vietnam 1999: Completed Census Results*, Hanoi, 2001

Minorities are often referred to by different names. Within Vietnam, they are usually referred to as *đồng bào dân tộc thiểu số* (ethnic minority compatriots), a generic term for minorities of any kind. Many in the US and the Western press use the term Montagnard, the French word for “mountain dweller”; the term first came into use during the Vietnam War. Several émigré groups in the US prefer to use Montagnard, as it sets the Central Highlands minority groups apart from other Vietnamese ethnic groups. Because many people from the Central Highlands are of different linguistic and ethnic groups (Ede, Gia Rai, M’Nong, etc), the use of the word Montagnard has been an attempt to overcome these ethnic divisions and present a common front as people with a shared history and shared problems. Some émigré groups have moved away from Montagnard because of its colonial baggage, and have since championed a new term: Dega or Degar, from an Ede term, *de ga*, which means “sons of the mountains”, according to some accounts.<sup>9</sup> The term Dega first began to be used during the Vietnam War by some members of FULRO (Front Unifié de Lutte des Races Opprimées – United Front for the Struggle of the Oppressed Races), an armed group composed of highlanders who fought for autonomy for the Central Highlands against both the South and the North.<sup>10</sup> Dega is now used interchangeably with Montagnard by many groups in the US, and has perhaps most often been associated with the MFI, a South Carolina-based organization founded in 1993 by Kok Ksor, an ethnic Gia Rai and former FULRO member.

The ethnic minority issues that have come to the fore since 2001 are not new. The position of ethnic minorities within the Vietnamese state has been a long-standing and key problem for successive administrations. Other works have addressed this history of minorities vis-à-vis the Vietnamese state, so this paper will not repeat that here.<sup>11</sup> Rather, the following paragraphs provide only some brief background necessary to understand today’s ethnic, religious, and political conflict in the Central Highlands.

Before the twentieth century the Central Highlands were almost entirely populated by indigenous minorities like the Ede, Gia Rai, M’Nong, Xe Dang and Ba Na, with little Kinh immigration. The Central Highlands’s population increased throughout the twentieth century, thanks to government policies that encouraged migration, and Kinh soon came to predominate. Currently only about 33 per cent of the total population in the Central Highlands is ethnic minorities (see Table 2 below). Kon Tum is the only province that still retains a majority population of ethnic minorities. However, even within Kon Tum, Kinh remain the single largest ethnic group overall.

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<sup>9</sup> Hickey, G. C., *Sons of the Mountains: Ethnohistory of the Vietnamese Central Highlands to 1954*, New Haven: Yale University Press, 1982

<sup>10</sup> See Writenet, *Viet Nam*, pp. 7-9, for more information on the history of FULRO

<sup>11</sup> See Hickey, G. C., *Free in the Forest: Ethnohistory of the Vietnamese Central Highlands 1954-1976*, New Haven: Yale University Press, 1982; Hickey, *Sons of the Mountains*; McLeod, M., Indigenous Peoples and the Vietnamese Revolution, 1930-1975, *Journal of World History*, Vol. 10, No. 2, 1999; Pelley, P., “Barbarians” and “Younger Brothers”: The Remaking of Race in Postcolonial Vietnam, *Journal of Southeast Asian Studies*, Vol. 29, No. 2, 1998; Saleminck, O., *The Ethnography of Vietnam’s Central Highlanders: A Historical Contextualization, 1850-1990*, Honolulu: University of Hawaii, 2003

**Table 2: Ethnic Populations of the Main Provinces in the Central Highlands<sup>12</sup>**

<i>Province</i>	<i>Total Population</i>	<i>Kinh Population</i>	<i>Ethnic Minority Population</i>	<i>% of Population that is Ethnic Minority</i>
Kon Tum	313,285	145,681	167,604	54%
Gia Lai	966,934	545,048	421,886	44%
Dak Lak <sup>13</sup>	1,780,644	1,250,494	530,150	30%
Lam Dong	997,740	769,398	228,342	23%

In addition to having distinct ethnic groups, the Central Highlands also has a distinct religious history. The protests of 2001 and 2004 have become inextricably linked to religious issues, as the majority of protestors were not only minorities, but also followers of evangelical Protestantism. Many observers have attributed the initial spark for the 2001 protests to the arrest of several people in a so-called “house church” (an informal but illegal gathering of followers in private homes for worship) in Gia Lai province. Harassment of minority Protestant worshippers had been reported from the region for many years, and many believe the house church arrests simply lifted the lid off frustration on restrictions on religious freedom. The fact that Protestantism has now been linked in the minds of many in Vietnam with political protests further increases the difficulty for religious followers. It is to these protests that this report now turns.

## **2 The Central Highlands since the 2001 Protests**

February 2001 saw large-scale, well-coordinated ethnic minority protests in the Central Highlands that were widely reported internationally, and which sent a great shock to the normally highly controlled state of Vietnam. The subsequent months and years have seen a steady stream of people leaving the Central Highlands for Cambodia to claim asylum for fear of persecution in the aftermath. Further protests in 2004 indicated that the issues remained raw in the Central Highlands. This section of the paper looks at the reasons for the protests and their subsequent consequences.

### **2.1 Protests in 2001 and the “First Wave” of Refugees**

It is believed that 3,000-4,000 minority people gathered in Pleiku, capital of Gia Lai province, on 2 February 2001, and up to 1,000 or more gathered in Buon Me Thuot, capital of Dak Lak province, on 3 February 2001 to protest against local government officials, graft, and unrecognized land rights. Some outside reports put the number at up to 20,000. The protestors demanded to see provincial authorities to discuss religious freedom and more political independence for minorities. However, there were reports of violence during and after the Buon Me Thuot protests, as police reportedly used tear gas and water cannons to disperse the crowds, and some protestors scuffled with police and threw rocks. Other small protests followed in subsequent days, resulting in more serious clashes with police, with at least one policeman reportedly being tied up and some property being damaged.<sup>14</sup>

<sup>12</sup> Viet Nam, General Statistics Office, *Population and Housing Census*

<sup>13</sup> In 2003, Dak Lak province was divided into two provinces, Dak Lak and Dak Nong. Separate population statistics for the two new provinces are not available yet.

<sup>14</sup> Human Rights Watch, *Repression of Montagnards*; Writenet, *Viet Nam*; Reuters, Exile Group Claims 20,000 Joined Vietnam Protests, 9 February 2001



The earliest reports from the government attributed the protests to “misunderstandings” and easily agitated minority villagers. However, rather quickly reports began to focus on the work of “outside” extremists and foreign elements – particularly in the US – in stirring up trouble. The former resistance group FULRO was considered culpable, although the government had previously declared FULRO to be dead since 1992, when the last forces were found in Cambodia by UN Transitional Authority troops. FULRO elements were said to be running émigré minority groups, particularly the MFI, and were accused of re-infiltrating Vietnam to advocate for an autonomous homeland under the title of the “Dega Lands.” *Nhân Dân* [The People], the official paper of the Communist Party, argued in late February 2001:

In recent times, hostile influences have masterminded that reactionaries originally in FULRO, now hiding under the title of cries for ‘Autonomous *Dega Land*’, wormed their way through misleading propaganda into rousing the general population. After revolutionary cadres re-educated and explained things, people opened their eyes, pointed out the offenders, summoned the ringleaders and the extremists to give themselves up, and cooperated with the authorities to right the work of preserving security and order. The people in the Central Highlands said: ‘We never believed in that so-called ‘Autonomous Dega Land’ at all. De Ga is just a wild story which bad people cooked up.’<sup>15</sup>

The government’s charges of outside involvement in the 2001 incidents might have seemed rather far-fetched at first, but they have been confirmed to some degree by other sources. Interviews in Cambodia and the US with MFI supporters have revealed that starting in 2000, the MFI did indeed begin to recruit people in the Central Highlands to take part in a movement to gain independence and promote autonomy, religious freedom, and land rights. These local organizers were increasingly met with police monitoring and in some cases arrest. A small demonstration of 300 people in Ea Hleo district, Dak Lak, occurred in mid-January 2001, after the arrest of a local leader who was linked by the police to MFI. It was the subsequent arrest of two house church leaders in Cu Prong district, Gia Lai, on 29 January that sparked the decision to call for mass demonstrations.<sup>16</sup>

While it is clear that MFI’s organizing in the Central Highlands contributed to the eventual protests, in that it connected a network of people with similar grievances, it is not clear how many people who participated actually supported all of MFI’s goals, particularly on autonomy. Interviews with some who participated and then fled to Cambodia in the subsequent months found that

many, if not most, of the people who attended the February 2001 demonstrations were villagers who appeared to have little knowledge of MFI aims but responded positively to MFI’s call for demonstrations out of their own frustration with what they saw as unfair land-grabbing by the state, discrimination, and religious repression. Interviews with some of these participants suggested that they saw MFI’s advocacy of independence as equivalent to ‘getting our land back’ in both the immediate sense of recovering family homesteads and land lost in recent decades to government

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<sup>15</sup> Lê Văn Thiêng, *Nhân Dân Các Dân Tộc Tây Nguyên Vững Tin Con Đường Cách Mạng* [The Minorities of the Central Highlands Firmly Believe the Path of the Revolution], *Nhân Dân* [The People], 26 February 2001

<sup>16</sup> Information in this paragraph is taken largely from Human Rights Watch, *Repression of Montagnards*

plantations, and the more historical sense of recovering an area, if not a nation, that had belonged to their ancestors.<sup>17</sup>

In the days following the protests, there were reports of transfers of senior people to the Central Highlands and a vastly increased army presence; journalists and most foreigners were not allowed in the area except under tightly controlled conditions. Police reportedly began arresting movement leaders and others who had participated in the demonstrations, using photos that had been taken at the marches. These arrests of protestors and the uncertainty as to what might befall them in police custody appears to have been the reason people began to flee across the border to Cambodia. The first group of a dozen or so men from Gia Lai made it to Ratanakiri province in northeastern Cambodia in mid-February, while several dozen more fled from Dak Lak to Mondulakiri. The outflows increased throughout 2001 as a number of trials were held in Vietnam of people accused of involvement in the protests. The charges included “damaging national security”, “opposing public officials”, and “disturbing public order”. Although the government insisted that it was only trying people who had broken laws, there was considerable international concern that these proceedings boded ill for resolving the issues of those who had fled to Cambodia. Given the trials, it now seemed credible to say that those who fled might indeed have a well-founded fear of persecution, were they to be returned to Vietnam.<sup>18</sup>

The Central Highlands remained tense throughout the summer and fall of 2001. There were reports from human rights organizations that a renewed security crackdown began in Dak Lak just prior to Christmas 2001. Further demonstrations appear to have been planned for Vietnam’s National Day (2 September) in 2002, but the organizers were placed under arrest before it happened.<sup>19</sup> The continued concern over demonstrations and fear of the links between the Protestant faith and “Dega separatism” appear to have precipitated a concerted effort to control illegal church gatherings throughout 2002 as well. This renewed crackdown culminated in a secret Communist Party document dated October 2002 that outlined the government’s campaign to “eliminate” the politicized “Dega Protestantism”. The actions to be taken included forced renunciations of faith, closing of illegal churches, punishments against those who attended house church meetings, and restrictions on proselytization.<sup>20</sup>

## **2.2 Easter Protests of 2004 and the “Second Wave” of Refugees**

Although there had been little additional public dissent in 2002 and 2003, the issues that had sparked the February 2001 protests had not gone away. Neither had MFI, which continued to call for international attention to be paid to the “oppression” in the Central Highlands. By 2004, the scene was set for another round of protests. On Easter Weekend, 10-11 April 2004, thousands of ethnic minority members in 39 communes of 17 different districts of Gia Lai, Dak Nong and Dak Lak again gathered to march and protest in more than a dozen locations. Human Rights Watch estimated that 30,000 participated overall, while the Vietnamese

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<sup>17</sup> *Idem*

<sup>18</sup> Agence France Presse, Vietnam to Hold Mass Trial of 41 People over Highlands Unrest, 16 June 2001; Ball, M., Diplomat: VN Trials Bode Ill for UN Pact, *The Cambodia Daily*, 28 January 2002

<sup>19</sup> Deutsche Presse-Agentur, New Unrest Flares in Vietnam’s Central Highlands, 6 September 2002

<sup>20</sup> Human Rights Watch, *New Assault on Rights in Vietnam’s Central Highlands: Crackdown on Indigenous Montagnards Intensifies*, New York, January 2003

government's official number was 5,500 protestors.<sup>21</sup>

Both sides did agree that the protests soon turned ugly, and resulted in far more violence than had been seen in 2001. It was reported that the People's Committee building in at least one commune was destroyed during the protests, and some Kinh migrants' houses and farms were also attacked. The government blamed the protestors, who were said to have carried sticks, stones, knives and slingshots and attacked security forces; while it was admitted that several protestors were injured and at least two were killed, these deaths were attributed to rocks thrown by the protestors themselves. Outside human rights organizations asserted that the violence was started by security officials and civilians, and Human Rights Watch reported at least 200 injuries and 10 deaths.<sup>22</sup>

The Hanoi news services reported that once again Kok Ksor and his conspirators were involved, and had this time promised "gullible people" VND 500,000 (about US\$ 30) and air tickets to the US as incentives for protesting. As proof of the outside interference, authorities showed an edited video to reporters, purporting to show the demonstration had included people with banners that read such things as "Establish an independent De Ga state", and "Kinh people and the police out of Tay Nguyen".<sup>23</sup> In contrast, those interviewed by Human Rights Watch, who had fled to Cambodia after the protests, argued that there was no coercion from outside forces and that the protests were non-violent and centred around the issues of freedom of religion, the return of ancestral lands, and the release of Montagnard prisoners, not independence or separatism.<sup>24</sup>

The protests of 2004 were different in some ways from those in 2001. The involvement of not just security forces, but Kinh citizens, in reportedly attacking minority demonstrators is a worrying aspect of the 2004 protests. Another difference in 2004 was the quick manoeuvring by the government to brand the protestors as inciting "radical" religious violence and comparing MFI to Iraqi insurgents, and thus seizing on the rhetoric of the US-led "war on terror".<sup>25</sup> Additionally, after the 2004 protests, there has been near-total association of all protestors with radical "Dega Protestantism".<sup>26</sup> The association of Protestantism with MFI and especially with calls for a separatist state to be achieved by any means has meant that even church leaders and followers not involved in the protests have been subject to detention and harassment by authorities.<sup>27</sup>

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<sup>21</sup> Reuters, Violent Clashes in Central Vietnam: Foreign Nationals Barred from Central Highlands, 11 April 2004; Reuters, Vietnam Confirms Ethnic Unrest in Highlands, 12 April 2004; Human Rights Watch, Vietnam: Open Central Highlands to International Observers: Reported Killings of Montagnard Protesters Must Be Investigated Immediately, New York, 22 April 2004 (press statement)

<sup>22</sup> Zabriskie, P., Vietnam's Tribal Injustice: The Montagnards Stand up to Hanoi, *Time Magazine*, 26 July-2 August, 2004; Human Rights Watch, *Vietnam: Independent Investigation of Easter Week Atrocities Needed Now*, New York, May 2004

<sup>23</sup> Zabriskie; Vietnam Sends More Forces to Central Highlands, *Radio Free Asia*, 30 April 2004; Dark Scheme Unmasked, *Voice of Vietnam*, 21 April 2004; Vietnam News Agency, Official Says Central Highlands Unrest Planned, 27 April 2004

<sup>24</sup> Human Rights Watch, *Vietnam: Independent Investigation*

<sup>25</sup> Zabriskie

<sup>26</sup> Việt Phương, Meeting with Leader of the So-Called Dega Protestantism, *Thanh Niên* [Youth Newspaper], 28 June 2005.

<sup>27</sup> Human Rights Watch, *Vietnam: Independent Investigation*

### 3 The Refugee Dimension

While the protests of 2001 and 2004 were significant internal issues for Vietnam, they took on an international dimension when people from the Central Highlands began fleeing and crossing the border into Cambodia. UNHCR became involved in the situation during 2001, as many of the people leaving Vietnam were potentially qualified for refugee status. Part of UNHCR's role in the region has been to assess the situation of the minorities leaving Vietnam to see if they meet the 1951 refugee convention's definition of refugees, and if so, to appropriately deal with them, either through voluntary repatriation, asylum, or third country resettlement.

#### 3.1 Outflows since 2001, the Reasons and Background

The security crackdowns and police arrests that began after the protests in February 2001 led many people who had been organizers to flee their villages. Cambodian police in Mondulhiri found the first group of immigrants, 24 Ede from Dak Lak, in March 2001, and a group of 14 Jarai were also found soon after. When informed that these Vietnamese citizens were in Cambodia, Vietnam at first claimed they were rebels affiliated with FULRO, but later reversed their position and stated they were just "ordinary people" and "absolutely not political refugees".<sup>28</sup> Vietnam's position was that to call them refugees would be to involve international authorities in what it perceived to be an "internal matter". They continued to assert that according to bilateral agreements with Cambodia and other ASEAN countries, any border crossers should be deported back to Vietnam. While many feared that Cambodia would agree with Vietnam, being a long-time ally, in fact Cambodian Prime Minister Hun Sen told UNHCR on 31 March 2001 that the Vietnamese would be granted temporary asylum. This first group of 38 was found to meet the UN definition of refugees, and the US agreed to take them for third country resettlement; they went to the US in April 2001.

Following this, however, were disturbing reports in spring 2001 that Cambodian police were forcibly returning border crossers they found. By May 2001 there were increasingly credible reports that perhaps as many as 100 people had indeed been involuntarily repatriated by officials in Ratanakiri and Mondulhiri provinces in contravention of Cambodia's refugee treaty obligations.<sup>29</sup> UNHCR requested permission from Cambodia to set up receiving facilities or camps for those fleeing Vietnam, but was rebuffed until mid-May 2001, when it received permission to establish two camps, one in Mondulhiri and one in Ratanakiri. By the end of the month these camps held 400 people.<sup>30</sup>

There are some indications that these UNHCR camps may have constituted a pull factor, as more people began to cross the border who had not initially been involved in the February protests. Human Rights Watch interviewed people arriving in summer 2001, who stated that "the government's crackdown was the impetus to flee Vietnam, whether or not they had been active with MFI or joined the protests. Once they heard that the UN had set up secure sites for refugees in Cambodia, where they might obtain help and protection, dozens began to cross the border." Others reported to Human Rights Watch that they had heard from family members or MFI people abroad that the UN, now present in Cambodia with the UNHCR

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<sup>28</sup> Agence France Presse, Vietnam Critical of US Asylum Offer to Fleeing Minorities, 3 April 2001

<sup>29</sup> United Nations High Commissioner for Refugees, Cambodia: UNHCR Urges Government to Meet Its Obligations, 22 May 2001 (briefing notes)

<sup>30</sup> Reed, M and Chandara, L., Temporary Asylum Granted to Montagnards, *Cambodia Daily*, 18 May 2001

camps, would help people “establish an independent state”.<sup>31</sup> The rhetoric used by many refugees, and their calls for UN involvement in mapping and supporting indigenous rights, largely echoed language Kok Ksor has long used, and may be an indication that MFI was involved in persuading people to cross the border.

