



June 2006

Volume 18, Number 3 (C)

No Sanctuary

Ongoing Threats to Indigenous Montagnards in Vietnam's Central Highlands

I. Summary	1
Reforms	3
Rights Abuses Persist	4
Inadequate Monitoring	6
Key Recommendations	8
II. Violations of the Right to Religious Freedom	10
New Legal Framework	11
Restrictions on Religious Gatherings	13
Forced Recantations Continue	13
Pressure on Religious Leaders	16
Travel Restrictions	17
III. Arrests and Imprisonment of Central Highlanders	22
IV. Mistreatment of Returnees from Cambodia	26
The 2005 Memorandum of Understanding	26
Detention and Interrogation of Returnees	29
Mistreatment of Highlanders in Vietnam with Families in the U.S.	35
V. Flawed International Monitoring and Protection in the Central Highlands	38
UNHCR Monitoring Missions	39
Returnees' Experiences and UNHCR Responses	43
Ongoing Rationalizations	48
VI. Recommendations	49
To the Socialist Republic of Vietnam:	49
To the UN High Commissioner for Refugees:	51
To the international community, including intergovernmental organizations:	53
To the Royal Government of Cambodia:	54
To the United States Government:	54
Appendix: Listing of Central Highland Prisoners, May 2006	56

I. Summary

When foreign officials go to Dak Lak, they send canh sat co dong (riot police) with guns and electric batons to the village. They worry we will demonstrate. They declare a holiday, block the road to the city, and prohibit us from leaving the village.

—Ede woman from Dak Lak, interviewed in April 2006

For the last five years, the Central Highlands region of Vietnam has periodically erupted with social unrest. In 2001 and 2004, thousands of indigenous minority people, known as Central Highlanders or Montagnards,¹ have joined mass demonstrations in the five provinces of the Central Highlands² protesting religious repression and widespread confiscation of their ancestral lands, with some advocating self-rule or autonomy.³

The Vietnamese government has responded to such protests with force, with as many as ten demonstrators killed during demonstrations in April 2004.⁴ Authorities have arrested hundreds of activists, religious leaders, and individuals trying to flee to Cambodia, sometimes using torture to punish or extract information.⁵ In 2005, the Vietnamese government continued to crack down on Central Highlanders' rights to freedom of religion, speech, and assembly, imprisoning more than 100 during the year. The repression has continued in 2006.

¹ A note on terminology: The use of the word *Montagnard* to refer to indigenous communities in Vietnam's Central Highlands had been criticized by the Vietnamese government and some academics and diplomats, who charge that it is a "racist" and French colonial term. Despite this, some highlanders in Vietnam and the United States refer to themselves as Montagnards. The term "Dega" has also been used as to refer to the Central Highland minorities, with both negative and positive connotations. For the purposes of this report, Human Rights Watch uses the English-language terms "Central Highlanders" or "highlanders," as well as the commonly used term, *Montagnard*.

² The Central Highlands region comprises approximately 14 percent of Vietnam's total land area and covers much of the central part of Vietnam bordering Cambodia. With a population of four million, it includes the provinces of Gia Lai, Dak Lak, Dak Nong, Kon Tum, and Lam Dong. Phu Yen province, which is adjacent to the Central Highlands and also contains a sizable number of indigenous minority people, has also been the site of unrest and arrests.

³ The movement advocates nonviolence, although clashes have broken out during demonstrations, particularly when un-armed protesters have been beaten with clubs or electric batons by police, soldiers, or civilians acting on their behalf.

⁴ In 2004 thousands of Central Highlanders joined Easter weekend protests in Gia Lai, Dak Lak, and Dak Nong provinces. Government security forces blocked key bridges and intersections. When the demonstrators refused to turn back, police fired tear gas, beating people who were seated or when they fell down. Suspected organizers of the protests were dragged away and arrested. Afterwards, the police entered the villages, ransacking houses and beating villagers as they searched for activists. By Easter evening, the provincial hospitals were full of wounded highlanders, bloody from cracked skulls and broken arms and legs. At least ten highlanders were killed. See: "Vietnam: Independent Investigation of Easter Week Atrocities Needed Now," Human Rights Watch Briefing Paper, May 27, 2004; Amnesty International, "Vietnam: Montagnard Demonstrations Crushed," June 2004.

⁵ See "Vietnam: Torture, Arrests of Montagnard Christians," Human Rights Watch Briefing Paper, January 2005.

Officials have placed many minority villages in the region off-limits to visits by outsiders, unless arranged and controlled by the government. Attributing the instability in part to the evangelical Christianity practiced by many Central Highlanders, the government has closed many churches and set restrictions on Christian gatherings. Additional police and soldiers have been posted at commune centers and in villages. The harsh response has triggered the exodus of thousands of Central Highlanders to Cambodia over the last five years. Approximately 1,300 refugees have resettled abroad since 2001.

This report details recent and ongoing human rights abuses in Vietnam's Central Highlands.⁶ Despite diplomatic and United Nations visits to the region, the Vietnamese government continues to persecute Central Highlanders out of view of international observers.⁷ The most harshly treated are evangelical Christians who belong to independent house churches, and supporters of a non-violent movement for independence or autonomy and for protection of and greater control over ancestral lands.⁸

The government has persistently blamed the turmoil on agitation and manipulation of the local population by "hostile foreign forces"—meaning Montagnard advocacy groups in the United States—demanding religious freedom, land rights, and a separate state. According to the government, activists in the Central Highlands are using religion as a cover for separatist political activities.