Vietnam, Cambodia and UNHCR first began talks in July 2001 to draw up an agreement governing voluntary repatriation of the increasing numbers of refugees. However, these trilateral talks were not conclusive, as the Vietnamese refused to grant UNHCR access to the sending areas in the Central Highlands. This was a necessary condition for UNHCR, whose position was that it needed to determine the safety of any repatriated refugees. At the time of these talks, which took place between July 2001 and January 2002, more than 700 new refugees had arrived in the camps.<sup>32</sup> A new wave of refugees had begun in August and September 2001, which Human Rights Watch attributed to people fleeing to avoid a campaign of “oath swearing ceremonies” and religious renunciations in Dak Lak. Sources also reported to Human Rights Watch that travel restrictions were beginning to affect people in commerce and farming and that some people who fled in the fall of 2001 and after were people who had economic difficulties. A reported crackdown on religious leaders and services prior to Christmas 2001 sent more people fleeing. UNHCR also began to hear stories from those who had fled under threats of arrest from Vietnamese authorities “because they had served as guides for others attempting to flee to Cambodia or they had helped people hiding in the forest in Vietnam by giving them food or medicine”.<sup>33</sup>

### 3.2 The 2002 Tripartite Agreement

By the time the tripartite talks resumed in January 2002, there were some 1,000 Vietnamese minority individuals in Cambodia. After much discussion, these talks concluded on 21 January 2002 with the signing of an agreement to repatriate the refugees to Vietnam after UNHCR officials were given access to the Central Highlands. The model for the agreement was the 1989 Comprehensive Plan of Action (CPA) that UNHCR had developed for Vietnamese “boat people”. The CPA had returned 120,000 Vietnamese who had been stranded in neighbouring Southeast Asian countries for years, and the agreement was credited with stemming the tide of people leaving Vietnam.<sup>34</sup>

However, some NGOs and US officials expressed concern over the tripartite agreement. The US ambassador to Cambodia complained that it was too vague and did not guarantee that the Vietnamese government would allow unfettered access to the Central Highlands for UNHCR monitoring. There was concern that UNHCR could not monitor the situation once the returnees were home as it did not have a permanent office in the Central Highlands; any visit UNHCR wanted to make would have to be cleared by the Vietnamese authorities beforehand, giving Vietnam an opportunity to deny visits or influence them in advance. Most importantly,

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<sup>31</sup> Human Rights Watch, *Repression of Montagnards*

<sup>32</sup> United Nations High Commissioner for Refugees, Talks on Future; Bo Proek, Provincial Official Says No More Vietnamese Montagnard Crosses into Cambodia, *Phnom Penh Reaksmei Kampuchea*, 14 June 2001 [translated by Foreign Broadcast Information Service, #FBIS-EAS-2001-0619]

<sup>33</sup> Human Rights Watch, *Repression of Montagnards*; More Asylum-Seekers Flee to Cambodia, *South China Morning Post*, 4 September 2001

<sup>34</sup> United Nations High Commissioner for Refugees, Agreement Reached on Repatriation of 1,000 Montagnards, 22 January 2002 (news stories), <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=3c4d70cc4> [accessed June 2006]

in the eyes of many, while the Vietnamese authorities made numerous public assurances that refugees repatriated to Vietnam would not be punished for having left the country, the agreement carried no specific protection for freedom of religion or for leaders of the movement for land rights and independence.

Following the conclusion of the tripartite agreement, 107 people in the group of more than 1,000 in Cambodia indicated their initial desire to voluntarily return to Vietnam, and the first visit by UNHCR to the Central Highlands was scheduled and took place in February 2002. UNHCR attempted to visit some homes of the people who had indicated they wanted to return, to assess conditions and determine if there would be a risk of persecution should they return. At the conclusion of this visit, the first voluntary repatriation took place on 19 February 2002 of fifteen Gia Rai people to Kon Tum.<sup>35</sup> However, the repatriation plan came under heavy criticism again. Many argued it was too rushed and that the four-day UNHCR visit to the Central Highlands could not possibly have assessed that conditions were appropriate for all 107 to return. Human Rights Watch called the operation “hasty” and “ill conceived” and urged a stop to repatriations until UNHCR had a secure and ongoing presence in the Central Highlands.<sup>36</sup> US Ambassador to Cambodia Kent Wiedemann said that he had contacted UNHCR in Geneva and Phnom Penh to express concern that the plan lacked the proper follow-up channels and was “precipitous”.<sup>37</sup> UNHCR responded to the US concerns by stating that more time would be given to pre-return counselling for the 107 people in the first repatriation plan, but no new date was set for the repatriation to begin. UNHCR’s decision to delay greatly angered Vietnam, and Vietnam’s deputy prime minister travelled to Phnom Penh on 21 February 2002, to discuss the situation with Cambodian officials. The two sides reached an agreement, without UNHCR, that the two countries would return all the refugees by 30 April 2002, without any further investigations, and all new asylum seekers would be rejected.<sup>38</sup> The already confused and troubled situation was further complicated by an offer from the US ambassador to Cambodia on 21 February 2002, the same day as the Vietnam-Cambodia agreement, that the US would take all the refugees into third country resettlement if they did not feel safe to return.

Conditions continued to deteriorate by the end of March, when a group of more than 400 Vietnamese in 12 buses arrived in the Mondulhiri refugee camp. It was alleged that they threatened refugees and UNHCR staff and demanded that the refugees come back with them to Vietnam, although in the end only six people did so. UNHCR officials called the incident at the camp “very serious and very ugly” and later said that it appeared that a “number of those who took part said they had been forced to go to Cambodia by Vietnamese authorities”.<sup>39</sup> Consequently, UNHCR said on the following day, 22 March 2002, that it was disassociating from the tripartite agreement as it “no longer conforms with its mandate or principles governing voluntary repatriation”.<sup>40</sup> The US reiterated its offer for third country

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<sup>35</sup> United Nations High Commissioner for Refugees, Cambodia: Montagnards’ Return to Viet Nam, 19 February 2002 (briefing notes)

<sup>36</sup> Associated Press, Rights Group Urges U.N. to Halt Imminent Repatriations of Vietnamese to Cambodia, 17 February 2002

<sup>37</sup> Reuters, UN Delays Vietnamese Hilltribe Repatriation, 15 February 2002

<sup>38</sup> Voice of Vietnam, Vietnam Criticizes UN Refugee Body for Delaying Repatriation of Hill Tribes, *BBC Monitoring Asia Pacific*, 25 February 2002

<sup>39</sup> Reuters, UN Pulls out of Deal to Return Vietnamese to Cambodia, 24 March 2002

<sup>40</sup> United Nations High Commissioner for Refugees, UNHCR Expresses Concern over Collapse of Tripartite Agreement, 22 March 2002 (press statement), <http://www.unhcr.org/cgi->

resettlement, while Cambodia reiterated its position that it would take no more refugees and that the current ones had to be quickly repatriated or resettled. Following agreement between the US and UNHCR, the refugees in both Mondulhiri and Ratanakiri camps, a total of 932 people, were transferred to Phnom Penh and the regional refugee camps closed. The US began processing the refugees' claims in Phnom Penh, and started sending them in groups for resettlement in the US starting in June 2002.

### **3.3 Forced Repatriations and Violence toward Asylum Seekers**

Once the US began the third country resettlement, the number of asylum seekers entering Cambodia slowed. Part of the slowdown in refugees was attributed by rights groups to the promised Cambodian crackdowns on the border.<sup>41</sup> Throughout summer and fall of 2002, small numbers of people continued hiding in Cambodian jungles. Human Rights Watch called on Cambodia to reopen the refugee camps in January 2003, claiming it was inhumane to ignore the fact that potential refugees were hiding in Cambodian territory.<sup>42</sup> The camps remained closed, however, and in all in 2003, only 38 people were able to approach UNHCR in Cambodia for assistance. This was not for lack of people who had possible refugee claims; it was reported that in July 2003 at least 60 people had fled from Gia Lai and hid in Ratanakiri, where local people smuggled food to them. However, of this group, only eight were able to get to UNHCR, while the rest were sent back by Cambodian authorities.<sup>43</sup>

Although UNHCR no longer had camps, it did have a local office in Ratanakiri. However, Cambodian authorities demanded that UNHCR close even that office on 10 April 2004, despite UNHCR concern that a presence was needed for any additional asylum seekers (59 people had asked for assistance in the first three months of 2004). The situation was worsened by the fact that the Cambodian authorities published comments at the time, asserting that the UNHCR Ratanakiri office was "unauthorized" and was operating "secretly" to "lure" people from Vietnam.<sup>44</sup> Cambodia's position was that granting asylum exacerbated the migrant situation by providing incentives to leave, and could damage its relations with Vietnam; in the government's eyes, UNHCR simply made the situation worse by bringing international attention to what Cambodia considered a bilateral problem. It is perhaps no coincidence that these accusations and the demand to close the office coincided exactly with the Easter weekend protests in the Central Highlands. Without a local office, any further UNHCR refugee processing could only take place in Phnom Penh; 80 people were reported to have made it all the way to the capital between April and July 2004; additionally, 12 people managed somehow to cross the border into Thailand and were granted refugee status by UNHCR in Bangkok.<sup>45</sup> With no means to get to UNHCR, and unwilling to return to Vietnam, there were reports in June 2004 of hundreds of people hiding in the Ratanakiri

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[bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=3c9b65a84](http://bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=3c9b65a84) [accessed June 2006]

<sup>41</sup> Human Rights Watch, Cambodia: Protect Montagnard Refugees Fleeing Vietnam, New York, 25 September 2002 (press statement)

<sup>42</sup> Kyodo News Service, Human Rights Watch Urges Cambodia to Reopen Refugee Camps, 21 January 2003

<sup>43</sup> Deutsche Presse-Agentur, U.N. Representative Slams Action against Montagnards, 5 December 2003

<sup>44</sup> United Nations High Commissioner for Refugees, Cambodia: UNHCR Dismayed by Published Comments, Closes Ratanakiri Office, 13 April 2004, (briefing notes), <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=407bbacd4> [accessed June 2006]

<sup>45</sup> Deutsche Presse-Agentur, Vietnam Says Reports of Fleeing Montagnard Refugees Are Fabrications, 8 July 2004; Chimprabha, M., UNHCR Plan for Montagnards Threatens to Hurt Ties with Hanoi, *The Nation* [Bangkok], 5 July 2004

jungle.<sup>46</sup> Many of these asylum seekers were cared for by local Cambodian people, but district-level officials in Ratanakiri Province began warning local residents that they would be arrested if they were found helping anyone. They also threatened to consider anyone helping to be involved in “human trafficking”. Fifteen EU ambassadors met with Hun Sen and urged him to reconsider and to regard the Montagnards as refugees. Finally in June 2004, after considerable pressure, Cambodia agreed that UNCHR could reopen local offices in the northeast, but they could not turn the offices into refugee camps.

After this agreement, UNHCR was able to return to Ratanakiri and Mondulakiri, and by the end of November 2004, more than 500 people had been met by UNHCR and registered and transported to Phnom Penh for processing. However, because there had been no new tripartite agreement since the 2002 accord, Vietnam argued that to set up camps again without trying to renegotiate the defunct 2002 agreement was an affront.<sup>47</sup> Vietnam’s attitude toward UNHCR began to harden in 2004, as Vietnam started accusing UNHCR of deliberately “luring” people to Cambodia,<sup>48</sup> and even accused some UNHCR employees of conspiring with MFI to plant separatists among repatriated people.<sup>49</sup> An article in *An Ninh Thế Giới* [World Security] claimed that several people who had returned to Vietnam from the UNHCR camps in the fall of 2004 confessed they had been brainwashed in the camps and manipulated by two UNHCR employees into returning to Vietnam under false pretences to lead a separatist uprising. While UNHCR spokespeople called the allegations “baseless”, they were an indication of the poor relations that existed between Vietnam and UNHCR in the fall of 2004.

UNHCR officials were worried about a different problem, however, than Vietnam’s accusations of “luring” people into “miserable” camps. UNHCR had noted that growing numbers of asylum seekers had been told through rumours and reported radio broadcasts that UNHCR could help them get back land rights in Vietnam.<sup>50</sup> This was a cause for great concern, if true, for several reasons. If people were motivated to leave under false pretences, and not because of fears of persecution, they could not be considered refugees in need of protection. Furthermore, it was not the position of UNHCR to get involved in internal issues like land rights.<sup>51</sup> Many people did agree to return to Vietnam once they were told UNHCR could not help with land rights, and they did not contest their designation as non-refugees.

### 3.4 The 2005 MoU

By January 2005, some 750 people were under UNHCR’s care in Cambodia. Concern was growing that an ad hoc solution would not be found, and that some sort of formal agreement was needed, as Cambodia was denying permanent asylum to the Vietnamese and threatening deportation should they not leave for elsewhere in a timely manner. Again, as in 2002, the

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<sup>46</sup> Associated Press, Up to 160 Vietnamese Tribespeople Hiding in Cambodian Jungle, 7 June 2004; Doyle, K., After Flight from Vietnam, the Brutal Jungle, *International Herald Tribune*, 16 July 2004

<sup>47</sup> BBC News, Vietnam Criticizes UNHCR Offering Asylum Status to Central Highlands Minorities, 24 July 2004

<sup>48</sup> Reuters, Hanoi Accuses UNHCR of Inciting Montagnard Exodus, 5 August 2004

<sup>49</sup> Vietnam News Agency, UN Refugee Personnel Stir up Ethnic Unrest, 4 January 2005

<sup>50</sup> United Nations High Commissioner for Refugees, Mised Montagnards in Cambodia Say No to Resettlement, 5 November 2004 (news stories), <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=418b7f234> [accessed June 2006]

<sup>51</sup> Associated Press, UN Says It Is Unable to Help Vietnamese Hill People Reclaim Confiscated Lands, 5 November 2004



problem UNHCR faced was whether the refugees should be voluntarily repatriated to Vietnam or offered third country resettlement. However, unlike in 2002, a new complication arose: many of the refugees in Phnom Penh were refusing to be settled in a third country. It was against this backdrop that Vietnam, Cambodia and UNHCR met in Hanoi on 24-25 January 2005 for the first time in three years to discuss a new agreement on the refugee situation. Hanoi appeared more flexible than in the past, and presented a draft Memorandum of Understanding (MoU) to the meeting, asserting that it would not prosecute those who returned. UNHCR's position was that this was a positive step, and they drafted a counterproposal which eventually became the tripartite MoU that set out steps for resettlement and repatriation of the Phnom Penh refugees. The MoU stated that there would be quick resettlement in a third country for those who wanted it, and a return to Vietnam for those who volunteered. Refugees who wanted neither would only have one month to decide on either option. If they did not decide or refused to do so, then Cambodia and UNHCR would work with the Vietnamese government to bring them back "in conformity with national and international laws". The Vietnamese government again gave written guarantees that the returnees would not be punished or prosecuted.<sup>52</sup>

Human rights groups criticized the new MoU almost immediately. The major concerns echoed those of the 2002 tripartite agreement, including lack of access by UNHCR to the Central Highlands.<sup>53</sup> Many critics also focused on the one-month deadline for people to decide to return or not, which, they argued, "may result in the forced return of those Montagnards who do not agree to either resettle or return to Vietnam within the next month. By subjecting refugees to a compulsory, time-constrained choice between return and resettlement (which, for a variety of reasons, many Montagnards resist), the MoU may compromise the voluntary nature of return", said a consortium of NGOs.<sup>54</sup> Another criticism was that extended asylum in Cambodia had been unnecessarily ruled out. The UNHCR's counter position was that the MoU in fact was badly needed, as without an MoU there would only be temporary protection in Cambodia, and there would not have been an Vietnamese agreement to open the Central Highlands to monitoring. UNHCR noted that they had to set some sort of operational framework for future arrivals and realistic timeframes for resettlement, and a MoU that contained some compromises was the only way to do this.<sup>55</sup> Under the MoU UNHCR offered the refugees their choice of repatriation or resettlement. Faced with deadlines, about three-quarters of the group agreed to accept third country resettlement, while the rest decided to go back under voluntary repatriation. In this latter category were many of the people who had believed that UNHCR could help their land situation in Vietnam. Of those who accepted third country resettlement, the majority went to the US, with Canada, Sweden and Finland also accepting refugees. On 11 March 2005, the first nine voluntary returnees went back to Vietnam. A Vietnamese staff member of UNHCR's office in Hanoi was assigned to monitor the repatriation by meeting with officials and families in Gia Lai and Kon Tum. However, because returnees' homes were spread out in several districts, it was impossible for him to check on all returnees at this time.<sup>56</sup> He did

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<sup>52</sup> United Nations High Commissioner for Refugees, UNHCR Signs Agreement

<sup>53</sup> Adams, B., Montagnard Refugees Need International Support, *Cambodia Daily*, 11 April 2005

<sup>54</sup> International Council of Voluntary Agencies, NGO Submission to the Standing Committee of the UN High Commissioner, 32nd Meeting, 8-11 March 2005, Agenda Item 6(i) Asia and the Pacific, <http://www.icva.ch/cgi-bin/browse.pl?doc=doc00001345> [accessed May 2006]

<sup>55</sup> Documentation provided to the author by UNHCR

<sup>56</sup> United Nations High Commissioner for Refugees, Viet Nam: Visit to Monitor Condition of Montagnards Returning from Cambodia, 29 July 2005 (briefing notes), <http://www.unhcr.org/cgi->

make several return trips to the Central Highlands, starting in late spring 2005.