Even if the Vietnamese government claim is true—that some pro-independence highlanders are blending politics and religion—the appropriate response is not to repress the religion but to respect both political and religious freedom. Individuals who seek to pursue political objectives through violence can and should be prosecuted, but individuals should not be subjected to any kind of sanction for expressing their peaceful political or religious views. Our research shows that Vietnamese officials, recent reforms notwithstanding, are blurring the lines, not making the distinctions required by international law, and continuing to crack down on what should be protected political and religious expression and behavior. This is a violation of the basic human rights that Vietnam is obligated to uphold as a signatory to the International Covenant on Civil and Political Rights.

⁶ Human Rights Watch has monitored the situation in the Central Highlands since 2001. See *Repression of Montagnards: Conflicts over Land and Religion in Vietnam's Central Highlands* (New York: Human Rights Watch, 2002).

⁷ These indigenous groups include the Jarai, Bahnar, Ede (or Rhadé), Bunong (or Mnong, Pnong), Koho, Hre, and Stieng.

⁸ While most Central Highlanders advocating land rights and self-rule are evangelical Christians, it is unclear how many Central Highlanders support the "Dega" political movement for protection of ancestral lands and self-rule. Some experts suggest it is only a small minority while others assert that the numbers may appear low because people are afraid to openly support the movement.

Reforms

In recent years Vietnamese authorities have begun to admit that one source of the unrest in the Central Highlands is the lack of farmland available to the indigenous ethnic groups who have traditionally inhabited the region. In December 2004, an article in the state media attributed the instability to “government policies using large areas of fertile forestland in the region for industrial crops and [allowing] massive immigration into the region of the *Khinh* [lowland Vietnamese] majority people from the North.”⁹

In response to international concern about reports of repression in the Central Highlands, the Vietnamese government has taken some steps to address the grievances of the highlanders. The government has launched official programs to allocate plots of land to ethnic minority families. In July 2004, Prime Minister Pham Van Khai issued Decision 134, in which the government pledged to provide each low-income minority household in the Central Highlands from 0.15 to 0.5 hectares of farm land, or at least 200 square meters of housing land.¹⁰ In August 2004, the government announced that it would temporarily suspend government-sponsored migration of lowlanders to the Central Highlands and work to slow the rate of unplanned, “spontaneous” migration to the region.¹¹ By August 2005, Vietnamese state media reported that 19,378 hectares of land had been allocated to 46,617 minority households (an average of 2.4 hectares per family, for both accommodation and cultivation) in the Central Highlands.¹²

The government has also endeavored to clean up its image as a serious violator of the right to religious freedom. In response to its designation by the United States as a “Country of Particular Concern” in 2004 for religious freedom violations, the Vietnamese government has passed new regulations aimed at streamlining the process for churches to apply for official registration and banning forced recantations of faith. Christian pastors belonging to the government-recognized Evangelical Church of

⁹ “Deputy PM Begins First Tour to Central Highlands,” Vietnam News Brief Service, December 15, 2004. The above quoted paragraph is now routinely used at the end of many articles by Vietnam News Brief Service, which disseminates articles from the Vietnamese state press.

¹⁰ “Govt Supports Farming & Housing Land for Ethnic Minorities,” Vietnam News Brief Service, July 23, 2004; “Land for all in Central Highland minority groups by 2005,” Nhan Dan, (The People), August 21, 2004.

¹¹ “Vietnam To Suspend Migration To Central Highlands,” Associated Press, August 20, 2004.

¹² Under Decision 134, each low-income ethnic minority household is to be allocated at least 5,000 square meters of farming land, or at least 2,500 square meters of one-crop paddy land, or no less than 1,500 square meters of two-crop paddy field. Each family will also be given at least 200 square meters of residential land, plus five million dong (about U.S. \$313) for building the house. In addition, each will be provided half a ton of cement for building a water tank, or 300,000 dong for drilling a water well. “No More Poverty Haunting Tribespeople in 2006: Govt,” Vietnam News Briefs, September 22, 2004; “Minister vows to allocate residential land to all central highlanders,” Vietnam News Agency Bulletin, August 29, 2005; “Vietnam: Central Highlands province allocates land to ethnic minorities,” Voice of Vietnam, published by Thai News Service, July 12, 2005.

Vietnam (ECVN) are now authorized to conduct religious services and travel within the highlands for evangelical purposes.¹³ During 2005, twenty-nine of the 1,200 ethnic minority churches closed by the government after the 2001 protests were approved for official registration and re-opened, and other churches were allowed to operate unofficially pending registration.¹⁴ In some parts of the Central Highlands authorities have turned a blind eye to religious gatherings of unregistered house churches.¹⁵

Rights Abuses Persist

Our research, conducted from December 2005 through May 2006, finds, however, that Vietnamese officials continue to violate the right to religious freedom in some parts of the Central Highlands. Officials continue to pressure ethnic minority Christians who belong to independent house churches to sign pledges renouncing their religion or to pledge loyalty to the officially-recognized ECVN. Authorities also restrict peoples' movement between villages for the purpose of religious undertakings that are not authorized by the government. In some areas large Christian gatherings continue to be banned, unless they are presided over by officially-recognized pastors.