A later group of six returnees was monitored throughout their journey from Phnom Penh to Gia Lai by international UNHCR staff. This openness was seen by UNCHR as “evidence of Vietnamese commitment to reintegrate the returnees”.<sup>57</sup> A UNHCR regional representative made two visits to the Central Highlands to visit returnees and deportees in Summer and Fall of 2005 and reported: “It’s very reassuring to see the returnees are treated as victims, not culprits, by the local authorities. They almost all have land, and are getting positive help to restart their lives.”<sup>58</sup> Critics of these monitoring visits, however, noted that government officials came with the UNHCR team for all interviews, and not all repatriated people could be visited in such brief trips. These critics, from Human Rights Watch, MFI, and elsewhere, argued that the UNHCR office in Hanoi was not independent, objective, or strong enough and relied only on the goodwill of Hanoi authorities to conduct any monitoring. The MFI additionally asserted that some of the people who UNHCR had rejected as refugees and repatriated were subsequently imprisoned in Vietnam, and Human Rights Watch made similar claims in a June 2006 report.<sup>59</sup>

Since the agreement was signed in 2005, 190 people have returned to Vietnam – 102 voluntary returnees and 94 rejected asylum seekers – while 605 have been resettled. Some serious complaints were made about the way in which the 94 rejected asylum seekers were forcibly deported by the Cambodian government in July of 2005. Another 249 refugees remain under UNHCR’s care in Phnom Penh as of June 2006. Although the numbers of people seeking asylum dropped considerably after the January 2005 MoU, they did not stop entirely. In fact, a new group of 75 was taken in by UNHCR in Phnom Penh as recently as January 2006. Visits to the Central Highlands to assess those being repatriated also continue to happen, including an April 2006 visit from the Assistant High Commissioner for Protection. Since the MoU was signed in 2005, UNHCR has made in total 12 monitoring visits to the Central Highlands, meeting with 64 per cent of returnees, including both those who voluntarily decided to return, and those who were deported. The large percentage of people who have been visited is higher than in most UNHCR caseloads, and other interested parties, including the US Embassy, have similarly made monitoring visits to the Central Highlands. While only a few of these visits have taken place without government officials present, UNHCR has stated that after these monitoring missions it “has no serious concerns about the conditions of the returnees”.<sup>60</sup>

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[bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=42ea00ea25](http://bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=42ea00ea25) [accessed June 2006]

<sup>57</sup> United Nations High Commissioner for Refugees, UNHCR Accompanies Montagnard Refugees Home to Viet Nam, 23 September 2005 (news stories), <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=433427614> [accessed June 2006]

<sup>58</sup> United Nations High Commissioner for Refugees, UNHCR Mission Finds Montagnard Returnees and Deportees Well, 5 August 2005 (news stories), <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=42f3362b4> [accessed June 2006]

<sup>59</sup> Montagnard Foundation Inc, Vietnam Disregards UNHCR Agreement and Arrests and Tortures More Montagnard Degar Returnees: Other Returnees Forced to Renounce Christ, 20 January 2006, [http://www.montagnard-foundation.org/MRelease\\_060120.htm](http://www.montagnard-foundation.org/MRelease_060120.htm) [accessed May 2006]; Human Rights Watch, *No Sanctuary: Ongoing Threats to Indigenous Montagnards*, New York, June 2006

<sup>60</sup> United Nations High Commissioner for Refugees, Assistant High Commissioner’s Mission to Cambodia and Viet Nam, 25 April 2006 (briefing notes), <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=444df21016> [accessed June 2006]; United Nations High Commissioner for Refugees, Assistant High Commissioner Winds up Asia Mission with Viet Nam Visit, 28

However, a recent Human Rights Watch report has asserted that there is indeed persecution of returnees, and cites as evidence interviews in Cambodia with returnees who “doubled back”, that is, they originally returned voluntarily to Vietnam or had their refugee claim rejected and were repatriated, but “experienced such severe persecution that they fled a second time to Cambodia to seek the protection of UNHCR”.<sup>61</sup> The report argues that some of the returnees suffered interrogations about why they left, and even some beatings and torture. Human Rights Watch says the accounts they have collected, though few in number, “call into serious question the credibility of UNHCR’s monitoring of returnees and the assumptions on which the MoU is based – that returnees will not be persecuted and that UNHCR will be able to monitor the treatment of returnees to ensure that they are not harmed.”<sup>62</sup>

In response, UNHCR issued a statement rejecting these accusations, as “the allegations do not tally with our first-hand experience of the Montagnard caseload in Cambodia, nor with our 12 monitoring missions to visit returnees in the Central Highlands of Viet Nam”. The UNHCR spokesperson went on to note that the Human Rights Watch report “draws very generalized conclusions from essentially the accounts of five people whose stories cannot be verified by any objective means”. UNHCR pointed out that the more recent monitoring missions were made without the presence of officials, and that the missions did not reveal any of the maltreatment Human Rights Watch alleged; furthermore, the claims of those interviewed by Human Rights Watch as primary evidence could not be substantiated by the missions and UNHCR believes there to be “discrepancies between accounts they related to us and to HRW”.<sup>63</sup>

### 3.5 Third Country Resettlement from 2001

One aspect of UNHCR interviews of those who believe they are refugees is a determination of whether the permanent solution in their case is resettlement in a third country. While the preference is usually for repatriation if possible, in circumstances where that is not possible, third country solutions are considered. That has happened to several groups of refugees from Vietnam since 2001. When the tripartite agreement fell apart in April 2002 and US third country resettlement was offered to all refugees, they all chose the US resettlement plan, while many of the 2005 group initially refused to do so.

The US had already absorbed several waves of Montagnard refugees in the past. The first large scale resettlement of Montagnards to the US began in 1986, when 200 refugees, mostly men who had fought with US forces or with FULRO during the Vietnam War, settled in North Carolina, eventually growing to a total population of around 3,000. However, just because the groups shared language or ethnic ties does not mean that resettlement in these existing Montagnard communities has been easy for the Cambodian groups. Reports from social workers in North Carolina stated that on the whole, the 2001-2002 refugees had few

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April 2006 (briefing notes), <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=4451eb5025> [accessed June 2006]

<sup>61</sup> Human Rights Watch, *No Sanctuary*

<sup>62</sup> *Ibid*

<sup>63</sup> United Nations High Commissioner for Refugees, Viet Nam Montagnards: UNHCR Rejects HRW Report Allegations, 16 June 2006 (briefing notes), <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=449282571d> [accessed June 2006]

marriage or relational ties to the ex-FULRO groups already in North Carolina.<sup>64</sup> Another problem was the skewed gender ratio of the refugees; of the 905 people resettled in the US from the 2002 group, 76 per cent were male. Many of these men have wives and children remaining in Vietnam who could be eligible for US resettlement as well, under what are known as I-730 petitions. Advocates for refugees have been calling on the Vietnamese authorities to speed up assistance and grant access for these family members to US authorities, and for the US consulate in Ho Chi Minh City to open up a permanent office in the Central Highlands for interviews.<sup>65</sup> There are indications that there has been some speeding up of the Vietnamese processing for I-730s in 2005, although apparently Dak Lak province is continuing to be very slow in allowing relatives to leave.

One question that must be analyzed is the impact of third country resettlement on refugee outflows. Did the resettlement of the first 38 in the US in 2001 trigger the outflow of the following 900 in the fall of 2001? And did the resettlement of that 900 in 2002 trigger further outflows in 2003 and 2004? The 2002 Writenet report emphasized that third country resettlement would likely have a negative effect on the situation in the Central Highlands because it would add a “pull” factor to the existing “push” factors. Instead, the paper argued for basing a solution on what had occurred with Vietnamese “boat people” refugees in neighbouring Southeast Asian countries in the 1990s.<sup>66</sup> In retrospect, however, many of the boat people were economic migrants, and did not have ethnic or religious differences with authorities back in Vietnam. For the refugees in Cambodia, whether they were active supporters or not, rightly or wrongly, they were associated with MFI/FULRO/Dega Protestantism. Their claims of likely persecution appear on the surface to have been considerably stronger than those of the boat people.

However, contrary to the 2002 Writenet opinion, it appears that third country resettlement did not result in a large pull factor. Following the departure of the 2002 refugees to the US, the number of people entering Cambodia actually slowed. Human rights organizations argued that this was not due to lower numbers, but that Cambodian officials were rounding them up and sending them back to Vietnam.<sup>67</sup> In fact, the best indications are that refugee flows from Vietnam seem to coincide with security crackdowns by police in the Central Highlands, rather than resulting from people believing they would get US resettlement. The fact that so many people actually rejected resettlement in the 2004-2005 refugee group indicates that many did not see it as a pull factor in their decision to leave for Cambodia.

Some third country resettlement to the US is still going on to date, as more than 600 people have chosen resettlement under the 2005 accord, but two issues have recently arisen that relate to the US acceptance of refugees. The first is that the US has increasingly become interested in providing additional resettlement slots, even to those who UNHCR rejects. Some have been suggesting that the US could take some extra people in this category not under the regular refugee allocation, but under a special clause called the Lautenberg

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<sup>64</sup> Bailey, R., *Montagnards: Their History and Culture*, Washington DC: Cultural Orientation Resource Center, 2002, <http://www.culturalorientation.net/montagnards> [accessed May 2006]

<sup>65</sup> Yang, K. and M. Niedzwiecki, *Montagnard Refugees and Asylum Seekers in Vietnam and Cambodia*, Washington DC: Southeast Asia Resource Action Center, 2003, <http://www.searac.org/montagst7-30-03.pdf> [accessed May 2006]

<sup>66</sup> Writenet, *Viet Nam*, p 28

<sup>67</sup> Cambodia Sends Last Montagnard Refugees Back to Vietnam, *Radio Free Asia*, 3 December 2003

Amendment. The Lautenberg Amendment, first passed in 1989, grants individuals within specified categories of religious minorities (Jews, Evangelicals, and some Orthodox Churches) with qualifying relatives in the US as having special access to refugee programmes. This may be a way for the US to take more asylum seekers from Vietnam, including those rejected by UNHCR. At a US Congressional hearing in May 2006 on refugee resettlement, the Chairman, Representative Christopher Smith, expressed his concern that:

we are not doing enough to protect and resettle Montagnard refugees who have fled to Cambodia, or to protect those who have been repatriated to Vietnam, often involuntarily. There is ample evidence that Montagnards who attempt to flee Vietnam, even if not persecuted before, will be persecuted after forced repatriation. They are subject, at the least, to constant surveillance and harassment, often to physical abuse, torture and imprisonment. Right now there are several dozen Montagnards in Cambodia who have been turned down by UNHCR, but referred to us for further consideration.

Smith went on to state he believed these rejected cases should be given “full consideration, and that they not be repatriated involuntarily”.<sup>68</sup> In response, UNHCR has asserted that it has been very liberal in its interpretation of persecution as the basis of refugee claims, and has instituted an appeal process for rejected cases. They have also allowed family members of previous resettlements to be processed under their care, even without direct evidence of fear of persecution.

However, a remaining problem is that some refugees in Cambodia currently approved by the US and UNHCR for third country resettlement are now being held up by the US Patriot Act. A provision in the Act “denies entry to anyone who has provided material support to a terrorist or armed rebel group. The provision applies even if that support was coerced or the aims of the group in question match those of American foreign policy.”<sup>69</sup> In the case of the Montagnard refugees, they have been classified by the US Department of Homeland Security as supporting a “terrorist” group due to their involvement in MFI’s activities in the Central Highlands. At least 11 people are now in limbo. Some refugees from Burma in a similar situation were granted a State Department waiver in May 2006 for US entry, and such actions may be taken for the Montagnards.<sup>70</sup> A bill was recently introduced in the US Congress to clarify the “material support” provision of the Patriot Act to re-open resettlement for Montagnards and others falling into this category.<sup>71</sup>

### **3.5.1 The Phenomenon of Refugees Refusing Resettlement**

While the first groups of people to arrive in Cambodia after the 2001 protests agreed unanimously to leave for third country resettlement in the US, there was a different scenario in 2004. Then, large numbers of refugees decided to refuse the US resettlement offer. Seventy-five per cent of the 192 people submitted for resettlement to the US in 2004 refused

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<sup>68</sup> Smith, C.H., Statement of Chairman Christopher H. Smith, before the Subcommittee on Africa, Global Human Rights and International Operations on Current Issues in U.S. Refugee Protection and Resettlement, Washington DC, May 10, 2006, [http://wwwa.house.gov/international\\_relations/109/smith051006.pdf](http://wwwa.house.gov/international_relations/109/smith051006.pdf) [accessed May 2006]

<sup>69</sup> Swarns, R., Provision of Antiterror Law Delays Entry of Refugees, *New York Times*, 8 March 2006

<sup>70</sup> Swarns, R., US Eases Curbs on Resettling Burmese Refugees, *New York Times*, 5 May 2006

<sup>71</sup> How Not to Treat Friends: Once the Montagnards of Vietnam Fought Alongside American Troops. Now Congress Calls Them Terrorists, *Washington Post*, 28 April 2006

resettlement, but also said they did not want to return to Vietnam. They stated that they were refusing to leave because they wanted UNHCR to help them find a resolution to land and religious issues in Vietnam. As noted earlier, this put UNHCR in an extremely difficult position. UNHCR representatives in Cambodia noted “in UNHCR’s experience, it is highly unusual for refugees to refuse resettlement offers and there are concerns that some refugees may be coming under pressure not to accept resettlement for reasons that are not yet clear”.<sup>72</sup> A serious concern for UNHCR staff was that there may have been pressure and even coercion from unknown sources that were causing people to reject the resettlement offers. UNHCR’s position was that political manipulation of people to refuse resettlement was an attempt to bring more international attention to the refugee situation, and was thus an abuse of the protection UNHCR offered.

Why did everyone in the first group of 2002 agree to US resettlement immediately, while the second group in 2005 had so many refusing? Where was pressure to stay in Cambodia coming from, if there was pressure to stay? These are questions to which there are no clear answers. Reports from people who worked with the 2002 group revealed factionalism within the camps, with some people arguing that to leave Cambodia for the US was to give up the MFI cause of a separate Montagnard homeland.<sup>73</sup> It is quite possible that this factionalism was even stronger in the 2004-2005 camps, with people affiliated with MFI urging others to refuse the resettlement. However, MFI or others have not confirmed this. UNHCR’s position is that given a choice of durable solutions – resettlement abroad or repatriation – anyone who refused one of these two options was likely involved in political posturing. If these people were genuinely afraid of persecution in Vietnam, they would likely have accepted the third party resettlement. The fact that they were not doing so made UNHCR staff suspicious that some people were using the refugee system as a way to bring political attention to perceived problems in Vietnam.

### **3.6 Returnees – Who Have Gone Back and Who Have Not?**

After the 2002 tripartite agreement, few people in the UNHCR camps in Mondulkiri and Ratanakiri signed up to return to Vietnam. Only 104 asylum seekers of a total of 498 signed up for repatriation, most of whom were in the Ratanakiri camp.<sup>74</sup> This may be an indication that there was pressure within the Mondulkiri camp not to return, or it may be related to the fact that there were more women and children in the Mondulkiri camp (thus more complete families) and these people had fewer reasons to return.

Some people repatriated in 2002 were not repatriated with the assistance of UNHCR, and it is impossible to know what has happened to them. Those who have been repatriated under the 2005 agreement – both voluntary repatriation and involuntary deportation of those not classed as refugees – have been checked on by UNHCR upon their return to Vietnam with occasional monitoring visits. However, there have been concerns that some repatriated persons have been subject to persecution once they returned to Vietnam, as there are not yet permanent monitoring presences in the Central Highlands, such as a full-time UNHCR office there.

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<sup>72</sup> United Nations High Commissioner for Refugees, *Misled Montagnards*; United Nations High Commissioner for Refugees, *Vietnamese in Cambodia Torn between Going on Exile and Returning Home*, 11 November 2004 (news stories), <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=419387944> [accessed June 2006]

<sup>73</sup> Bailey; Marh, K., *Southern Hospitality: Mourning a Lost Home, Refugees from Vietnam Start over in North Carolina*, *InthefrayMagazine*, 29 September 2003

<sup>74</sup> Reuters, *Vietnam Says Ethnic People in Cambodia a Hostile Plot*, 6 February 2002

Representative Jim Leach criticized UNHCR on 21 July 2005 in a statement on the floor of the US House of Representatives when he stated:

Credible reporting by established nongovernmental organizations has documented recent cases in which Montagnard returnees were arrested and beaten after their repatriation. From a humanitarian vantage, the repatriation of Montagnard families in these circumstances was unacceptable, and was carried out to the discredit of both Cambodian authorities and the United Nations High Commissioner for Refugees (UNHCR).<sup>75</sup>

However, there are no independent verifications of these claims of retaliation against refugees, and UNHCR has said that it has looked into some specific cases raised by NGOs and has not found evidence of abuse. Nevertheless even the positive reports from UNHCR on the monitoring trips it undertook in Vietnam in 2005 and 2006 have not mollified critics. For groups like the MFI, Human Rights Watch, and others, the encouraging reports coming from UNHCR have been taken as evidence not of success, but of Vietnam's ability to control these monitoring visits.

A major issue remaining for repatriated people is whether outside organizations like UNHCR or the US embassy should or need to offer additional support to returnees or families of resettled peoples. In both MoUs, UNHCR stated its willingness to provide money and investment to some development projects in locations of returnees, although there are no public reports as to whether this has yet happened. In 2006, the US Congress appropriated US\$ 2 million in economic support funds (named the Montagnard Development Fund) for individuals and communities in the Central Highlands, with the aim of helping to settle some of the troubles there, and this money is likely to be disbursed in the near future if Vietnam's permission is obtained.<sup>76</sup> However, the Vietnamese government's position so far has been that it is Vietnam's own problem and that it will take care of the economic needs of returnees, and UNHCR monitors have been informed by the government that returnees are being offered housing, land, and assistance in finding employment.<sup>77</sup>

### **3.7 Summary: The Role of UNHCR in the Region**

UNHCR's role in the region has been both praised and vilified from many sides. This concluding section summarizes some of the complaints that have been levelled against UNHCR's performance in Cambodia.

*Lack of coordination with Cambodian officials:* During 2001-2002, there were complaints in Cambodian newspapers that there was not enough coordination between UNHCR and provincial governments where the refugees had settled. Some provincial leaders were apparently unhappy that an international organization was given power to work without more

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<sup>75</sup> Leach, J., Forced Repatriation of Montagnards by Cambodia, *Congressional Record*, 21 July 2005

<sup>76</sup> John, E. G., Testimony of Deputy Assistant Secretary Eric G. John on Human Rights in Vietnam, Subcommittee on Asia and the Pacific and Subcommittee on Africa, Global Human Rights and International Operations of the [House] Committee on International Relations, Washington, 29 March 2006, [http://wwwa.house.gov/international\\_relations/109/john032906.pdf](http://wwwa.house.gov/international_relations/109/john032906.pdf) [accessed May 2006]

<sup>77</sup> United Nations High Commissioner for Refugees, Monitoring Visits to Montagnards Show Returnees Benefit from Assistance, 5 September 2005 (news stories), <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=431c64694> [accessed June 2006]

local consultation.<sup>78</sup> There were specific complaints that UNHCR was not listening to Mondulkiri's requests to move the refugees away from the provincial town.