More worrying, the Vietnamese government continues to criminalize peaceful dissent, unsanctioned religious activity, and efforts to seek sanctuary in Cambodia by arresting and imprisoning Central Highlanders for their religious or political beliefs. More than 350 highlanders have been imprisoned since 2001. The arrests are ongoing: during 2005, at least eighty people were arrested and 142 people—some of whom had been in pre-trial detention for as much as a year—were sentenced to prison terms of up to seventeen years. Appended to this report is a list of Central Highland prisoners as of May 2006.

Vietnam has also violated a January 2005 Memorandum of Understanding (MoU) with the United Nations High Commissioner for Refugees (UNHCR) by detaining, interrogating, and severely mistreating some Central Highlanders who had fled to refugee camps in Cambodia and then returned to Vietnam, either voluntarily or under duress. The MoU specifically prohibits reprisals by the Vietnamese government against returnees from Cambodia.

¹³ The Vietnamese government bans independent religious associations and only recognizes religious organizations that have been approved by the Vietnamese Communist Party's Fatherland Front. The six government-sanctioned religions include the Catholic Church, the Vietnam Buddhist Church, Cao Dai, Hoa Hao, and the two branches of the Evangelical Church of Vietnam (ECVN) (north and south). The southern branch of the ECVN received official recognition in February 2001.

¹⁴ Annual Report, United States Commission on International Religious Freedom, May 2006 [online], <http://www.uscirf.org/countries/publications/currentreport/2006annualRpt.pdf#page=1> (retrieved May 16, 2006).

¹⁵ Human Rights Watch interviews with Bahnar and Jarai refugees from Dak Doa and Pleiku districts of Gia Lai, respectively, May 13-14, 2006. The Bahnar refugee from Dak Doa had left Vietnam in May 2006 and the Jarai refugee from Pleiku had left in September 2005.

In April, May, and December 2005 Human Rights Watch received credible reports, including first-hand accounts, of officials detaining and beating Central Highlanders who had returned to Vietnam from UNHCR sites in Cambodia. The most vivid accounts were provided by three highlanders who returned to Vietnam during 2005 and then “doubled back” to Cambodia because of the harsh treatment they received in Vietnam.¹⁶ Immediately upon return to Vietnam they were detained in dark cells in the provincial prison in Pleiku for five to seven days. They were interrogated every day about why they had left Vietnam and pressured to renounce their religion. They were beaten and tortured during interrogation. One man was punched with closed fists on his face; beaten in the chest, back, and groin; and kicked in the shins with army boots. All three said they were slapped in the face during interrogation.

Once back in their villages, each was largely confined to his home. They had to depend on family members to keep their farms going and bring food home. Two of these returnees were arrested and detained again and repeatedly pressured to renounce their religion. During interrogation sessions, police forced one of the men to lie down, with his hands and feet raised in the air for three hours. If he dropped his hands or feet, he was beaten. He was also hung upside down by his feet for thirty minutes at a time. He was questioned about the *Tin Lanh Dega* religion (Dega Christianity),¹⁷ accused of helping people who had fled to the forest to escape arrest, and pressured to provide names and locations of people in hiding.

All three of the returnees said they had been visited by UNHCR. They provided precise accounts of serious threats and intimidation by local officials prior to UNHCR visits. Police and government officials warned these men not to say anything negative to UNHCR officials. The UNHCR visits were conducted in the presence of government officials and undercover police. The men could not understand the questions being asked, lacked confidence that the exchanges with UNHCR were being fully translated, and were afraid to tell how they had been treated. One of the returnees told Human Rights Watch:

¹⁶ Human Rights Watch interviews with Jarai returnees from Vietnam, December 2005.

¹⁷ *Tin Lanh Dega*, or Dega Christianity, is a form of evangelical Christianity followed by some Central Highlanders, who distrust government-controlled religious organizations and seek to manage their own religious affairs. The Vietnamese government has banned Dega Christianity and charges that it is not a religion but a separatist political movement. Not all Central Highland Christians who belong to independent house churches identify themselves as Dega Christians. Nonetheless, the government's desire to eliminate Dega Christianity has impacted many Central Highland Christians, whether they are Dega supporters or not.

The UN ... asked about any mistreatment but I was too afraid to answer. I told them I had not been hit or threatened. I didn't dare tell them I'd been sent to prison; if I told, they would have beaten me.¹⁸

The United States has indicated that it believes that religious freedom in general has improved.¹⁹ Because the Vietnamese government restricts international human rights organizations' access to the country, Human Rights Watch cannot assess the status of religious freedom across the country. In the areas from which Human Rights Watch is able to obtain credible information, however, the situation does not appear to have improved. The testimonies below documenting arrests of those practicing religions not sanctioned by the state, forced recantations, and pressure on religious leaders, among other abuses, illustrate that freedom of religion in Vietnam remains highly restricted.

Inadequate Monitoring

International attention and support for development projects in the Central Highlands, as well as visits to the region by foreign delegations, have increased during the last several years, a welcome step toward opening the Highlands to the outside world. The value of monitoring missions remains questionable, however, because the Vietnamese government still manages to maintain control over what monitors see and hear—if not by the obvious presence of official escorts, then by the intimidation of villagers out of direct sight and hearing of the monitors. In January 2005 UNHCR signed a Memorandum of Understanding (MoU) with Vietnam and Cambodia regarding durable solutions—resettlement or repatriation—for some 750 ethnic minority people from Vietnam then residing in temporary camps in Cambodia. However, the MoU was vague about how UNHCR would monitor the agreement, saying only that, at an appropriate time, the Vietnamese Government and UNHCR would “consult and cooperate” on visits to the returnees.²⁰ It did not guarantee UNHCR free and unfettered access to returnees before, during, and after repatriation, as required by UNHCR’s own standards for voluntary repatriation. Subsequently, many of the visits by UNHCR and other international delegations have been conducted in the presence of government officials and uniformed and undercover police officers.

¹⁸ Human Rights Watch interview with P, a Jarai returnee from Vietnam, December 2005.

¹⁹ “International Religious Freedom Report 2005, Vietnam Chapter,” US Department of State, Bureau of Democracy, Human Rights and Labor, 2005 [online] <http://www.state.gov/g/drl/rls/irf/2005/51535.htm>, (retrieved May 16, 2006).

²⁰ “Memorandum of Understanding Between the Government of the Socialist Republic of Vietnam, the Royal Government of Cambodia and the United Nations High Commissioner for Refugees on the Settlement of Issues Relating to the Vietnamese Central Highlands Ethnic Minority People in Cambodia,” signed by Le Cong Phung, First Deputy Minister, Vietnam Ministry of Foreign Affairs; Long Visalo, Secretary of State, Cambodia Ministry of Foreign Affairs and International Cooperation; and Erika Feller, Director, UNHCR Department of International Protection, January 25, 2005, Hanoi, Vietnam.

While UNHCR's increased access to the Central Highlands since the signing of the MoU is a step forward, monitored access or even private access in a climate of fear remains inadequate. Human Rights Watch has found that many Central Highlanders remain fearful of speaking frankly with visitors about abuses, only feeling safe enough to do so when they have left Vietnam and are safely in another country.²¹ The fact that some foreign delegations have recently been able to meet privately with villagers—a significant step forward—does not, unfortunately, lessen the fear among some highlanders that if they speak freely about what has happened to them they will not be protected and the authorities may retaliate.

UNHCR officials have compounded the problem by making public pronouncements, even during monitoring missions, that the returnees are “under no particular threat or duress.”²² They have said this despite having been presented reliable evidence that returnees have, in fact, been threatened and are under duress prior to and during UNHCR visits.

UNHCR's choice to make public statements praising Vietnam's treatment of returnees appears to be calculated to encourage the Vietnamese government to grant it greater access. A strategic choice such as this, however, compromises the organization's obligation to report accurately and without bias. It has the effect of failing precisely the people it is mandated to protect.

The disturbing first-hand accounts documented by Human Rights Watch in this report call into question the legitimacy of UNHCR's monitoring missions. Without reliable monitoring, it also becomes necessary to question both the appropriateness of UNHCR's role in promoting and facilitating voluntary repatriation to the Central Highlands as well as its ongoing participation in refugee screening that results in forced returns of ethnic minority people to the Central Highlands. Although the January 2005 MoU has expired, the parties continue to operate as though it is an open-ended agreement. The MoU had insufficient safeguards, and should be renegotiated. In the meantime, UNHCR should insist on unfettered access to returnees so that—as it does very effectively in many other difficult parts of the world—it can conduct private and independent monitoring and address the real protection needs of returnees.

²¹ Human Rights Watch interviews with highland refugees in Cambodia, 2001-2005.

²² “UNHCR mission finds Montagnard returnees and deportees well,” UNHCR press release, August 5, 2005; “UN Agency has ‘No Serious Concerns’ Over Montagnard Returnees in Viet Nam,” UNHCR, April 28, 2006; “Resettlement of Montagnards ‘Working Well’,” Associated Press, April 28, 2006.

Key Recommendations

Important decisions have to be taken soon by international actors on Vietnam. These include whether the United States decides this year to remove its designation of Vietnam as a “Country of Particular Concern” for religious freedom violations, UNHCR’s decision whether to continue its Memorandum of Understanding with Vietnam and Cambodia, and Vietnam’s pending entry into the World Trade Organization. Human Rights Watch urges that the Vietnamese government’s adherence to international human rights standards be made a critical factor in each of these decisions. Specifically, we recommend that:

The Vietnamese government:

- End the restrictions on gatherings of religious groups that are not registered with the government, abolish the practice of forced recantations of faith or pressure to affiliate with officially registered religious organizations, and bring an end to abusive police surveillance and harassment of religious leaders and followers.
- Make a public commitment to end the practice of torture. Appoint a special commission to investigate allegations of torture and excessive use of force by security officials during demonstrations in the Central Highlands and to recommend appropriate prosecutions and discipline.
- Release all highlanders imprisoned for peaceful expression of their political or religious beliefs, or for attempting to seek asylum abroad.