*Lack of international support:* There were arguments that UNHCR should have tried harder to rally the international community during the 2002 talks when the Vietnamese government was being intractable and insisting on a set timeline for the repatriation of all refugees. Human Rights Watch, for example, called on UNHCR to enlist the help of the UN Working Group on Arbitrary Detention, the UN Special Rapporteur on Religious Intolerance, UN Special Rapporteur on Torture and the UN Special Rapporteur on Extra-judicial Executions to get involved in the refugee problem in Cambodia and to make monitoring visits to Vietnam. This does not appear to have happened. UNHCR has noted, however, that it attempted to involve other international communities in the development of the 2005 MoU through requests to embassies in Hanoi to become more involved in a "prevention" approach by investing in development in the Central Highlands.<sup>79</sup>

*Lack of clarity on refugee interviews:* Some concern has focused on those people who were judged not to be refugees and how they were sent back. UNHCR has not issued published statements on why certain people were not deemed to be refugees. Yet legitimate questions have been raised to the effect that even though some people may have fled for economic reasons, it was possible that Vietnamese authorities would still associate anyone who fled with "Dega Protestantism" and Kok Ksor's separatist claims. Human Rights Watch asserted that no one should be rejected given that there was no independent monitoring of the Central Highlands and the situation there was unknown for any returnees. Anecdotal evidence indicates that some forcibly repatriated people from the summer of 2004 may indeed have been arrested upon arrival back in Vietnam.<sup>80</sup> The US's interest in taking for resettlement even rejected claimants under provisions like the Lautenberg Amendment has been aimed at trying to deal with these reports of persecution.

*Lack of movement against forced repatriations by Cambodia:* There was also concern that UNHCR did not use enough pressure on Cambodia to stop forced repatriations. There were a number of credible accounts of large numbers of asylum seekers being arrested and forcibly returned to Vietnam by Cambodian police before they could contact UNHCR throughout 2002-2005. Human Rights Watch claimed that in April and May of 2002 alone, Cambodian authorities forcibly repatriated more than 400 people.<sup>81</sup> While refoulement is never an easy problem to solve, there is no public record that UNHCR provided special training to any Cambodian authorities on their obligations under the 1951 Convention, nor did they appear to have investigated the claims that profiteers were offering bounties for refugees to be returned. UNHCR could probably have done more to protect refugees from refoulement.

*2005 MoU may have violated international practice on voluntary repatriation:* The 2005 MoU set a one month deadline for refugees to decide to resettle in a third country or return to

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<sup>78</sup> Srei Neat, UNHCR's Welcome, SRV Troops' Laxity Said Motivating Refugees to Enter Cambodia, *Phnom Penh Reaksmei Kampuchea*, 3 October 2001 [translated by Foreign Broadcast Information Service, #FBIS-EAS-2001-1005]

<sup>79</sup> Documentation provided to author by UNHCR

<sup>80</sup> Human Rights Watch, Letter to Secretary of State Condoleezza Rice on Religious Freedom in Vietnam, New York, 28 February 2005

<sup>81</sup> Human Rights Watch, Cambodia/Vietnam: Montagnard Asylum Rights Threatened, New York, 4 April 2002 (press statement)



Vietnam. Although UNHCR was in a difficult position, with so many refugees strangely refusing resettlement, setting a deadline was heavily criticized by rights organizations as counter to the principle of voluntary repatriation. Human Rights Watch has asserted of the MoU that “implicit in this agreement is the idea that refugee protection ceases for refugees who refuse resettlement. However, the cessation clause of the Refugee Convention establishes no such ground for the cessation of refugee status; to the contrary, the Convention emphasizes the right of refugees to choose their durable solution.”<sup>82</sup> Rather than imposing such a deadline, rights organizations have asserted that UNHCR could have worked harder to get Cambodia to follow their obligations on asylum under the Refugee Convention and accept a longer stay in their country by some of the Vietnamese until better monitoring was underway in Vietnam and until an assessment could be made of who within the camps was orchestrating the refusals of resettlement.

*Questions about appropriateness of voluntary repatriation given the situation of monitoring in Vietnam:* Many people have raised the question whether voluntary repatriation to Vietnam is legitimate given the lack of rigorous monitoring available. Human Rights Watch has called for an “effective, credible, and unfettered protection and monitoring presence by UNHCR in the Central Highlands to monitor the safety of those who are repatriated and obtain the reliable and objective information needed for potential returnees to make informed decisions about repatriation”.<sup>83</sup> Most foreign organizations that visit the Central Highlands are tightly supervised by Vietnamese authorities, which raises the question whether monitoring can really take place in a fair and objective manner, or will consist only of short, scripted visits. Human Rights Watch has asserted that there are reports that prior to visits from outsiders and media, local authorities select the villagers who will be allowed to speak, and that these are made to rehearse their statements in advance and are threatened if they say anything negative against the government, causing a “climate of fear”.<sup>84</sup> Given these conditions, the reports from UNHCR monitoring visits to date appear to many to be overly optimistic. Human Rights Watch in particular has cited reports from people who have been interviewed by the monitoring teams, and noted that some people were intimidated by the police beforehand, and that the people being visited had trouble understanding the discussion and responding openly about the situation as their abilities to speak Vietnamese were low.<sup>85</sup>

A more permanent presence by UNHCR in the Central Highlands has been a consistent demand of rights groups, rather than the field office in Hanoi making only brief visits. If a problem were to arise with a returnee, it is not clear how they would be able to contact UNHCR given the fact there is no local office in the Central Highlands. The question should also be posed if UNHCR’s national staff is sufficient to monitor the situation, especially given the fact that they do not speak the local languages and rely on use of Vietnamese during these monitoring visits; international observers who join monitoring visits also require translation from English to Vietnamese, and the quality of such translations has been questioned.<sup>86</sup>

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<sup>82</sup> Human Rights Watch, *No Sanctuary*

<sup>83</sup> *Ibid.*

<sup>84</sup> Human Rights Watch, *Vietnam: Independent Investigation*; Human Rights Watch, *No Sanctuary*

<sup>85</sup> *Ibid.*

<sup>86</sup> *Ibid.*

*Repatriation is occurring without fundamental changes in political/religious freedom in Vietnam:* Rights organizations have asserted that even in an more ideal situation with better monitoring, repatriating people to Vietnam is a risky proposition given that the political and religious situation remains unsettled. This assertion is based on reports of religious persecution and continued imprisonment of some Montagnard activists and leaders. Human Rights Watch has said that “UNHCR is placed in the position of promoting and facilitating the return of refugees to a place where the threat of persecution that caused them to flee has not fundamentally changed”.<sup>87</sup> There has been strong criticism of the fact that the MoU does not say that Vietnam will not persecute returnees on the basis of politics or religion; rather, the MoU only says the Vietnamese government will not punish or prosecute returnees for their “illegal departure”. The fact that some individuals belonging to minority groups do remain in jail in 2006, guilty of “organizing illegal migration”, has been worrisome in that it may portend that Vietnamese authorities may administer similar treatment for returnees. Human Rights Watch has called on UNHCR to “not cease refugee status for Central Highlanders in Cambodia until UNHCR and independent observers have credible evidence that there have been fundamental and enduring changes in the circumstances that caused people to flee the Central Highlands of Vietnam and that protection of and full respect for their human rights have been restored”.<sup>88</sup> UNHCR’s response to this call has been that their mandate is “to monitor the situation of Montagnard returnees to Viet Nam. The agreement was not for an overall human rights monitoring role in the Central Highlands.”<sup>89</sup>

#### **4 Current Factors Affecting Central Highlands Minorities**

There is a pressing need to understand the socio-economic and political situation in the Central Highlands, and to analyze what impact current developments in these areas may have on refugee outflows, as well as the ability of returnees to reintegrate. This section of the report focuses on some key issues that remain of concern in the Highlands for their potential impacts as “push” factors in refugee movements. These concerns include continued high levels of poverty, migration and overcrowding in the Central Highlands leading to conflicts over land, religious freedom, and the role of outside organizations in the above issues.

##### **4.1 Poverty in the Central Highlands**

Although the opening of Vietnam’s economy to market forces in the past 20 years has reduced poverty levels for much of the population, there is evidence that minorities continue to face many hardships. In fact, as the rest of rural Vietnam has seen poverty rates drop dramatically, minority communities still experience high rates of poverty, leading many to worry that poverty may be deepening and becoming entrenched there (see Table 3 below.) Although minorities comprise only 13 per cent of the population, they constitute 29 per cent of Vietnam’s poor as of 2004.<sup>90</sup>

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<sup>87</sup> *Ibid.*

<sup>88</sup> *Ibid.*

<sup>89</sup> United Nations High Commissioner for Refugees, Viet Nam Montagnards

<sup>90</sup> Swinkels, R. and C. Turk, C., Poverty and Remote Areas: Evidence from New Data and Questions for the Future. Background Paper for the PAC Conference, 24-26 November 2004, Hanoi, <http://www.dfid.gov.uk/pubs/files/povertyandremotearreas.pdf> [accessed May 2006]

**Table 3: Percentage of People Living in Poverty in Vietnam, 1993-2002**<sup>91</sup>

	1993	1998	2002
All of Vietnam	58.1	37.4	28.9
Urban	25.1	9.2	6.6
Rural	66.4	45.5	35.6
Kinh and Chinese	53.9	31.1	23.1
Ethnic minorities	86.4	75.2	69.3

Within the general trend of high levels of poverty for ethnic minorities, the minorities of the Central Highlands for many years have stood out as some of the worst off. In 1998, 91 per cent of the Central Highland's minority population lived in poverty, as compared with 73 per cent of the minorities of the northern uplands, and 57 per cent of Khmer people.<sup>92</sup> From 1998 to 2002, while every other group in Vietnam was reducing its poverty rates, the poverty rate among minorities in the Central Highlands actually rose.<sup>93</sup>

Poverty in the Central Highlands cannot be viewed just through the lens of ethnicity. The Central Highlands is geographically one of the poorest regions as well. (See Table 4 below). From 1998 to 2002, the area experienced very limited poverty reduction despite new government policies on Hunger Eradication and Poverty Reduction (HEPR) that began in 1998. Food poverty in the Central Highlands region remained almost unchanged for an entire decade from 1993 to 2003. Many people surmised that the continued deep-rooted nature of poverty in the Central Highlands may have had something to do with the 2001 protests: "having missed the economic boom of the 1990s, it is not surprising that dissatisfaction, which was also related to land and religious conflicts, bubbled over into the significant demonstrations by ethnic people that took place in several places in the Central Highlands in February 2001", stated one World Bank analysis.<sup>94</sup>

**Table 4: Incidence of poverty by region (%)**<sup>95</sup>

<b>Region</b>	<b>1993</b>	<b>1998</b>	<b>2002</b>	<b>2004</b>
All of Vietnam	58.1	37.4	28.9	24.1
Northern Mountains	81.5	64.2	43.9	43.5
Red River Delta	62.7	29.3	22.4	21.1
North Central Coast	74.5	48.1	43.9	41.4
South Central Coast	47.2	34.5	25.2	21.3
<b>Central Highlands</b>	<b>70.0</b>	<b>52.4</b>	<b>51.8</b>	<b>32.7</b>
South East	37.0	12.2	10.6	6.7
Mekong Delta	47.1	36.9	23.4	19.5

<sup>91</sup> Joint Donor Report, *Vietnam Development Report 2004: Poverty*, Hanoi, 2003. Data based on Vietnam Living Standard Surveys (VLSS) of 1993 and 1998 and Vietnam Household Living Standard Survey (VHLSS) of 2002

<sup>92</sup> Poverty Task Force, *Localizing MDGs for Poverty Reduction in Viet Nam: Promoting Ethnic Minority Development*, Hanoi: Poverty Task Force, 2002

<sup>93</sup> Joint Donor Report

<sup>94</sup> Baulch, B. [et al.], *Ethnic Minority Development in Vietnam: A Socio-Economic Perspective*, Hanoi: World Bank, 2002

<sup>95</sup> Viet Nam, General Statistics Office, *Results of the Survey on Households Living Standards 2004*, Hanoi, 2005

#### **4.1.1 Improvements in Poverty Reduction**

But after these dire assessments of intractable poverty in the Central Highlands had been made, something remarkable happened: the Central Highlands made major poverty reduction gains between 2002 and 2004. (See Table 4 above, right-hand column). Whereas there had been almost no change in rates of poverty between 1998 and 2002, from 2002 to 2004 the poverty rate dropped nearly by half, from 51.8 per cent to only 32.7 per cent. This drop in poverty was highlighted by officials as “the largest and fastest reduction in the country”.<sup>96</sup>

What accounts for this change, given early sentiments that the poverty in the Central Highlands was deep and likely to be intractable? There have been several possible answers. One is that the price of coffee, a major export crop in the Central Highlands, recovered between 2002 and 2004, and many coffee farmers were able to increase their incomes. Another answer is that the HEPR programmes that began in 1998 were beginning to have an impact as they expanded their coverage.<sup>97</sup> The more difficult answer is that the Vietnam Household Living Standard Surveys (VHLSS) may not be capturing poverty accurately in the Central Highlands. Many people in a participatory poverty assessment in Dak Lak in 2003 expressed concern that the VHLSS figures greatly underestimated regional poverty.<sup>98</sup> Others have noted that because the biennial VHLSS only samples those people who have permanent residency cards, any migrants or anyone else who does not have these cards will fall out of the sample frame. It is well known that many minorities in the Central Highlands do not have household registration papers, either because they have not applied for them and live far enough away from authorities that they have seen no reason to do so, or in some cases, papers have been taken away from them as punishment for practising religion illegally, etc. It is possible that if the VHLSS is losing minorities and migrants out of the sample frame, poverty reductions may be overestimated for the 2002-2004 period.

#### **4.1.2 Reasons for Poverty among Minorities in the Central Highlands**

What have been the causes for poverty in the Central Highlands among minorities? For the authorities, the disproportionate number of poor who belong to ethnic minorities is usually attributed to issues such as “old cultivation habits” and “backward thinking”. However, more objective observers have noted different causal links to poverty. The Central Highlands remains very much dependent on agriculture and forestry, as there have been slower rates of private sector development or of industrial development. There is also very little foreign investment in the Central Highlands, with an average of only US\$ 3.11 per capita in 2003, as compared with US\$ 23.65 on average in Vietnam overall.<sup>99</sup> Because the Central Highlands remain so dependent on agriculture, this leaves many people vulnerable to weather. For example, droughts have hit the Central Highlands in the spring dry season every year since 2002; in the 2002 drought it was estimated that 10,000-20,000 people were without adequate food. Many ethnic minorities were reported to have to obtained loans from moneylenders

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<sup>96</sup> Vietnam News Agency, Vietnam Solidarity Congress Hails New Era for Central Highlands, 31 March 2006

<sup>97</sup> Viet Nam, Ministry of Labour, Invalids and Social Affairs and United Nations Development Programme, *Taking Stock, Planning Ahead: Evaluation of the National Targeted Programme on Hunger Eradication and Poverty Reduction and Programme 135*, Hanoi: UNDP, November 2004

<sup>98</sup> Vietnam Solutions and ActionAid Vietnam, *Participatory Poverty and Governance Assessment Dak Lak Province*, Hanoi: Asian Development Bank, 2003

<sup>99</sup> Asian Development Bank, *Livelihood Improvement and Ethnic Minorities Development Plan for the Forests for Livelihood Improvement in the Central Highlands*, Manila, 2005, <http://www.adb.org/Documents/IndigenousPeoples/VIE/LIEMDP-FLITCH.pdf> [accessed May 2006]

with high rates of interest in order to purchase rice, starting a cycle of indebtedness that may lead to intractable poverty.<sup>100</sup>

#### 4.1.3 Health and Education

One major theory as to why ethnic minorities remain significantly poorer than Kinh in Vietnam is because they have generally lower levels of education and worse health.

While 93 per cent of Kinh children attend primary school, only 66 per cent of the Gia Rai, 62 per cent of the Xe Dang and 58 per cent of the Ba Na do so. The numbers drop further as the level of education rises; 81 per cent of Kinh attend lower secondary school while only 37 per cent of Gia Rai and 20 per cent of Ba Na do.<sup>101</sup> There are several explanations for these lower rates. One is access to schools: minorities often live in more remote areas and children are unable to attend a school nearby. Another reason is economic: minorities tend to be poorer, and may not be able to afford school fees. Exemptions from school fees, a policy the central government has begun to implement in many minority areas since 2004, may not necessarily solve this problem, as children attending school are also an opportunity cost: they may be needed in the fields to help their parents raise food. A final reason for the lower schooling rates is the lack of bilingual education. Although the Constitution guarantees the right to ethnic minority language use, in reality the situation is difficult. There are few qualified teachers of minority languages in the educational system: “of the 334 primary schools surveyed in the VLSS of 1998, only 10 provided some courses in an ethnic minority language” and seven of these schools were in the Mekong Delta and teaching Khmer.<sup>102</sup> While a 2002 *Voice of Vietnam* report noted that Kinh should try to learn minority languages to improve instruction and government services, there is no teacher-training programme for this, or one for Kinh cadres in minority areas.<sup>103</sup>

Health problems are also prevalent in minority communities, particularly in the Central Highlands. While the nationwide life expectancy in Vietnam is 70.9 years, this drops considerably when considered by region. In fact, people in the Central Highlands have a life expectancy of only 63.5 years; Kon Tum province taken alone has only a life expectancy of 57.2 years.<sup>104</sup> These lower life expectancy levels are a consequence of poor health indicators, like the prevalence of certain diseases: according to the World Health Organization (WHO) “the Central Highlands is behind the rest of the country in the epidemiological transition with the majority of deaths still a result of easily preventable health problems that have been largely controlled in other regions”.<sup>105</sup> Kon Tum and Gia Lai have the highest incidences of leprosy in the country, and malaria incidence and transmission rates are also highest in the Central Highlands.<sup>106</sup> The highest proportion of underweight children under the age of five in

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<sup>100</sup> 10,000 Người Cần Cứu Trợ Khẩn Cấp Do Hạn Hán [10,000 People Need Emergency Assistance due to Drought], *Lao Động* [Labour], 31 March 2002

<sup>101</sup> Asian Development Bank, *Livelihood Improvement*

<sup>102</sup> Baulch [et al.]

<sup>103</sup> Voice of Vietnam, Vietnam Aims to Build Central Highlands into Major Economic Region, *BBC Monitoring Asia Pacific*, 16 April 2002

<sup>104</sup> Asian Development Bank, *Indigenous Peoples/Ethnic Minorities and Poverty Reduction Vietnam*, Manila, 2002

<sup>105</sup> World Health Organization, *Health and Ethnic Minorities in Vietnam*, Hanoi, 2003

<sup>106</sup> World Health Organization, *Epidemiological Review of Leprosy in the WHO Western Pacific Region*, Manila, 2002

all Vietnam is found in Dak Lak province, where 45.3 per cent of children are underweight. Infant mortality rates for ethnic minority groups in the Central Highlands are up to three times as high as that for Kinh (21 deaths per 1,000 births for Kinh, as compared to 69 deaths per 1,000 births for Gia Rai). Only in tuberculosis and HIV/AIDS incidences are the Central Highlands below the national average on health indicators.<sup>107</sup>

One explanation for the higher incidence of disease is the fact that the Central Highlands has fewer health workers (about 10 per cent fewer personnel per capita than other regions), and their quality is lower. Recent HEPR investments have called for larger budget allocations for the region to solve this problem, as well as free health services for the poorest. About 1.7 million people (40 per cent of the population) will be eligible for free and subsidized health care. However, this may not entirely solve the problem. Ethnic minorities are less likely to seek health care than the Kinh because of numerous factors: high cost and low coverage of health insurance, poor quality of services in rural areas, little motivation or incentive for health care workers to serve the poor, geographical remoteness, and language and cultural barriers. There is also widespread belief among some minorities that the government purposely discriminates against them in education, health and social services, and there have been unsubstantiated reports of people mysteriously falling ill at home and in school, which some minorities have attributed to government conspiracies and “poisonings” against them.<sup>108</sup> This all contributes to minorities sending fewer children to school and making less use of government health clinics.