The Cambodian government:

- Provide asylum to Central Highland refugees until safe and proper durable solutions become available for them.
- Honor its obligations under the 1951 Refugee Convention and the Convention Against Torture not to return anyone to a place where his or her life or freedom would be threatened or where there are substantial grounds to believe that he or she would be in danger of being subjected to torture.

The United States:

- Continue Vietnam’s designation as a “Country of Particular Concern” for its violations of the right to religious freedom until substantial progress is made, as outlined in the recommendation to the Vietnamese government above.

The U.N. High Commissioner for Refugees:

- Do 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.
- Oppose the forced return of Montagnards to the Central Highlands as long as religious and political persecution of Central Highlanders continues.
- Insist on free, unfettered, unannounced, and in-depth UNHCR monitoring missions to the Central Highlands before, during, and after any repatriation in order to provide independent information to potential returnees and thoroughly monitor their protection upon return. Continue to push for private and confidential access to Central Highland interviewees in a non-coercive environment.
- Encourage the Vietnamese government to continue to streamline the procedures for family reunification of Central Highlanders in Vietnam who have received authorization from resettlement countries to join family members who have resettled abroad. Insist that the Vietnamese government not persecute or discriminate against Central Highlanders whose families have petitioned for family reunification.

Additional detailed recommendations can be found in Section VI, below.

* * * * *

This report is based on interviews and written and electronic communication with sources in Vietnam, Cambodia, and the United States conducted between December 2005 and May 2006. Interviews were conducted in private and facts were corroborated by several different informants interviewed at different times and in different places. This research was supplemented by open source journalists' reports, official Vietnamese sources, and reports by the United Nations, nongovernmental organizations, and diplomatic sources. The names of Central Highlanders interviewed by Human Rights Watch, as well as any other identifying details, have been withheld to protect their security.

II. Violations of the Right to Religious Freedom

They were angry, and slapped me on the face and choked me. They asked me if I wanted to die. ... The police made me kneel for three hours on my knees, with my hands up in the air. They placed a Bible in front of me and told me, "Pray to your Bible to help you now."

—An Ede woman, describing her treatment in police detention

Since Vietnam was designated by the United States as a “Country of Particular Concern” for its violations of religious freedom in 2004, the Vietnamese government has released some religious dissidents, reportedly including some prisoners from the Central Highlands.²³ The government has also issued new directives on religion that expedite church registration requirements and strictly forbid official coercion to convert as well as forced recantations of faith.²⁴

While there has been some improvement in religious freedom for many Vietnamese citizens who are willing to worship in government-registered religious institutions, significant abuses remain.²⁵ In the Central Highlands, the government continues to persecute members of unregistered Christian groups, particularly highlanders who belong to unsanctioned house churches.²⁶ Reports persist well into 2006 of forced recantations of faith.

²³ “Vietnam to free 21 foreigners among 10,400 prisoners on national day,” Agence France Presse, August 29, 2005. The Vietnamese government has not released the names of the Central Highland prisoners reportedly released in 2005.

²⁴ These include Decree 22 (March 2005), which provides implementing instructions for the 2004 “Ordinance on Belief and Religion,” and the Prime Minister’s Instruction No. 01/2005, “Guiding Protestant Religious Organizations” (February 2005), which provides greater legitimacy to some branches of the Protestant Church and bans forced recantations of faith. See “Vietnam: Action Needed Now to End Religious Persecution,” Human Rights Watch press release, February 28, 2005.

²⁵ In congressional testimony in March 2006, John Hanford, the U.S. Ambassador for International Religious Freedom, commended Vietnam for making “significant improvements” in religious freedom in Vietnam over the past year but stated that problems remain: “While we are encouraged by the progress we have seen in Vietnam, we remain concerned about certain continuing problems. While the government is allowing greater freedom for some religious groups to have a greater role in choosing their own leadership, some restrictions on the hierarchies and clergy of religious groups remain in place. We are also troubled by continued reports that local officials have repressed some unregistered Protestant believers by forcing church gatherings to cease and closing house churches. In other cases, some groups that have applied for registration are facing delays without adequate explanation.” “Human Rights in Vietnam,” Statement of John V. Hanford III, Ambassador At Large, International Religious Freedom before the House International Relations Subcommittee on Africa, Global Human Rights and International Operations, March 29, 2006.

²⁶ Michael Cromartie, chair, U.S. Commission on International Religious Freedom, noted in his congressional testimony on human rights in Vietnam in March 2006: “There have been positive developments that signal a new commitment to protect religious freedom, but those developments have only slowly emerged over the past eight months and significant restrictions and abuses remain.... But the overall protection of religious freedom

New Legal Framework

Observers note that not only has overall implementation of the new directives been poor, but that in some cases the new regulations have been used as a basis for monitoring, restricting, and repressing some religious groups, especially those that seek to operate independently of the government.²⁷ The regulations advance Vietnam's official stance that religious freedom is a privilege to be requested from and granted by the government, rather than a fundamental human right. In addition, the regulations give weight to the government's efforts to eradicate certain independent religious groups who practice their faith outside of state-sanctioned institutions or whose governing boards are not approved by the government.