#### 4.2 Migration and Land Issues

One of the biggest projects of the socialist Vietnamese state has been the resettlement of large numbers of people to economic development zones in the Highlands. In the mid-twentieth century, Kinh numbers in the uplands remained small. But the end of the Vietnam War brought ambitious new plans for countrywide reunification and resettlement. The problems were urgent: the need to prevent mass starvation by quickly restarting agriculture on abandoned and war-torn lands, to resettle people displaced by war, and to address the traditional imbalance in food production between North and South. One major policy of the central government in the post-war era was to resettle Kinh into the Highlands, both to “help” minorities develop but also to increase the security of highland areas and provide fertile lands to lowland Vietnamese from overcrowded deltas.<sup>109</sup>

The most ambitious and best-known plan for resettlement was the designation of large swaths of highland areas as New Economic Zones (NEZs – *vùng kinh tế mới*). Lowlanders from the North and from crowded urban areas in the South were encouraged to move to these sites with preferential policies and some pressure and outright force. It was according to these plans that the state intended to relocate 10 million people by the end of the twentieth century. There was particular attention paid to the perceived waste of good land in the Highlands and to statistics of low population densities there. For example, population densities in the Red River delta areas exceeded 1,200 persons per square km in some areas, whereas some upland areas of the Central Highlands had less than 50 people per square km.<sup>110</sup>

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<sup>107</sup> World Health Organization, *Health and Ethnic Minorities*

<sup>108</sup> Human Rights Watch, *Repression of Montagnards*

<sup>109</sup> Desbarats, J., Population Redistribution in the Socialist Republic of Vietnam, *Population and Development Review*, Vol. 13, No. 1, 1987, pp. 43-76

<sup>110</sup> DeKoninck, R., The Peasantry as the Territorial Spearhead of the State in Southeast Asia: The Case of

The NEZ policy for the Central Highlands was officially unveiled at the Fourth Party Congress in 1976 and incorporated into the Second Five Year Plan (1976-1980). This plan included goals for the resettlement of 4 million people: 1.5 million residents of large Southern urban centres to rural areas in the Central Highlands, and 2.5 million northerners from the most overcrowded areas to the Central Highlands. The plan also included the sedentarization of about 700,000 ethnic minority members in the Central Highlands.<sup>111</sup> This government encouragement of migration has now completely changed the ethnic composition of highland areas. In the Central Highlands, the Kinh population rose steeply between 1953 and 1989, from little more than 30,000 to almost two million. Kinh now account for about two thirds of the population of the Central Highlands.

In addition to the NEZ migration, the attraction of money-making opportunities in the exploding coffee industry has brought many people to the Central Highlands. The migration began with the relaxation of rules on residency in the 1980s, and was compounded by high world coffee prices in the early 1990s.<sup>112</sup> Between 1976 and 1996, Dak Lak received an estimated 311,000 planned NEZ migrants and this number was surpassed by 350,000 spontaneous migrants during the same period. These migrant numbers exceeded the area's entire indigenous population.<sup>113</sup> Of note is that about 30 per cent of the spontaneous migrants in recent years have not been Kinh, but rather ethnic minorities from the Northern Mountains, particularly Tay, Nung, Dao, San Chay and H'mong.

#### **4.2.1 Impact of Migration on Land Conflicts**

As might be expected in a situation where the population tripled in the course of only 30 years, conflicts over land have been rife in many areas of the Central Highlands. In the past, minorities often managed land according to customary laws, practising a variety of rotational agricultural techniques, and many minorities preserved and protected forest areas for both subsistence and spiritual purposes. Traditionally, villages collectively controlled land in their territory under community management; the community had "the ultimate rights, such as in defining areas of use and punishing violations of community regulations. Individuals traditionally would have had the right to use land and inherit land but no right to transfer or sell land to outsiders."<sup>114</sup>

However, after 1975, there were several dramatic changes that would result in land use conflict and change. As part of the plans to develop war-torn reunified Vietnam, the central government instituted new land policies. These included the nationalization of tea, coffee and rubber plantations and the development of new state-owned farms (SFs – *nông trường*) and

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Vietnam, *Sojourn*, Vol. 11, No. 2, 1996, pp. 231-58

<sup>111</sup> Jones, G. and S. Fraser, Population Trends and Policies in Vietnam, in G. Jones (ed), *Demographic Transitions in Asia*, Singapore: Maruzan, 1984, pp. 201-28

<sup>112</sup> Hardy, A., *Red Hills: Migrants and the State in the Highlands of Vietnam*, Honolulu: University of Hawaii Press, 2003; Tan, S., Coffee Frontiers in the Central Highlands of Vietnam, *Asia Pacific Viewpoint*, Vol. 41, No. 1, 2000, pp. 51-67

<sup>113</sup> Đỗ Minh Cường, Rural-Rural Spontaneous Migration: Problems and Solutions. Paper presented at International Seminar on Internal Migrations: Implications for Migration Policy in Vietnam, Hanoi, 1998; Guest, P., The Dynamics of Internal Migration in Vietnam, UNDP Discussion Paper 1, Hanoi, 1999

<sup>114</sup> Vương Xuân Tinh, Changing Land Policies and Its Impacts on Land Tenure of Ethnic Minorities in Vietnam. Paper presented at the Enabling Policy Frameworks for Successful Community Based Resource Management Initiatives, East West Center, University of Hawaii, 2001

state forestry enterprises (SFEs – *lâm trường*) as well as the collectivization of smallholder agriculture into socialist cooperatives. These policies and the large numbers of migrants who came flooding into the Central Highlands made the minorities' traditional land management systems nearly obsolete. Some of the major land changes are outlined below.

*Loss of lands to SFs/SFEs:* These were a major change that pushed many people off their traditional lands. North Vietnam had nationalized nearly all natural forests starting in the mid-1950s, and this process was extended to the South after 1975 and the reunification of Vietnam. These national forests were then turned over to SFEs for logging. By 1988, 83 SFEs had been set up in the Central Highlands, and managed more than three million hectares of forest land (accounting for 70 per cent of the area).<sup>115</sup> In addition to SFEs, there were 79 SFs focusing on commodity crop production, particularly coffee and rubber. The area under coffee cultivation in Dak Lak had risen sharply from 10,000 hectares in 1976 to 250,000 hectares in the late 1990s.<sup>116</sup> Vietnam, in the course of a decade, became the number two coffee exporting nation in the world, after Brazil. In 1999, Dak Lak province alone earned US\$ 600 million from coffee exports, and nearly 60 per cent of Dak Lak's arable land was planted to coffee in the year 2000.<sup>117</sup>

Of course, it must be noted that all parts of Vietnam experienced dramatic changes in land tenure as part of the shift to cooperative and socialist agriculture in the 1950s and 1960s in the North, and 1970s and 1980s in the South. But these other areas have not seen the large-scale land protests of the Central Highlands. Why is that? Part of the explanation is the difference between cooperatives and state farms, the former being more common in Kinh areas and the latter in minority areas. In lowland areas, when agricultural cooperatives were dissolved in the late 1980s and 1990s as Vietnam moved to a market economy, the land that had been donated or taken by the cooperative was almost entirely redistributed back to villagers.<sup>118</sup> They may not have received the same amount they donated in all cases, or it may have been different land, but the reallocation was made. The problem in the Central Highlands is that the SFs and SFEs were never dissolved in the same way. Many continue to operate, long after agricultural cooperatives were dissolved, and even those SFEs/SFs that were made inoperable often distributed their lands back to employees, not to the minorities or surrounding communities from which the land had been taken. When minority communities have complained about this, and have tried to request the return of their lands from SFEs and SFs, they have largely been met with silence from authorities. Human Rights Watch says it has obtained documents from some areas in which households have been asked to "voluntarily" withdraw any land complaints and petitions for the return of land that they have made, or face punishments.<sup>119</sup>

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<sup>115</sup> Asian Development Bank, *Indigenous Peoples*

<sup>116</sup> Huỳnh Thị Xuân, Report on the Impact of Rural-Rural Migration to Resettlement Areas in Dak Lak Province. Paper presented at the International Seminar on International Migrations: Implications for Migration Policy in Vietnam, Hanoi, 1998

<sup>117</sup> Information Centre for Agricultural and Rural Development and Oxfam, *The Impact of the Global Coffee Trade on Dak Lak Province, Viet Nam*, Hanoi: ICARD, 2002, <http://www.isgmard.org.vn/Information%20Service/Report/Agriculture/Oxfam-ICARD-Full%20report-final-e.pdf> [accessed May 2006]

<sup>118</sup> Trần Thị Quế, Land and Agricultural Land Management in Vietnam, in Hà Huy Thành and S. Sakata (eds), *Impact of Socio-Economic Changes on the Livelihoods of People Living in Poverty in Vietnam*, Tokyo: Institute of Developing Economies, 2005, pp. 175-96

<sup>119</sup> Human Rights Watch, *Vietnam: New Documents*



*Sedentarization Programmes:* Minorities have also lost some land to what have been called “sedentarization” programmes. As in most other Southeast Asian countries, there is considerable concern in Vietnam over “shifting cultivation”, also known as “swidden agriculture”. Swidden agriculture as practised by upland ethnic minority groups has long been viewed by many as “backward” and inefficient, and the major cause of deforestation in the country. While there is little evidence to support such claims, Vietnam has long had what are called “sedentarization programmes” aimed at encouraging ethnic minorities to establish “fixed cultivation, fixed residence” (known as *định canh định cư*) and eliminate shifting cultivation. The first such programme began in 1968, known as the Fixed Cultivation and Sedentarization Programme (FCSP). This early policy encouraged the voluntary resettlement of minorities from higher areas to the lowlands. Some minorities did do so and gave up their upland fields; for example, in the Central Highlands after 1976, projects were implemented to move minorities out of forested areas and into settlement sites or to work as labourers in SFEs. Sedentarization programmes continue to be funded to date; the government spent US\$ 12.5 million in the Central Highlands for 160,500 ethnic minority members and others to resettle during the period 2000-2005.<sup>120</sup> Most of this money was spent on urging households in remote areas and far from government services to move closer to roads or to join more centralized villages.

However, as several evaluations of the FCSP have shown, results have been limited. Nearly 75 per cent of respondents in a recent survey reported that there was no impact of sedentarization policy on their well-being. Problems identified include poor quality infrastructure and poor soil quality in resettlement locations, and lack of consultation in programme design.<sup>121</sup> A recent report by the Institute for Ethnic Minorities further concluded that the investment of FCSP has not resulted in a reduction of land area used for swidden in the villages that have received investment. In fact, the overall trend has been to increase the land under swidden cultivation in the past five years, as food productivity declines on overused and exhausted lands on which the sedentarized populations were settled.<sup>122</sup>

*Loss of lands to migrants:* If the loss of lands to the SFEs/SFs and sedentarization programmes were not enough, the boom in coffee migration that began in the 1990s brought even more land conflicts, with migrant Kinh settlers pushing minorities further and further into forested areas. Some migrants bought land from minorities, who were willing to sell, or in some cases, were duped into doing so by their lack of understanding of the significance of government-issued land rights certificates (known as “red books”). Stories abound about minorities who traded their land for bags of rice and bicycles or were duped to sign papers.<sup>123</sup>

Many Kinh outsiders created a labour market for minorities by hiring the young minority men with knowledge of forests to clear land to make room for coffee plantations; many government cadre were also involved in these schemes, according to the head of the national

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<sup>120</sup> Vietnam News Agency, Vietnam Solidarity Congress

<sup>121</sup> Viet Nam, Ministry of Labour, Invalids and Social Affairs and United Nations Development Programme

<sup>122</sup> Institute for Ethnic Minorities, *Báo Cáo Kết Quả Nghiên Cứu Về Chính Sách Định Canh Định Cư ở Việt Nam* [Report on the Results of Research on Sedentarization Policy in Vietnam], Hanoi: NXB Chính Trị Quốc Gia, 2005

<sup>123</sup> Phan Đăng Nhật, The Role of the Village (Buôn-Plei) in Central Highland Development with a Focus on Natural Resources Management and Administration by Customary Law, *Vietnam Social Sciences*, Vol. 3, No. 89, 2002, pp. 47-60

Forest Protection Department.<sup>124</sup> The income communities have made from selling lands has in some cases pushed the minorities back further into forested areas, both to have land to cultivate but also to remove themselves from having to live near migrants. To combat this problem, some localities in the Central Highlands, such as Dak Lak, instituted decrees after the year 2000 limiting or forbidding the purchase of land from ethnic minorities in certain areas.<sup>125</sup>

Still other migrants did not buy land, but simply went about clearing land that appeared to be unoccupied – whether it was forest land, fallowing swidden lands, or community fields of minority villages. According to a government survey, less than 4 per cent of migrant households coming to the Central Highlands received land from the state, 47 per cent had purchased land privately, and 46 per cent had secured land through clearing and preparing “unclaimed” forest land.<sup>126</sup> The average amount of land cleared by new migrants varied: a 1996 survey in Dak Lak found that planned and spontaneous migrants occupied an average of 1.26 hectares of land per household. By that measure, spontaneous migrants probably cut as much as 100,000 hectares of forest for agricultural clearing during the preceding 20 years.<sup>127</sup> A study of one district in Gia Lai province in 1997, at the height of the coffee boom, found that indigenous inhabitants had average landholdings of 0.25 hectares per household. However, “newcomer lowlanders” (all those who immigrated after 1975) had an average land area of between one and two hectares per household.<sup>128</sup>

*Loss of lands to debt from falling coffee prices:* In the 1990s coffee production had increased at an annual average rate of 30 per cent. Many minorities joined with Kinh migrants in planting this “miracle crop” when they heard that some households were making VND 50 million or more per year (around US\$ 3,000).<sup>129</sup> However, many minority farmers came nowhere close to this level of income. A survey of coffee smallholders in Dak Lak in 2002 found that Kinh farmers had a significantly higher per capita income (VND 7.6 million for Kinh and VND 4.4 million for minorities).<sup>130</sup> This was due in part to differential access to technical assistance, credit and loans, and access to markets. It is estimated that planting one hectare of coffee in Cu Mgar district cost a farmer VND 10 million in investment. To raise that kind of money, some minorities transferred or leased part of their land; a long-term lease (6-12 years) could earn them VND 10 million per hectare.<sup>131</sup> However, taking on debts and leasing land only made sense when coffee prices were high, as was the case in the early

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<sup>124</sup> Hà Công Tuấn, *Bảo Vệ Rừng: Thực Trạng Và Những Giải Pháp* [Forest Protection: Situation and Solutions], Hanoi: Kiêm Lâm [Forest Protection Department], 2005

<sup>125</sup> Information Centre for Agricultural and Rural Development and Oxfam

<sup>126</sup> Đỗ Minh Cường, *Rural-Rural Spontaneous Migration*

<sup>127</sup> Huỳnh Thị Xuân, *Report on the Impact*

<sup>128</sup> Iagrai Management Project Board, Report on Forest Land Use Planning and Forest Land Allocation in Iahung Commune, Iagrai District. Paper presented at National Workshop on Participatory Land Use Planning and Forest Land Allocation, Hanoi, 4-6 December 1997

<sup>129</sup> Rios, A. and G. Shively, Farm Size and Nonparametric Efficiency Measurements for Coffee Farms in Vietnam. Paper presented at American Agricultural Economics Association annual meeting, Providence RI, 24-27 July 2005, <http://www.agecon.purdue.edu/staff/shively/RS.pdf> [accessed May 2006]

<sup>130</sup> Đặng Thanh Hà and G. Shively, Coffee Boom, Coffee Bust and Smallholder Response in Vietnam’s Central Highlands, Purdue University Staff Paper, December 2004, [http://www.agecon.purdue.edu/staff/shively/coffee\\_bust.pdf](http://www.agecon.purdue.edu/staff/shively/coffee_bust.pdf) [accessed May 2006]

<sup>131</sup> Information Centre for Agricultural and Rural Development and Oxfam

1990s. In 1994, coffee fetched US\$ 4,000 per ton, but by 2001 coffee was selling for less than US\$ 500 per ton.<sup>132</sup> The rapid decline in the prices was largely due to the flooding of the world market with Vietnamese coffee. When the price of coffee dropped, many smallholders fell into debt. In Dak Lak, where incomes had grown by 9 per cent annually from 1996 to 1999, this growth was replaced by reductions of around 10 per cent when the price of coffee fell.<sup>133</sup> By 2002, 45 per cent of coffee growing households lacked adequate food, 66 per cent had bank debts and 45 per cent had members of the family who had turned to wage labour to find money, according to a survey in Dak Lak.<sup>134</sup> Rich households were able to deal with the drop in prices by holding and storing coffee in the expectation that prices would rise again. Others reduced their investments, particularly in water and fertilizer. The poorest households, especially minorities, had no other choice than to leave the coffee trees untended, exposing them to drought due to lack of irrigation. Some people even cut down their coffee trees. A study of coffee farmers by US economists found that Kinh farmers were able to turn to other sources of income but the same was not true for smaller farms and minority farmers.<sup>135</sup> Many minorities had to sell their lands as payment of debts, rather than trying new higher-priced crops, or simply holding on and waiting for better prices, as many Kinh households did. It was this differential response to the price drop, and the dramatic loss of lands in many minority villages, that may have exacerbated ethnic tensions, contributing to the 2001 protests. As some coffee traders asserted to Human Rights Watch, “once many highlanders realized that they had lost everything they had, their resentment toward larger growers – who are primarily ethnic Vietnamese migrants – increased, as did their requests to the government to return land to them that they had previously farmed before taking up coffee or being relocated by government programs.”<sup>136</sup>

By 2005-2006, prices for coffee were beginning to rise again, but only because prolonged drought in the Central Highlands had cut production.<sup>137</sup>

#### **4.2.2 Economic Consequences of Land Issues**

What has the dispossession of land from these myriad causes meant for minorities? For one, there has been a significant increase in land disputes and land occupations. In the Central Highlands, from 1990 to 1998, more than 2,500 land disputes were submitted to relevant authorities for settlement.<sup>138</sup> In terms of losses of agricultural land to migrants and others, studies show mixed impacts. Landholdings appear to vary widely by ethnic group and geographic location (see Table 6), but roughly half of the minority households in each ethnic group owned less than one hectare of land per household. While one hectare may seem like an adequate amount of land when compared with Kinh landholdings nation-wide, which on average are less than one hectare per household, in fact one must remember that much of the