The 2004 Ordinance on Beliefs and Religions and its implementing mechanism, Decree 22,²⁸ affirm the right to freedom of religion but require that all religious groups be officially authorized and subject to government control, and ban any religious activity deemed to threaten national security, public order, or national unity.²⁹ The Ordinance defines "legitimate" religions as those that do not oppose "national interests."

The Vietnamese government asserts that many Central Highlanders who belong to independent or unregistered house churches are "Dega Christians" (*Tin Lành Dega*), which the government asserts is not a legitimate religion, but a cover for a separatist Montagnard movement.

According to the official Voice of Vietnam radio, under the Ordinance, Dega Christianity "should be considered evil and unlawful, and be eliminated."³⁰

remains poor and legal protections are often ignored or poorly understood. In addition, national security or national solidarity provisions of the penal code trump all potential religious freedom protections." "Human Rights in Vietnam," Michael Cromartie, chair, U.S. Commission on International Religious Freedom, House International Relations Subcommittee on Africa, Human Rights, and International Organizations, March 29, 2006.

²⁷ Annual Report, United States Commission on International Religious Freedom, May 2006 [online] <http://www.uscirf.org/countries/publications/currentreport/2006annualRpt.pdf#page=1>, (retrieved May 16, 2006); see also: "Vietnam: Action Needed Now to End Religious Persecution," Human Rights Watch press release, February 28, 2005, and "Vietnam: Persecution of Montagnards Continues; Dega Christians Targeted in Latest Crackdown," Human Rights Watch Briefing Paper, May 2005.

²⁸ Decree 22/2005/NĐ-CP, "Instructions for Implementing the New Ordinance on Beliefs and Religions," was issued in March 2005.

²⁹ Article 15, "Ordinance on Beliefs and Religions" (21/2004/PL-UBTVQH11), November 15, 2004.

³⁰ Voice of Vietnam Radio, August 10, 2004, cited in the testimony of Vo Van Ai, president of the Vietnam Committee on Human Rights, before the Subcommittee on Africa, Global Human Rights and International Operations of the Committee on International Relations, June 20, 2005.

Religions with legitimacy will be accepted by society and protected by law. Whereas organizations that claim to be religions but in fact lead people into darkness...should be called heresies....According to the provisions of the Ordinance on Beliefs and Religions, religions such as Dega Protestantism should not be considered as legitimate and should be outlawed.³¹

The Prime Minister's Instruction on Protestantism (No. 01/2005), issued in February 2005, instructs officials to "fight attempts by hostile forces to abuse Protestantism to incite people to act subversively" and to publicly expose "those disguised Protestants whose activities go against the nation and sow division among the people as well as their illegal activities."³² *Saigon Gia Phong* (Liberated Saigon) newspaper quoted the decree as saying:

If the religious followers there have pure religious needs, commit to abiding by the law, do not work for the reactionary FULRO,³³ and have no connection to Dega Protestantism, the local governments will create conditions for them to carry out normal religious activities at home or at suitable places in their villages.³⁴

The new regulations enable authorities to force those perceived as following Dega Christianity to abandon their faith on the grounds that it is illegal, despite other provisions in the regulations banning forced recantations. The regulations also give legitimacy to government security forces to monitor, interrogate, arrest, and imprison suspected Dega Church activists or followers.

Many Central Highlanders have been imprisoned on charges that they are separatists who use religion to "sow divisions among the people" and "undermine state and party unity."³⁵ Arrests and imprisonment of highlanders on these charges have continued into 2006. (See Section III, Arrests and Imprisonment of Central Highlanders)

³¹ Voice of Vietnam Radio, August 10, 2004, cited in the testimony of Vo Van Ai, president of the Vietnam Committee on Human Rights, before the Subcommittee on Africa, Global Human Rights and International Operations of the Committee on International Relations, June 20, 2005.

³² "Vietnam issues instruction on Protestantism," Vietnam News Agency, February 5, 2005.

³³ FULRO (Front Unifié de Lutte des Race Opprimées, or the United Struggle Front for the Oppressed Races) was an armed Montagnard guerilla movement opposed to the regime in Hanoi, which died out in the early 1990s.

³⁴ "Vietnam To Allow Central Highland Protestant Churches," Associated Press, February 5, 2005.

³⁵ The charges, when known, are from official Vietnamese state press reports. See Appendix, page 56 for full listing of prisoners, and their sentences and charges against them, if known.

Restrictions on Religious Gatherings

Human Rights Watch continues to receive reports from Central Highlanders in some parts of the region that they cannot gather in large groups to pray, except in churches presided over by pastors who are officially recognized by the Vietnamese government.³⁶ These areas include Ia Grai and Cu Se districts of Gia Lai province; Ea H'leo, Cu Mgar and Buon Don districts of Dak Lak; and Dak Song and Dak Rlap districts, Dak Nong. In areas such as these, minority people are only allowed to pray in their homes with their family. If authorities notice that any non-family members have joined, the service is broken up on the grounds that the religion is illegal. In order to avoid detection many highlanders regularly change the houses where they gather for group services, which are conducted before dawn. “The police are in the village every Sunday, watching what we do and say,” a Jarai man from Gia Lai province told Human Rights Watch.³⁷

In other areas that are less sensitive because political activity has lessened or the villages are not near the Cambodian border, authorities sometimes take a less strict approach. Movement between villages is not as rigidly controlled, and authorities might turn a blind eye to religious gatherings, except for Christmas, when there is more surveillance of religious activities, church leaders, and people suspected of wanting to flee to Cambodia.³⁸

Forced Recantations Continue

Human Rights Watch has received reports throughout 2005 and into 2006 of provincial, district, and village authorities in parts of the Central Highlands regularly pressuring members of independent Christian churches to sign pledges renouncing their religion or pledging loyalty to the government-authorized church. Areas affected include Cu Se and Ia Grai districts of Gia Lai, Dak Song and Dak Rlap districts of Dak Nong, and Cu Mgar and Buon Don districts of Dak Lak. It is not known if only perceived “Dega Christians” are targeted.³⁹

³⁶ Human Rights Watch interviews with refugees from Gia Lai (December 2005 and March 2006), Dak Nong (April 2006), and Dak Lak (April 2006). The Gia Lai and Dak Lak interviewees had left Vietnam no longer than a month before their interviews with Human Rights Watch.

³⁷ Human Rights Watch interview with Jarai man from Cu Se district, Gia Lai, March 2006, who had just fled from Vietnam.

³⁸ Human Rights Watch interview with Bahnar and Jarai refugees from Dak Doa and Pleiku districts of Gia Lai, May 13, 2006. The Bahnar refugee from Dak Doa had left Vietnam in May 2006 and the Jarai refugee from Pleiku had left in September 2005.

³⁹ Human Rights Watch interviews with refugees from Gia Lai (December 2005 and March 2006) and Dak Lak (April 2006). All had left Vietnam no longer than a month before their interviews with Human Rights Watch. Human Rights Watch interview with Bunong refugees in the United States, who had telephoned their family members in Dak Nong the night before their interview on April 18, 2006.

In one district of Dak Lak,⁴⁰ district and commune authorities convene monthly village meetings in newly-built longhouses, constructed as part of an official campaign throughout the Central Highlands to preserve traditional highland culture.⁴¹ At the meetings, people known to have participated in demonstrations or suspected of relaying information about abuses to people abroad are forced to sign pledge forms (*to giay kiem diem*).⁴² An Ede woman explained:

Just about everyone has to sign the pledges, which say: "I won't demonstrate anymore, I won't participate in the Dega separatist movement or Dega religion. If I do wrong and violate the pledge, I understand that next time, the police will arrest me."⁴³

During the first months of 2006, provincial and local authorities and police and government-approved pastors from the officially recognized Evangelical Church of Vietnam (ECVN) convened mandatory monthly meetings in villages in Gia Lai province. During these meetings—some of which were held in the local soccer field—villagers were asked to sign forms pledging to follow the ECVN, as related by a Jarai woman from Ia Grai district:

The pastor said if everyone follows his religion, there will be no problems in the future with the authorities [government].

Authorities from the province, district, and commune were there to make people afraid not to sign. People were afraid—not of being beaten—but of encountering problems in the future.

The authorities keep a register of who joined [the ECVN pastor's church] and those who didn't.

⁴⁰ The specific district is not named in order to protect the security of the interviewee, as well as family members remaining in Vietnam. Human Rights Watch interview on April 18, 2006 with Y, an Ede woman who left Vietnam in the spring of 2006.

⁴¹ The traditional dwelling place for many Central Highlanders is the longhouse. During the last several years the Vietnamese government has constructed new communal longhouses in villages in the Central Highlands, ostensibly to help preserve highland culture, which traditionally has been animist, not Christian.

⁴² *To giay kiem diem*, which roughly translates to "self-assessment document," is used in Vietnam as part of the government's system of forcing people to declare their activities.

⁴³ Human Rights Watch interview on April 18, 2006 with Y, an Ede woman who left Vietnam in the spring of 2006.

Some of us did not sign. We want to follow Christianity—not a political directive. We believe in God; not in a particular person. In our faith, we follow the Bible, not a particular pastor or political leader.

The authorities twist it around and say that if we don't follow [the ECVN pastor], we are *Tin Lanh Dega*.⁴⁴

In Dak Nong province, local authorities informed villagers in March 2006 that in May they will have to sign a pledge entitled *Quyet Dinh* (decision) affirming their support for the ECVN.⁴⁵ In several parts of Gia Lai, authorities have told villagers that there will be a six-month campaign until September 2006 to push Central Highlanders to recant their religion and support the government-authorized church.⁴⁶

People suspected of being political activists or “Dega Christians” are summoned to local police stations for questioning, often on a weekly basis.⁴⁷ They are told to stop practicing their religion, questioned about their religious leaders, and pressured to sign statements pledging to abandon their religion and political activity and acknowledging that they face imprisonment if they violate the pledge. In some areas people are forced to sign pledges without being given a chance to read the text.

A Jarai man interviewed by Human Rights Watch described being detained and interrogated about his religion:

The police told me not to follow my religion anymore. If I agreed not to follow Christianity then I would be released. If I continued following [my] religion then I would be sent to prison in Hanoi. The police wanted to know the names of the religious leaders in my area. I told them that they had all been arrested; there were no leaders to follow anymore. The police wanted me to either follow the ‘old traditional religion’ [animism]

⁴⁴ It is unclear whether these meetings are continuing. Human Rights Watch interview on May 13, 2006 with Jarai woman from Ia Grai district, Gia Lai, who left Vietnam in March 2006.