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<sup>132</sup> Vietnam News Agency, Vietnam Urged to Join Global Coffee Futures Market, 16 February 2005

<sup>133</sup> Scott, S. and Trương Thị Kim Chuyền, Behind the Numbers: Social Mobility, Regional Disparities and New Trajectories of Development in Rural Vietnam, in P. Taylor (ed.), *Social Inequality in Vietnam and the Challenges to Reform*, Singapore: Institute for Southeast Asian Studies, 2004

<sup>134</sup> Information Centre for Agricultural and Rural Development and Oxfam

<sup>135</sup> Rios and Shively

<sup>136</sup> Human Rights Watch, *Repression of Montagnards*

<sup>137</sup> Trade: Coffee Prices Rise to a Five-Year High in Vietnam, *Saigon Times*, 11 March 2005

<sup>138</sup> Vũ Đình Lợi, Bùi Minh Đạo, and Vũ Thị Hồng, *Sở Hữu Và Sử Dụng Đất Đai ở Các Tỉnh Tây Nguyên* [Land Ownership and Land Use in the Central Highlands Provinces], Hanoi: NXB Khoa Học Xã Hội [Social Science Publishing House], 2000

land in the Central Highlands is un-irrigated swidden cultivation land. Thus one hectare may not be adequate to supply the food needs of minority households. According to a 2002 review by the Dak Lak Department of Agriculture and Rural Development on farm lands of the local ethnic minority groups, 28,773 households, accounting for 49 per cent of all minority households, were considered to have inadequate land for their food production needs.<sup>139</sup>

**Table 6. Minority Household Landholdings in Dak Lak, 2001**<sup>140</sup>

Minority group	Under 0.3 hectares/HH	0.3-1 hectares/HH	1-1.5 hectares/HH	Above 1.5 hectares/HH
Ede Households	10,049	11,029	15,270	5,839
M'Nong Households	1,150	4,613	5,053	1,515
Gia Rai Households	300	657	615	427
Total Households	11,499	16,299	20,793	7,781

One major question that remains to be asked is if actual landlessness is increasing. In fact, according to data from the VLSS and VHLSS, the landlessness rate in the Central Highlands appears to have dropped from 1993 to 2004, from 9 per cent to 4 per cent, the only region of the country to have a decline in landlessness.<sup>141</sup> What accounts for this low figure, given the many reports from outside observers that stated how important land rights have been for the protestors and refugees in Cambodia? There are two possible explanations that seem most likely: first, the most abject and poor households with no land holdings may be out of the VLSS/VHLSS sample because they lack household registration documents, as noted earlier. The second explanation is that although people may have wanted to get back their rights to traditional lands, they may not be entirely landless. That is, many people may have moved away from their traditional village homesteads, or been pushed out by migrants and SFs, but they have been able to claim at least some small areas of land elsewhere, either by moving farther into forested frontier lands or by claiming fallowing lands of other villages. Therefore the problem is not necessarily one of outright landlessness, but one of poor quality land, or inadequate amounts of land, or land that is considered to be inferior to that which was lost.

#### **4.2.3 Environmental Consequences of Migration and Land Conflicts**

The environmental consequences of migration and land conflicts have also been significant. The Central Highlands have long had some of the richest and most densely forested areas in the country. When other areas of Vietnam became rapidly deforested, thanks to the need for wood for war material, the Central Highlands remained fairly richly stocked. However, it is estimated that during the period of massive state logging from 1976 to 1995, the Central Highlands of Vietnam lost 630,000 hectares of forest (out of 2.3 million hectares).<sup>142</sup> Dak

<sup>139</sup> Vương Xuân Tinh, Reviving Community Management of Land in Central Highland Villages of Vietnam: An Old Model in a New Context. Paper presented at conference on Politics of the Commons: Articulating Development and Strengthening Local Practices, Chiang Mai, Thailand, 11-14 July 2003

<sup>140</sup> Vũ Đình Lợi, Bùi Minh Đạo, and Vũ Thị Hồng

<sup>141</sup> Ravallion, M. and D. van de Walle, *Does Rising Landlessness Signal Success or Failure for Vietnam's Agrarian Transition?*, Washington DC: World Bank, 2006, <http://econpapers.repec.org/paper/wbkwbrwps/3871.htm> [accessed May 2006]

<sup>142</sup> Hoàng Hoè, *Deforestation and Reforestation in Vietnam*, Hanoi: Vietnam Forestry Science and Technical Association, n.d.

Lak has estimated that it loses 40,000 hectares of forest each year, and may have lost half its primary forest cover between 1990 and 1997, the height of the coffee boom.<sup>143</sup>

Coffee has been a major source of environmental degradation. Many coffee fields were established on poor soil with very steep slopes and high rates of soil erosion, and in areas prone to drought. Inexperienced farmers cut down shade trees to maximize production, and chemical fertilizers were also overused. The expansion of electricity into the Central Highlands has made electric groundwater pumps more widespread, and coffee is a water intensive crop. About 40 per cent of current coffee acreage is irrigated by groundwater (requiring about 66 million cubic metres during the dry season in the spring). Overwatering of young coffee trees by inexperienced farmers who rely on these groundwater pumps has resulted in dramatic reductions in the water table in the Central Highlands, and even some rivers have begun to run dry part of the year.<sup>144</sup> This has a potentially significant impact on human health, as more than 50 per cent of households in the Central Highlands have to use surface water sources for their household needs.<sup>145</sup> Spring droughts have occurred frequently in the last few years and have highlighted the precarious water situation: a 2003 drought left more than 300,000 people in serious food crisis, the majority of whom were from minorities.<sup>146</sup> A 2005 spring drought destroyed 14,000 hectares of paddy in Dak Nong and 68,000 hectares of coffee in Dak Lak. Ten to fifteen per cent of families in Dak Lak and 130,000 families in Gia Lai had a shortage of drinking water. These losses to drought were estimated at more than US\$ 60 million in Dak Lak and US\$ 20 million in Dak Nong.<sup>147</sup>

#### 4.3 Religious Issues

Article 70 of Vietnam's constitution guarantees the right to freedom of religion, but in reality religion has been a controversial and difficult topic in post-war Vietnam. After years in which religious followers were discouraged and sometimes punished for their activities, Vietnam has been changing a number of its religious policies, at least on paper. Many of these changes have been in response to increasing international pressure on the country to increase religious freedom, much of which has been focused on the Central Highlands thanks to the 2001 protests.

The ethnic groups of the Central Highlands traditionally followed animistic religions, worshipping gods and spirits to be found in the rocks, trees and land of the locality. However, Christian missionaries began working in the area after French colonization in the late nineteenth century, and began to convert large numbers of ethnic minority members. Catholic missionaries, based in Kon Tum, converted many to Catholicism (Kon Tum remains a heavily Catholic province to date). Other missionaries from the Christian and Missionary

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<sup>143</sup> Nguyễn Văn Lang, *Forest Status and Some Urgent Measures for Management, Protection and Use of Forest Resources in Đắk Lắk Province*, Buôn Me Thuật: Đắk Lắk People's Committee, 1997

<sup>144</sup> D'haeze, D. [et al.], Over-Irrigation of *Coffea Canephora* in the Central Highlands of Vietnam Revisited: Simulation of Soil Moisture Dynamics in Rhodic Ferralsols, *Agricultural Water Management*, Vol. 63, No. 3, December 2003, pp. 185-202

<sup>145</sup> Joint Donor Report

<sup>146</sup> Như Trang, Hạn Hán ở Tây Nguyên Ngày Càng Khốc Liệt [Drought in the Central Highlands More and More Devastating], Vietnam News Agency, 19 April 2003

<sup>147</sup> Vietnam News Agency, Severe Drought Causes Damage in Central, Southern Vietnam, 21 February 2005; Vietnam News Agency, Vietnam Reports Severe Drought 'Devastating' Central Provinces, 26 February 2005; BBC News, Drought Leaves over 500,000 Hungry in Vietnam, 23 March 2005

Alliance began to work in the Central Highlands in 1929 and converted many to Protestantism. At the close of the Vietnam War, there were hundreds of Protestant churches in Vietnam, representing many different denominations.<sup>148</sup>

However, the Communist Party tended to view religion as both a threat and a waste of time. There has also long been within the Communist Party a “fear, due in part to historical factors, that independent, organized religions and religious communities could serve as alternative bases of loyalty, social organization, and political power”.<sup>149</sup> After reunification of Vietnam, the Party moved to shut down many religious facilities. Although in 1975 there had been 21 major Protestant denominations in South Vietnam, only four were not shut down in the post-1975 period.<sup>150</sup> Most informal house churches were closed, and only some large churches, usually urban ones, were able to keep their places of worship open in the late 1970s and 1980s. Some religious leaders were sent to re-education camps or prevented from practising post-1975. However, these attempts to halt religious activity proved ineffective. One major reason was that radio broadcasts were made from the Philippines by the Far Eastern Broadcasting Company, often in minority languages, which served to keep Protestantism alive and growing.

Religious converts have increased in number, particularly in the Central Highlands, with Dak Lak posting a more than 700 per cent increase in the number of declared Protestants from 1975 to 2001. (See Table 7). Of the approximately one million individuals belonging to ethnic minorities in the Central Highlands, it has been estimated that 230,000 (the Vietnamese government’s estimate) to 400,000 (as estimated by outside groups) are Evangelical Christians, while another 100,000 or more are Roman Catholic.

**Table 7. Growth of Protestantism in the Central Highlands**<sup>151</sup>

Province	Pre-1975 Followers	1999 Followers	% Increase
Kon Tum	7,940	9,430	3%
Dak Lak	11,738	98,938	742%
Gia Lai	8,125	60,250	641%
Lam Dong	25,000	60,000	432%

The rapid expansion of Protestantism among the Central Highlands minorities has been alarming to the authorities, who have traditionally seen it as a “foreign influence” and a threat to security. The authorities instituted often harsh policies towards Central Highlands Protestants to combat these mass conversions, refusing to officially recognize minority churches and instituting prohibitions on meetings and evangelizing.<sup>152</sup> Groups that monitor

<sup>148</sup> Phạm Đình Nhân, Testimony by Rev. Phạm Đình Nhân, Chairman, Vietnamese Evangelical Fellowship, Ho Chi Minh City, Vietnam, in Hearing before the Subcommittee on Africa, Global Human Rights and International Operations of the Committee on International Relations, House of Representatives, Washington, 20 June 2005, [http://www.house.gov/international\\_relations/109/21973.pdf](http://www.house.gov/international_relations/109/21973.pdf) [accessed May 2006]

<sup>149</sup> United States Commission on International Religious Freedom, *Annual Report*, Washington DC, 1 May 2001, p. 142

<sup>150</sup> Phạm Đình Nhân

<sup>151</sup> Nguyễn Minh Quang, *Religious Issues and Government Policies in Vietnam*, Hanoi: Thế Giới Publishers, 2005

<sup>152</sup> Human Rights Watch, *World Report 1999*, New York, 1999

religious freedom have accused Vietnam of “police raids on homes and house churches, detention and imprisonment, confiscation of religious and personal property, physical and psychological abuse, and fines for engaging in unapproved religious activities”.<sup>153</sup> Because so many Protestant activities were considered to be unauthorized, this meant that most followers met in small groups in private homes, also known as “house churches”.

Forcing religious activity to go underground may have played a role in the rise of a more politicized form of Protestantism that has been noticeable since 2000.

[Dega Protestantism] brings together aspirations for independence, cultural pride and evangelism. For Dega Protestants, prayer and worship services provide space for Montagnard expression not controlled by government authorities. Sometimes this expression involves praying for an independent homeland, or participating in political discussions, often conducted by the same individuals who lead the religious gatherings.<sup>154</sup>

Although the government has linked Dega Protestantism to FULRO, claiming they are one and the same, in reality, the demise of the military capacity of FULRO may have caused many people to turn toward Evangelical Protestantism instead. Indeed, in an interview with an ex-FULRO combatant in 2001, he remarked that

in 1988 the ethnic minorities started to become Christians. We’d been Christians for a long time before that but it was in 1988 when all the ethnic minorities believed everywhere. Jesus changed our idea [from armed to peaceful struggle]. If we didn’t have Christianity and the Holy Spirit within us, we would use violence to oppose the Vietnamese and we would all be dead.<sup>155</sup>

#### **4.3.1 Responses since the 2001 Protests**

Following the protests in 2001 and their link to religious dissatisfaction, the government tried a number of different strategies to address the growing religion problem. Although Protestantism had been recognized since 1958 in North Vietnam, the Protestant organization that was approved, known as the Evangelical Church of Vietnam or ECVN, was headquartered in Hanoi and was made up of only 10 churches in northern Vietnam serving mainly Kinh congregants. No Central Highlands churches were included under the ECVN. However, in 2001, a new branch of Protestantism, the Evangelical Church of Vietnam (South) or ECVNS, was recognized for the first time.<sup>156</sup> It was estimated that two-thirds of ECVNS’ membership was in the Central Highlands, so this was a major step forward for minority Protestants. However, not all Central Highlands Protestants were part of ECVNS. Of an estimated 4,500 house churches in the Central Highlands, only three had made successful bids to join ECVNS by 2001 when it was recognized. By the end of 2001, 300 individual churches had joined ECVNS and been recognized by the government, but this accounted for only an estimated 10 per cent of all Evangelicals in the South and Central Highlands.<sup>157</sup> By 2002, there were also only two pastors recognized for more than 100,000

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<sup>153</sup> United States Commission on International Religious Freedom, p. 144

<sup>154</sup> Human Rights Watch, *Repression of Montagnards*

<sup>155</sup> *Idem*

<sup>156</sup> Vietnam News Agency, Vietnam PM Urges Recognition of Protestants, 17 February 2005

<sup>157</sup> Agence France Presse, Communist Vietnam in Christmas Warning to Minority Protestants, 12 December 2001

worshippers in Gia Lai and Dak Lak.<sup>158</sup> Recently, this number has been slowly increasing.

At the same time as there has been recognition of new churches, there have also been accusations of Central Highlands authorities forcing villagers to renounce Christianity in public self-criticism sessions, particularly in the period 2002-2004.<sup>159</sup> Those who refused were threatened with arrest and citations were issued, often relying on a 1999 Religion Decree, which required advance government permission to hold any meetings. Some church leaders, upset by the closures and interrogations, wrote letters of complaint to Provincial Offices of Religious Affairs and the police, which appears to have lessened the forced renunciations in some areas.<sup>160</sup> It is likely that this was never a national policy, but rather an interpretation by overly zealous local leaders of how to deal with religious followers.

#### **4.3.2 International Pressure on Vietnam**

The US has been increasingly involved in religious freedom issues, both in Vietnam and elsewhere. Much of this concern has come about since the US Congress passed the International Religious Freedom Act (IRFA) in 1998; the act requires the US to promote religious freedom as a US foreign policy goal and to combat religious persecution in other countries.<sup>161</sup> Under IRFA, the US State Department must engage in dialogue with “severe violators” of religious freedom and ask them to improve conditions or face sanctions and other punitive actions from the US. As part of the law, a US Commission on International Religious Freedom (USCIRF) was set up to monitor and research these issues, and an Office of International Religious Freedom was created in the State Department with an ambassadorial level director to lead these negotiations.

USCIRF’s role is to monitor the “status of freedom of thought, conscience, and religion or belief abroad, as defined in the Universal Declaration of Human Rights and related international instruments, and to give independent policy recommendations to the President, the Secretary of State, and the Congress”. The new State Department office is responsible for taking these recommendations of the USCIRF under advisement, and is to issue an annual report on religious freedom and persecution in all foreign countries. On the basis of that report, the State Department then may designate “countries of particular concern” (CPC) for their “systematic, ongoing, and egregious” violations of religious liberty. The CPC designation makes countries subject to a range of US diplomatic and economic actions, including possible punitive economic sanctions.<sup>162</sup>

USCIRF began looking at religious freedom in Vietnam in 2001, with a hearing in early February on religion in Vietnam and Indonesia. In 2002, for the first time, Vietnam was on the list of countries for which the Commission sought CPC designation, and it has remained there ever since (see Table 8, left hand column). Although USCIRF began recommending CPC designation to the State Department in 2002, for several years the State Department declined to act (they are not required to follow USCIRF recommendations, merely to take

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<sup>158</sup> Reuters, Pastors Say Some Curbs Eased in Vietnam Highlands, 19 February 2002

<sup>159</sup> Human Rights Watch, *Vietnam: Independent Investigation*, p. 6

<sup>160</sup> Human Rights Watch, *Repression of Montagnards*

<sup>161</sup> United States, International Religious Freedom Act, Public Law 105-292, 27 October 1998 (*UNHCR RefWorld 2005*, Issue 14, CD2)

<sup>162</sup> See, United States Commission on International Religious Freedom, website at <http://www.uscirf.gov/> [accessed May 2006]



them under advisement). However, in September 2004 Vietnam was named a CPC by the State Department for the first time (see Table 8, right hand column).

**Table 8: Countries Designated as CPCs by the USCIRF and the US State Department since passage of the IRFA in 1998**<sup>163</sup>

Year	Countries recommended by USCIRF for CPC status	Countries actually designated by US State Department
2001	Afghanistan, Burma, China, Iran, Iraq, Laos, North Korea, Saudi Arabia, Sudan and Turkmenistan.	Burma, China, Iran, Iraq, North Korea, Sudan
2002	Afghanistan, Burma, China, India, Iran, Iraq, Laos, North Korea, Pakistan, Saudi Arabia, Sudan, Turkmenistan and <b>Vietnam</b>	Burma, China, Iran, Iraq, North Korea, Sudan
2003	Burma, China, Eritrea, India, Iran, North Korea, Pakistan, Saudi Arabia, Sudan, Turkmenistan, and <b>Vietnam</b>	Burma, China, Iran, Iraq, North Korea, Sudan
2004	Burma, China, Eritrea, Iran, North Korea, Pakistan, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, and <b>Vietnam.</b>	Burma, China, Eritrea, Iran, North Korea, and Sudan, Saudi Arabia, <b>Vietnam</b>
2005	Burma, China, Eritrea, Iran, North Korea, Pakistan, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, and <b>Vietnam</b>	Burma, China, Eritrea, Iran, North Korea, Saudi Arabia, Sudan, <b>Vietnam</b>

After the CPC designation, there were rapid developments on religion in Vietnam. A stalled law on religion was quickly passed by the National Assembly and came into effect on 15 November 2004. This “Ordinance on Beliefs and Religions” (*Pháp Lệnh Tín Ngưỡng Tôn Giáo*) was said to clearly guarantee religious freedom. However, some international human rights groups have asserted that it in fact may place tighter controls on religious expression. Under the Ordinance, religious activities and worship may be carried out in “approved” religious establishments, which are to be defined by the Party and government. In the accompanying “Instructions for Implementing the New Ordinance on Beliefs and Religions” the government stated that it would forbid “abuse of the right to freedom of religious belief and religion to undermine peace, independence and national unity ... to disseminate information against the State’s prevailing laws and policies; to sow division among the people, ethnic groups, and religions; to cause public disorder; to do harm to other people’s lives, health, dignity, honour.”<sup>164</sup>

These aspects of the law worried US officials, and the CPC designation continued to stand. The State Department’s office on religious freedom met with Vietnamese officials in February 2005 to discuss what else Vietnam would have to do to have the CPC label removed – Vietnam is the only CPC to enter into these type of negotiations. Many observers believe

<sup>163</sup> See, *Idem* and United States, Department of State, International Religious Freedom, Countries of Particular Concern, <http://www.state.gov/g/drl/irf/c13281.htm> [accessed May 2006]

<sup>164</sup> Viet Nam, Decree No. 22/2005/ND-CO of March 1, 2005, Guiding the Implementation of a Number of Articles of the Ordinance on Beliefs and Religions, *Official Gazette*, Nos 8-9, 10 March 2005

Vietnam has been open to these negotiations on religion because they have been seeking US approval of their bid to join the World Trade Organization (WTO) for the past few years. The two sides hammered out a bilateral agreement in spring of 2005 on religion, the contents of which have not been made publicly available, but which was announced on 5 May 2005, coinciding with a summer 2005 visit by Prime Minister Pham Van Khai to the US. In a meeting with President George Bush, the two sides announced that the Vietnamese government had committed to:

- (1) fully implement the new legislation on religious freedom... and render previous contradictory regulations obsolete;
- (2) instruct local authorities to strictly and completely adhere to the new legislation and ensure its compliance...
- (3) facilitate the process by which religious congregations are able to open their houses of worship; and
- (4) to give special consideration to prisoners and cases of concern raised by the U.S. during the granting of prisoner amnesties.<sup>165</sup>

As part of the bilateral agreement, the Prime Minister's office agreed to issue a special directive on Protestantism. The Prime Minister's new instructions were unprecedented; never before had such a high level policy been issued by his office. The instructions would allow Protestant "house churches" in the Central Highlands and other minority areas to register and operate, but stated that these churches needed to affiliate with recognized churches, have "pure" religious interests and renounce any ties or connections to anti-government protests (i.e. any groups associated with "Dega Protestantism"). The instructions also banned forced renunciation of faith efforts by government officials.<sup>166</sup>

US officials have since reported that there have been training sessions for local government officials on religious freedom, and that some of the 450 churches in the Central Highlands that had been closed since 2001 have been opened. However, officials at the State Department and USCIRF believed that Vietnam was not doing enough to merit removal from the CPC list, citing, for example, the "lack of normalized relations" with several religious groups.<sup>167</sup> As a result, Vietnam remained on the CPC list in the September 2005 report. This angered the Vietnamese who believed they had made a good-faith effort to change. Bilateral negotiations to lay out steps Vietnam can take to be removed from the CPC list continue in 2006.<sup>168</sup> These negotiations are taking place in the context of continuing work on Vietnam's joining of the WTO, which it hopes to do this year before it hosts a major conference, the Asia Pacific Economic Cooperation meeting in November. Vietnam and the US concluded their bilateral negotiations over WTO accession in May 2006, and the agreement is now before the US Congress for approval in summer 2006. Some in Congress, like Representative Christopher Smith, have been pushing for the US to link action on religion and human rights in Vietnam to approval of Vietnam's WTO bid. However, most indications are that the WTO package will pass without linkages to human rights or religion, as the bilateral US-Vietnam

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<sup>165</sup> United States, Congress, *Hearing: Human Rights in Vietnam, House International Relations Committee, Subcommittee on Africa, Global Human Rights and International Operations*, Washington, 20 June 2005

<sup>166</sup> Manyin, M., *US Assistance to Vietnam*, Washington: Congressional Research Service, 2005

<sup>167</sup> Agence France Presse, *US Maintains Four Asian Nations in Religious Rights Blacklist*, 1 September 2005

<sup>168</sup> Hanford, J.V., *Testimony of The Honorable John V. Hanford III, Ambassador At Large for International Religious Freedom*, at the Joint Hearing of the House International Relations Committee, Africa, Global Human Rights and International Operations Subcommittee and the Asia and the Pacific Subcommittee, Washington, 29 March 2006, [http://wwa.house.gov/international\\_relations/109/han032906.pdf](http://wwa.house.gov/international_relations/109/han032906.pdf) [accessed May 2006]

trade agreement did in 2001.<sup>169</sup>

#### 4.4 Involvement of International Activist Groups

One of Vietnam's major claims in respect of the 2001 and 2004 protests is that they were orchestrated by "outside forces". At various times, the government has accused organizations from the MFI to the CIA to even Human Rights Watch and Amnesty International of being engaged in a conspiracy to threaten Vietnam's internal security. This section of the paper looks at what groups have been involved in the Central Highlands and what role they have played.

Because so many Montagnards ended up settling in the US, particularly around the state of North Carolina, several émigré foundations and organizations have been established there. These include the MFI (founded in 1992-1993),<sup>170</sup> the Montagnard Dega Association (founded in 1986-1987),<sup>171</sup> the Montagnard Human Rights Organization (MHRO, founded in 1998),<sup>172</sup> Save the Montagnard People (founded by US veterans in 1986),<sup>173</sup> and United Dega Tribal Council. Some of the groups were assistance organizations to help refugees resettle by providing housing, jobs and education. Some helped Montagnards purchase agricultural land in North Carolina and set up Montagnard cultural centres and teach Montagnard languages. MHRO has lobbied members of Congress and testified at Congressional hearings. The most radical positions have been taken by MFI, who have been asking for political autonomy for the Central Highlands.

Kok Ksor's and MFI's position on autonomy for the Central Highlands is based on their belief that the French colonial government granted "special protections" to the Montagnards at the close of the First Indochina War, and that these designations continue to have legal status to date. However, Kok Ksor's foundation was not a force until 1993. Prior to that, the general tendency among Montagnard refugees and their leadership in the US was to bury the old FULRO ideal of an autonomous homeland and work towards improvement of the fate of minorities in Vietnam and in the US. However, since 1993, Kok Ksor has projected himself as the self-appointed leader of the Dega, and has been going to international UN meetings of indigenous peoples and advocating for the rights of his people.<sup>174</sup> Since 2000, MFI and Ksor have been increasingly active in advocating within Vietnam for an independent "Dega" homeland.

Ksor has been very politically astute, using the international stage to bring attention to Montagnard causes. He has spent years attending UN meetings, including sessions of the Commission on Human Rights and the Permanent Forum on Indigenous Issues. Ksor has taken advantage of the fact that Vietnamese officials do not accept that "indigenous peoples" exist within Vietnam and hence Vietnam does not send minority representatives to participate in various global forums for indigenous peoples. Through networking at these meetings and

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<sup>169</sup> Reuters, US Accord Prepares Vietnam for WTO Deal, 14 May 2006

<sup>170</sup> Montagnard Foundation Inc, website at <http://www.montagnard-foundation.org/homepage.html> [accessed May 2006]

<sup>171</sup> Montagnard Dega Association, website at <http://www.angelfire.com/mo/mdadega> [accessed May 2006]

<sup>172</sup> Montagnard Human Rights Organization, website at <http://www.mhro.org/> [accessed May 2006]

<sup>173</sup> Save the Montagnard People, website at <http://www.montagnards.org/> [accessed May 2006]

<sup>174</sup> Human Rights Watch, *Repression of Montagnards*, quoting biography of Kok Ksor

affiliations with other coalitions such as the Unrepresented Nations and Peoples Organization, many indigenous coalitions worldwide have accepted the idea that Ksor is somehow a leader of Vietnam's indigenous people, given the lack of an alternative proffered by the Vietnamese government. Recently, Ksor has succeeded in achieving accreditation for most UN Economic and Social Council (ECOSOC) meetings by affiliating the MFI with an UN-accredited group called the Transnational Radical Party (TRP). The TRP was founded in Italy in the 1980s as "an association of citizens, parliamentarians and members of government of various national and political backgrounds who intend to achieve, through non-violent Gandhian methods, a number of concrete objectives aimed at creating an effective body of international law with respect for individuals and the affirmation of democracy and freedom throughout the world".<sup>175</sup> The UN recognizes the TRP as an NGO and it has had consultative status, as many NGOs do, at ECOSOC meetings since 1995. The TRP appears quite open in who it allows to affiliate, and the MFI seems to have joined in 2002. The UN consultative status granted to the TRP allows MFI virtually unlimited access to the UN to promote Ksor's views on the need for international attention to the Central Highlands.

Vietnam clearly sees these activities as meddling in its internal affairs, and has reacted strongly to Ksor's admission to so many UN forums. Starting in 2002, the permanent representative of the Socialist Republic of Vietnam to the UN has been lodging complaints with the UN to ask them to revoke the accreditation for both Ksor and the TRP. Vietnam's position was that MFI was using the TRP "to take advantage of UN forums to distribute fabricated information regarding Vietnam".<sup>176</sup> Vietnam's complaint further alleged that Ksor was a terrorist colluding with the CIA, and called on the UN to ban the presence of the TRP at meetings. The accrediting committee asked TRP to provide a report on these charges, to which TRP responded that Vietnam was launching an attack against "freedom of speech at the UN and non-violence".<sup>177</sup> Ksor added that the MFI has never advocated the use of violence in Vietnam, and has solely worked through non-violent protests.<sup>178</sup> The TRP/MFI have continued to retain their consultative status at the UN.

The role of the MFI in particular, and other outside pressure groups in general, is extremely complicated. The author of the previous Writenet report noted that the involvement of Kok Ksor and the MFI has worsened the predicament for those minorities involved in the protests, as it associates any protesters and protests with perceived US involvement, which can then be represented by the Vietnamese government as a replay of the US-Vietnam war. Because Vietnamese authorities have framed the debate in this way – as a clash between US-backed extremists and the Vietnamese state over independence, rather than as a legitimate dispute by minorities within Vietnam over land rights – it unfortunately gives the Vietnamese authorities much more ammunition in their security crackdown. It allows them to represent the protests as a threat to the Vietnamese state by foreigners, a completely unacceptable position to many given the strong undercurrent of nationalism generated by Vietnam's long wars for independence.

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<sup>175</sup> Transnational Radical Party, website at <http://www.radicalparty.org/> [accessed May 2006]

<sup>176</sup> Vietnam News Agency, Vietnam Rejects Fabricated Information at UN Session, 23 May 2005

<sup>177</sup> Mecacci, M. and S. Johnson, *The "Out-Dated Slanderous and Irresponsible Fabrications" of the Transnational Radical Party and the United Nations Human Rights Committee on Vietnam's Compliance with the International Covenant on Civil and Political Rights*, New York: Transnational Radical Party, 2002 [http://www.radicalparty.org/vietnam/trp\\_rapporto\\_vietnam\\_en.doc](http://www.radicalparty.org/vietnam/trp_rapporto_vietnam_en.doc) [accessed May 2006]

<sup>178</sup> Human Rights Watch, *Repression of Montagnards*

## 5 Political Status Prospects for Central Highlands Minorities

The 2001 and 2004 protests have instigated some policy changes in Vietnam, which this section discusses. The government responses often included accusations of foreign meddling, as noted earlier, but some fundamental policy shifts and new policies were adopted as well, indicating that officials did seem to understand some of the underlying grievances of the protestors. The Vietnam News Agency summed up much of the thinking when it wrote in 2005: “Some ethnic people are plunged into poverty due to lack of farming and housing land but got little assistance from incompetent local authorities. This produced a pretext for outside forces to incite ethnic people to create chaos in the Central Highlands.”<sup>179</sup>

High-ranking officials began to regularly visit the Central Highlands after the 2001 protests, and called for more attention to development issues. There were promises of more bilingual education in schools, and minority language programming on radio and TV was increased.<sup>180</sup> In a January 2002 conference, the deputy prime minister announced a five year socio-economic development plan for 2001-2005 for the Central Highlands in which VND 35.5 trillion (US\$ 2.36 billion) would be invested from all sources (including government investment, foreign development aid and loans, and foreign direct investment) for the region, focusing on expanding crop areas and developing agro-processing industries, hydropower production and mining.<sup>181</sup> The aim was to double the GDP of the Central Highlands provinces between 2000 and 2005; restructure the economy to diversify beyond agriculture to construction, industrial and service sectors; achieve food security and the elimination of hunger by 2005; reduce the poverty rate below 13 per cent; and provide all communes with road access, postal services and clean water, and 90 per cent with electricity.<sup>182</sup> However, despite these socio-economic plans, the early indications were that while some provinces might achieve these goals, others would not. Now in the year 2006, the poverty rate in the Central Highlands remains at 32 per cent, not 13 per cent, and hunger has not been eliminated. The goals on clean water and electricity were also not met. Finally, although the GDP grew in all provinces between 1999 and 2002, these increases did not result in commensurate increases in per capita income. In fact, although Dak Lak had a 9.45 per cent yearly growth rate in provincial GDP, per capita incomes actually declined from 1999 to 2002, largely due to the drop in coffee prices.<sup>183</sup>

### 5.1 National Poverty and Development Programmes

The socio-economic development plans announced for the Central Highlands in 2001 were also combined with existing government national targeted programmes on poverty alleviation, called Hunger Elimination and Poverty Reduction (HEPR – *Xóa Đói, Giảm Nghèo*, also known as Programme 133), which began in 1998. While HEPR as a whole

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<sup>179</sup> Vietnam News Agency, Minister Vows to Allocate Residential Land to All Central Highlanders, 30 August 2005

<sup>180</sup> Vietnam News Agency, Ede Minority Group Language To Be Taught in Dak Lak Central Highlands Province, 21 August 2001

<sup>181</sup> Viet Nam, Prime Minister’s Office, Decree 168/2001/QĐ-TTg [on Long Term Orientations, the 2001-2005 plan and key solutions to socio-economic development of the Central Highlands], Hanoi, 30 October 2001

<sup>182</sup> Central Highlands to Focus on Maintaining Stability and Building Unity, *Financial Times: Vietnam News Briefs*, 22 January 2002

<sup>183</sup> Asian Development Bank and Vietnam Solutions, *Regional Poverty and Governance Assessment Report (for Central Coast and Highlands Region)*, Hanoi, 2003

targeted all people living below a certain standard of living, there were small components within HEPR aimed directly at ethnic minorities. These included a “Programme to Support Ethnic Minorities with Special Difficulties” that provided support for agricultural production (seedlings, livestock, production tools, irrigation projects, etc.); from 2001 to 2004 this programme gave the Central Highlands provinces VND 15 billion worth of investment. There was also a “Subsidized Merchandise Programme for Mountainous Areas” that provided government subsidies for iodized salt, kerosene, school materials, medical materials, fertilizer, coal, pesticides, and radios for minorities in mountainous areas; from 2000 to 2004, the Central Highlands was given VND 177 billion in subsidies under this programme.<sup>184</sup>

Alongside the HEPR programme, which was targeted at poor people nation-wide, another national programme was launched that was geographically targeted at poor communes (the lowest level of official administration in Vietnam). The programme was called “Socioeconomic development of especially difficult communes in mountainous and remote areas” (also known as Programme 135 or P135). The programme started in 1,200 communes in 1998; it now serves 2,374 communes as of 2005. Last year more than US\$ 100 million was invested in the programme, and the Vietnamese government channelled VND 727 billion specifically to the Central Highlands provinces from 1999 to 2004 under P135.<sup>185</sup> Most of the P135 money went to the construction of markets and government centres for communes, and to roads and infrastructure projects. However, the Central Highlands continue to lag behind other regions of Vietnam, despite these additional investment programmes. For example, while most other areas of Vietnam have very close to 100 per cent coverage of electricity in their communes, the Central Highlands area has only 75 per cent.<sup>186</sup>

Some have raised concerns that these P133 and P135 programs may not contribute to long lasting or sustainable economic development. Policies based primarily on subsidies and supports (subsidized goods, free hybrid seeds, free health insurance) may only help people as long as the money keeps coming; once the supports are withdrawn, it is unknown how people’s incomes will be affected. Other policies for core economic investment and development – such as the attraction of foreign direct investment – have been largely lacking in minority areas like the Central Highlands.<sup>187</sup> Corruption and inefficiencies have also plagued P135 projects, including a major scandal in 2000-2001 over mismanagement of hundreds of thousands of dollars of poverty alleviation funds by leaders of the Committee for Ethnic Minorities and Mountainous Affairs (CEMMA), the main national-level ministry dealing with minorities.<sup>188</sup> More recently, poor work in P135 has been reported throughout the Central Highlands. For example, the P135 programme invested in irrigation weirs in some villages in Ia Grai district of Gia Lai, with work costing VND 960 million total. After only one year since completion the weir did not work because it was too small and too shallow and the irrigation canals from it did not reach people’s fields.<sup>189</sup>

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<sup>184</sup> Vietnam News Agency, Minister Vows to Allocate

<sup>185</sup> *Ibid.*

<sup>186</sup> Phan Sĩ Mẫn, Development of Rural Infrastructure and Its Impact on the Livelihoods of People Living in Poverty, in Hà Huy Thành and Shozo Sakata (eds), *Impact of Socio-economic Changes on the Livelihoods of People Living in Poverty in Vietnam*, Hanoi: Institute of Development Economics, 2005, pp 53-82

<sup>187</sup> Scott and Trương Thị Kim Chuyền

<sup>188</sup> Reuters, Hanoi Punishes 13 Party Members for ‘Wrongdoings’, 6 February 2001

<sup>189</sup> Phan Sĩ Mẫn

## 5.2 Land for Ethnic Minorities

Perhaps the clearest policy response to the 2001 protests has been the implementation of new laws to give land back to minorities who need it. While the HEPR and P135 policies outlined above were begun in 1998, long before the Central Highlands protests, new policies on land for ethnic minorities were only developed after the 2001 incidents. Prime Minister Pham Van Khai made a visit to the Central Highlands in summer 2001 where he called on local officials to address land problems in particular. He was quoted as saying that “the state will find enough land for production to give to the people in the coming time”, and Reuters reported that he had asked authorities in the Highlands to work out “how many households were lacking farm land and to set up a land fund for the ethnic minorities”.<sup>190</sup>

The Party and government later passed policy resolutions affirming Khai’s position that lands should be returned to minorities and set up financial transfers to do so. In 2002, Khai issued Decision 132/2002/QD-TTg on the “Allocation of farming and housing land for ethnic households in the Central Highlands.” Under Decision 132, land funds would be created in each of the Central Highlands provinces by one of several means: by taking acreage from SFEs and SFs that had lands that were unproductive or over the “average amounts” per worker of the locality; by working to reclaim unused lands (the central budget would pay VND 4 million per hectare for clearance); or by “encouraging” households that had excess or uncultivated land to sell their land-use rights to minorities, who would be subsidized by the government to buy it. Minority families that qualified would be eligible to a minimum of 1 hectare of swidden field, 0.5 hectare of non-irrigated rice field or 0.3 hectare of irrigated rice field, plus 400 square metres of residential lands. In the event that localities could not come up with enough agricultural land, they would be given permission to give forest lands over for use by minorities. The law specifically stated that the land allocation would be based on principles of equality and on transparency, and aimed at compatibility with “each ethnic groups’ customs and habits” (Article 3). Anyone who received land under this policy was not allowed to sell or transfer it for 10 years after receipt; anyone violating this policy would have their land taken away and they would not be eligible again. An additional warning was given to speculators: anyone caught trying to transfer or buy minority land would have it taken away with absolutely no compensation. Another new law, 155/2002/QD-TTg on “Policies for local ethnic minorities of the Central Highlands provinces to buy houses on instalment plans” would provide low interest loans up to VND 7 million to minority people to buy houses.

These policies originally focused only on the Central Highlands, but were later extended to all of Vietnam’s minorities in 2004 in the Prime Minister’s Decision No. 134/2004/QD-TTg of 20 July 2004 on “A number of policies to provide support in terms of production land, residential land, houses and water sources to poor ethnic minority households meeting with difficulties”. The amounts of land that would be given out under the nation-wide policy was reduced from that in the Central Highlands pilot: in the new expanded policies, each household that qualified was to receive a minimum of 0.5 hectare of swidden fields, or 0.25 hectare of single-cropped rice fields, or 0.15 hectare of double-cropped rice land. Eligible households were also to get 200 square metres for residential land, and people without houses or with temporary ones would receive around VND 5 million per household to build new houses, and could receive an exemption to cut timber for these houses from national forests,

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<sup>190</sup> Reuters, Vietnam PM Urges More Land for Restive Highlanders, 16 July 2001

as well as half a ton of cement or VND 300,000 to make water wells and tanks.<sup>191</sup> There was also extra money from the central budget to increase the number of community water systems in minority areas, and VND 5 million per hectare would be paid for any land clearance activities or compensation for any land that was taken for redistribution. Localities were to try to come up with 20 per cent of the funds for all these activities, with the central government supplying the rest.

By 2005, the government claimed that 5,443 hectares had already been redistributed in Dak Lak, which was 48 per cent of the targeted plan. The total number of ethnic households who were granted land was 9,378 (only 28 per cent of the target), with an average of 0.55 hectares of agricultural land being granted per household. Gia Lai reported in 2004 that it had “allocated almost 3,500 ha of land to nearly 10,000 households, provided 355,000 iron roofing sheets for more than 11,500 households and built 200 houses for sale to ethnic people”.<sup>192</sup> Overall in all Central Highlands provinces by 2005, a total of 19,378 hectares of land were allocated (55 per cent of the target in terms of acreage) to 46,617 households (57 per cent of the target), or about 0.4 hectare per household. Kon Tum province had the highest rate of implementation, with 80 per cent of targeted households allocated land. However, the policies on housing were going less well. By 2005, only 4 of 13 districts in Kon Tum that had received funds to build instalment plan houses were considered to have implemented the plan well.<sup>193</sup> There were also allegations that some cadres were abusing the provision that minorities could have special permission to cut timber in national forests to build houses. A new decision had to be promulgated in 2005 to clarify that this was not allowed to be a free for all and anyone caught illegally logging under the guise of “Decision 134” would be punished.<sup>194</sup>

The land distributions that have occurred so far are undoubtedly a positive step and a recognition that land issues are at the heart of the Central Highlands conflicts, but they also must be put in perspective in terms of how much land still remains unallocated under SFEs and SFs. At their high point in the late 1970s, state enterprises managed some three million hectares of land in the Central Highlands.<sup>195</sup> While many of those farms have since been dissolved, in the 2001 census figures, the most recent available, there were still large areas of the Central Highlands managed by SFs and SFEs (see Table 9). Many more lands remain locked up in the hands of SFEs and SFs that could be distributed to needy households, and the small amounts allocated so far per household (less than 0.5 hectare) are likely to be insufficient to jump start poverty reduction in many areas.

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<sup>191</sup> Viet Nam, Joint [Inter-ministerial] Circular No. 819/2004/TTLT-UBDT-KHDT-TC-XD-NNPTNT of November 10, 2004, Guiding the Implementation of the Prime Minister’s Decision No. 134/2004/QĐ-TTg, *Official Gazette*, No 29, 28 November 2004

<sup>192</sup> Vietnam News Agency, Vietnamese Legislators Visit Highland Province, 1 August 2004

<sup>193</sup> Vietnam News Agency, Minister Vows to Allocate

<sup>194</sup> Viet Nam, Ministry of Agriculture and Rural Development, Decision 03/2005/QĐ-BNN of January 7, 2005 Promulgating the Regulation on Exploitation of Timber for Providing Dwelling-house Support to Poor Ethnic Minority People, *Official Gazette*, Nos 23-24, 22 January 2005; complaints about the abuse of the system were later made by the head of the Forest Protection Department: see Hà Công Tuấn

<sup>195</sup> Vũ Đình Lợi, Bùi Minh Đạo, and Vũ Thị Hồng



**Table 9. SF and SFE land control in the Central Highlands, 2001**<sup>196</sup>

	Number of State Farms	Land area (ha)	Number of State Forest Enterprises	Land area (ha)
Kon Tum	5	4,542	18	341,005
Gia Lai	14	42,129	31	453,330
Dak Lak	39	69,339	46	781,202
TOTAL	58	116,010	95	1,575,537

In addition to Decisions 132/134, there have been other moves to try to increase land rights for minorities, mainly under the existing Law on Forest Protection and Development, which was revised in December 2004. The revised Forest Law for the first time provided a clearer framework for the multiple use of forests, and allowed for the assignment of forest land use rights to village communities.<sup>197</sup> Prior to these changes, only individuals or organizations (usually SFEs) could hold ownership and production rights to forest lands. However, despite the fact that it was officially illegal until the 2004 legal revisions, it has been estimated that some 2.5 million hectares of forest land were *de facto* managed by communities.<sup>198</sup> This has certainly been the case in the Central Highlands, which has a long history of community-managed lands.

Parallel with changes in the Forest Law, the Government has been working for several years toward SFE reform: all provinces were required to submit plans for SFE reorganization in 2005. These reorganization plans were to include policies to allocate land away from SFEs in cases where the SFEs were no longer profitable or the forests were no longer productive. However, the priority for re-assigning land of SFEs has generally been only to former employees, not to minority communities who reside around them and whose lands were usurped by the SFEs. In only a few cases have SFEs allocated land with good quality forest back to local people and communities with legal long term forest tenure (known as Red Books). For several years, Dak Lak was the only province with a policy to allocate forested SFE land, which began in 1998 when two SFEs in Ea H'leo and Dak Mol districts were authorized to allot 2,000 hectares of forest land to local households. By October 2000, six forestry enterprises in Dak Lak province had allotted 8,625 hectares of forest to 466 households and 19 groups of households. They also began experimenting with allocation to communities, and by June 2001 the province had allotted forested areas to a Mnong village in Lak district, to a Jarai village in Ea Hleo district, and to three Mnong villages in Krong Bong district.<sup>199</sup> Gia Lai and Dac Nong have started to follow Dak Lak's lead, and as of 2005 have transferred 3,000 hectares of forest each, and Kon Tum province, 1,000 hectares.<sup>200</sup> Again, however, in comparison with the amounts of land still controlled by SFEs, these amounts are very small.

<sup>196</sup> Viet Nam, General Statistics Office, *Kết Quả Tổng Điều Tra Nông Thôn, Nông Nghiệp & Thủy Sản 2001* [Results of the 2001 Rural, Agricultural and Fishery Census], Hanoi, 2003

<sup>197</sup> Shanks, E. and S. O'Reilly, *Enhancing the Poverty Reduction Focus of Forest Sector Strategies, Policies and Management Practices in Vietnam*, Hanoi: World Bank, 2005

<sup>198</sup> World Bank, Rural Development and Natural Resources Sector Unit of the East Asia and Pacific Region (EASRD), *Customary Land Titling in Vietnam*, Washington DC, 2004

<sup>199</sup> Vương Xuân Tinh, Reviving Community Management

<sup>200</sup> Vietnam News Agency, Minister Vows to Allocate

A final land policy that has been undertaken has been a government effort to reduce the amount of coffee acreage in some overplanted areas, particularly in Dak Lak, that have been vulnerable to drought. This policy, aimed at reducing coffee acreage by some 70,000 hectares, began in 2002 and has encouraged smallholders to plant alternative crops (in some areas officials outright banned new Robusta plantations); in some instances the authorities have confiscated and destroyed coffee lands that were planted illegally by migrants. The major impetus for this was not so much the environmental degradation caused by excessive coffee planting and subsequent land conflicts, but rather the fear that high coffee production was depressing prices, both in Vietnam and on the world market. The rising coffee prices in Vietnam since 2004 are taken as a sign that this policy has been successful, although the actual reduction in coffee acreage that has occurred has not been quantified.<sup>201</sup>

### 5.3 Policies on Migration

Following the protests in 2001, the government began to re-evaluate its long held plans to encourage migration to the Central Highlands. However, some densely populated provinces like Thai Binh still insisted they had the right to resettle people on state farms in the Central Highlands, and they called for the central government to support them. At the same time, provincial governments in the Central Highlands, particularly Dak Lak province, called on the central government to halt migration. Thai Binh alone wanted to send 10,000 people a year to the Central Highlands, and Dak Lak said it simply could not handle those numbers.<sup>202</sup> At first, it appeared the central government was going to side with the sending provinces. “The government has a responsibility to move people to other areas if their current place of settlement can’t provide them with the basic necessities of life”, said the deputy head of the Committee on Ethnic Minorities (CEM, previously known as CEMMA) to a reporter.<sup>203</sup> However, in 2004, the national government appeared to be swinging to the side of the receiving provinces. Deputy Prime Minister Nguyen Tan Dung (who will assume the Prime Ministership from Pham Van Khai, who is stepping down later in 2006) said in August 2004 at a government meeting in Da Lat that the government would “temporarily” stop sending people to resettle in any new economic zones in the Central Highlands. The government also pledged to work harder to slow spontaneous migrations to the area.<sup>204</sup> Further details on this pledge have not been made public, however, and it is unclear if migration has actually stopped.

### 5.4 Religious Policies

As noted earlier, pressure from the US and other international observers has resulted in several new policies on religion in Vietnam, including the 2004 Ordinance on Religion and the 2005 Prime Minister’s Special Instructions on Protestantism. To what degree have these policies improved religious freedom in the Central Highlands? The results are mixed. US

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<sup>201</sup> Cheesman, J. and J. Bennett, *Natural Resources, Institutions, and Livelihoods in Dak Lak, Viet Nam*, Australian Center for International Agricultural Research Report No. 1, May 2005, [http://apseg.anu.edu.au/pdf/staff\\_pdf/bennett/vietnam/bioeconomic\\_issues\\_report.pdf](http://apseg.anu.edu.au/pdf/staff_pdf/bennett/vietnam/bioeconomic_issues_report.pdf) [accessed May 2006]

<sup>202</sup> Agence France Presse, Vietnam to Send More Settlers to Restive Highlands, 10 April 2002

<sup>203</sup> Agence France Presse, Hanoi Defends Resettlement of Ethnic Vietnamese in Highlands, 11 April 2002

<sup>204</sup> Associated Press, Vietnam to Suspend Government-Sponsored Migration to Restive Central Highlands, 20 August 2004; Hàng Thìn and Cát Tường, Phó Thủ Tướng Nguyễn Tấn Dũng: Ưu Tiên Đặc Biệt Cho Đồng Bào Dân Tộc Thiểu Số [Deputy Prime Minister Nguyễn Tấn Dũng: Special Priority for Ethnic Minorities], *Tuổi Trẻ* [Youth Newspaper], 20 August 2004

officials have reported the most progress in Gia Lai. In December 2005 the province decided to approve over two hundred “meeting points” and register them under the new legal framework. This has effectively legalized all the house church operations under ECVNS for 75,000 believers in the province.<sup>205</sup>

However, in Dak Lak, the situation appeared less rosy. Human Rights Watch received petitions from Christian leaders in Dak Lak and Dak Nong in February 2004 which stated that the authorities were “prohibiting group meetings, banning pastors from travelling or preaching, and closing or in some cases, tearing down, church buildings”.<sup>206</sup> US officials have agreed that the registration and recognition of churches in Dak Lak has “proceeded very slowly and could leave these congregations vulnerable to future abuses”.<sup>207</sup> Part of the reason why different provinces have made different degrees of progress on religious freedom is that the current laws have no legal provisions for punishment or accountability for local leaders. Some local authorities have interpreted the new laws very narrowly, and rather than using them to expand religious freedom, have interpreted them as being tools to compel ethnic minorities to join only the government-approved Protestant organizations or face criminal penalties. The MFI has accused authorities in Cu Se district of Gia Lai of forcing people to join the official ECVNS church and physically attacking those who refused.<sup>208</sup> A recent Human Rights Watch report presented similar allegations that since the recognition of the ECVN, some authorities in Gia Lai and Dak Nong have required Christians to sign pledges that they will follow the “government religion” (of ECVN) and not “Dega Christianity”.<sup>209</sup>

## 6 Conclusions and Outlook

The obvious signs of more personal freedoms and economic reform can be seen in cities all over Vietnam. Yet what happens in the Central Highlands all too often remains behind closed doors, both for most outsiders and international observers, but also for many ordinary Vietnamese. Early references to the Central Highlands events in the Vietnamese media tended to focus on the security dimensions and ignored any underlying grievances such as land or religion. The problem was compounded by the fact that ethnic minorities do not have any forums to express their concerns and manage their own problems. There is virtually no space for minorities to work together independently of the government, and there is also no mass organization representing minorities at national or local levels, as there are for groups like youth, women, veterans and the elderly. Any minority representation comes from the central government, such as the CEM and its provincial branches or the Nationalities Council of the National Assembly (*Hội Động Dân Tộc - Quốc Hội*). There is very little room in Vietnam for grassroots organizing around ethnicity; only a handful of Vietnamese NGOs have ethnic minority issues as a key advocacy concern, and the space for these NGOs to lobby the government for changes in minority policy is very small. Given this political situation, it may have seemed that demonstrations and protests were the only way for Central Highlands minorities to draw attention to their grievances.

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<sup>205</sup> Hanford

<sup>206</sup> Human Rights Watch, *Vietnam: New Documents*

<sup>207</sup> Hanford

<sup>208</sup> Montagnard Foundation Inc, Montagnard Degar Christians Tortured and Forced to Join Government (ECVN) Church by Vietnamese Authorities; 32 More Christians Arrested in December and November 2005, 7 December 2005 (press statement)

<sup>209</sup> Human Rights Watch, *No Sanctuary*

These protests, although destabilizing initially, have in fact led to some positive steps that may bring about a calmer situation in the Central Highlands for the future, and perhaps a continued decline in refugee outflows. New policies on land and religion are beginning to make a difference in assuaging minorities' complaints, although these policies are being implemented only on a small scale and in only some locations. Overall, it appears that there is somewhat of a struggle within Vietnam between authorities who believe that security should remain a paramount concern, and those who believe increased development is the way to improve the situation. Recent provincial party congress meetings leading up to the national Party Congress in April 2006 have emphasized that "rural and border security" was a top issue and the Party needs to do its utmost to prevent "bad and foreign elements" from "spreading lies to people, and to prevent people from believing and acting on these lies".<sup>210</sup>

But to the people who have been involved in protests, complaints over freedom of religion and land rights are not "lies". Policies such as those promoted by the Prime Minister in land and religion that take these grievances seriously are perhaps the best path towards a decrease in future outflows. The Decision 134 land distribution programme is to conclude at the end of 2006, and it is unclear if further expansion to reallocate much of the remaining state forest enterprises and state farm land will happen. Given continuing high rates of poverty, low education and low health in the Central Highlands, certainly more needs to be done. The Vietnamese government has an opportunity to redress the problems in the highlands, if they can focus on legitimate equity and justice concerns, such as continuing to proactively work to establish community land titles on a much wider scale, and restoring land rights that have been illegally taken away by migrants and others, and punishing cadres who abuse their positions to usurp land and timber from minority areas. A broad expansion of the distribution of more SFE and SF land will be one of the most positive steps in this direction and observers should look to see what happens at the end of 2006, whether Decision 134 is extended or not. Another indication of the seriousness of change will be if the national government takes action against localities that have not done a good job at implementing reform programmes like the Ordinance on Religion. If the central government cracks down on recalcitrant provinces like Dak Lak and begins punishing cadres that have not allowed religious freedom to flourish, that will be a very good sign that the national leadership intends to continue to make progress on these issues.

There is much that other outside development and other organizations can do to help. Continuing the relationship between UNHCR and Vietnam, through continued monitoring trips and their expansion to include as many of the repatriated households as possible, is needed. So is cooperation between the US, UNHCR and Vietnam on issues remaining with families of resettled minorities, such as the expedited processing of I-730 forms for family resettlement. Financial investment in areas where people have been repatriated is likely to have a positive impact on keeping families in their communities as well. In the end, rather than turning inward to worry about security, Vietnam should look outward, beyond its borders, to a world increasingly addressing issues such as the rights of indigenous peoples, and continue to work with international organizations like the UN, and with bilateral donors like the EU and US, to concentrate further economic development in the Central Highlands. Many donors and NGOs have long wanted to work more extensively in the Central

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<sup>210</sup> Phạm Thục, *Xây Dựng Gia Lai Vững Về An Ninh, Mạnh Về Quốc Phòng Và Giàu Về Kinh Tế* [Construct a Gia Lai Province Solid in Security, Strong in National Defense, and Rich in Economy], *Sài Gòn Giải Phóng* [Liberated Saigon Newspaper], 12 December 2005

Highlands, and this should be encouraged by Vietnam as a positive sign of partnership to reduce problems and refugee outflows, rather than be seen as a sign of foreign interference. In the end, it is up to the authorities in Vietnam as to whether Vietnam will continue on the path of improvement and amelioration of minority grievances, as it has clearly tried to do since 2001, and particularly in the past two years when the most promising policies of land reform and religious freedom have been developed. Continued progress on poverty alleviation programmes, economic development and diversification in the region, and continued government allocation of land and resources with an eye towards equity and transparency, as has been promised, will likely be successful steps and will have an impact on outflows and reintegration. Vietnam can learn from other countries' experiences with minority development and reintegration of refugees, and organizations like UNHCR have a unique role to play in helping Vietnam access this information. In the end, although outside émigré organizations have been blamed for many of the Central Highlands's troubles, it is other outside organizations, like UNHCR or international NGOs, that can have a great impact in helping reduce the troubles and tensions in the Central Highlands as well.

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