⁴⁵ Human Rights Watch interview with Bunong refugees in the United States, who had telephoned their family members in Dak Nong the night before their interview on April 18, 2006.

⁴⁶ Human Rights Watch interviews with a Jarai refugee in the United States who is in regular contact with sources in several communes in Cu Se district, Gia Lai, April 18, 2006.

⁴⁷ Human Rights Watch interviews with eight different refugees who left their homes in several districts in Dak Lak and Gia Lai provinces in March and April 2006. The interviews were conducted on April 18, 2006 and May 14, 2006.

or if I wanted to continue to follow Christianity, then it must be the approved Vietnamese religion. I refused.⁴⁸

Three days later he was summoned to the commune police station, where he was detained for three days.

They pointed their finger at me and said I was a Dega Christian. They said I should not join *Tin Lan Dega* (Dega Christianity). If I did, they would arrest me and I would never see my wife and children again. The police wanted me to sign a document renouncing my religion but I refused. The police were angry but they did not beat me that time. I told them: “I won’t stop following my religion. I stop drinking, I stop smoking, but I will follow my religion forever.”

Pressure on Religious Leaders

Central Highlanders interviewed during the last six months by Human Rights Watch report that in some areas, many of the prominent religious leaders in their areas (except for members of the ECVN) have been imprisoned, gone into hiding, or fled to Cambodia.⁴⁹ Other religious leaders have greatly curtailed their religious activities after being summoned to the commune and district police stations numerous times, where they have been interrogated about their activities and told not to gather people for religious services. A Jarai woman from Ia Grai district, Gia Lai, explained:

In my village they arrested the pastor because people gathered in his house. They asked him many questions and told him he was not allowed to worship. They threatened that if he continued to convene church meetings, he would go to jail. When he returned home he didn’t dare gather people in his house anymore. Since then, we just meet in small groups in our homes, with one person watching the door.⁵⁰

In some areas authorities have placed the remaining village church leaders under surveillance virtually around the clock, and in some cases, under informal house arrest. Police are posted in their homes to monitor and restrict their activities without actually

⁴⁸ Human Rights Watch interview with Jarai man who had just fled from Cu Se district, Gia Lai, December 2005.

⁴⁹ Human Rights Watch interview with Jarai villagers who had just fled from Gia Lai, March 2006; Ede refugees from Dak Lak who had recently left Vietnam, May 2006; and Bunong refugees in the United States who are in regular contact with relatives in Dak Nong, May 2006.

⁵⁰ Human Rights Watch interview on May 13, 2006 with Jarai woman from Ia Grai district, Gia Lai, who left Vietnam in March 2006.

having to arrest or imprison them.⁵¹ A villager from one district in Dak Lak⁵² described the situation:

The government does not approve of my village pastor. He has had police from Ban Mathuot posted in his house since 2001. They are in his house all the time—they eat and sleep there. He is not allowed to leave the village to visit his mother, who lives in another village. They don't allow him to teach the Bible. On Sundays, if people go to his house, the police send them away.⁵³

A Bunong religious leader in Dak Nong had police billeted in his house as recently as May, according to his son:

Every month he has to report to the police station. Police are now posted in his house—they stay there all the time.⁵⁴

Travel Restrictions

Local authorities in many areas restrict people going to other villages to pray or to evangelize (again, unless such gatherings are presided over by officially recognized pastors). A Bahnar woman from Dak Doa district, Gia Lai described the situation in her commune:

If you go east, it's no problem. If you go west, it's a problem—they are afraid you will try to flee to Cambodia. But we still have to ask permission from the village chief if we want to go from one village to another, even if it's to a relative's house.

People who follow [the ECVN pastor] can go east or west to evangelize. We [non-ECVN members] can't go west to evangelize.⁵⁵

⁵¹ Human Rights Watch interview with X, an Ede refugee from Dak Lak who left Vietnam in the spring of 2006, and with Bunong refugees in the United States in touch with their relatives in Dak Song district, Dak Nong. Interviews were conducted in April 2006.

⁵² The specific district is not named in order to protect the security of the interviewee, as well as her family remaining in Vietnam. Human Rights Watch interview on April 18, 2006 with X, an Ede woman who left Vietnam in the spring of 2006.

⁵³ Human Rights Watch interview on April 18, 2006 with X, an Ede refugee who left Vietnam in the spring of 2006.

⁵⁴ Human Rights Watch interview with a Bunong refugee in the United States, who received this information from his family in Dak Nong province the night before his interview on April 24, 2006.

Soldiers remain permanently posted at commune centers, and sometimes in villages, where they are billeted in the homes of people the authorities want to keep an eye on—church leaders, people thought to be in touch with Montagnard groups in the U.S., and families of people in prison or refugees in the United States.⁵⁶

A woman from a village in Dak Lak that was very active during the 2004 demonstrations said:

There are four to six *bu doi* (soldiers) from Hanoi permanently posted in my village. Some stay at the house of “K”, who has been sent to prison—in part because he had a longhouse so there’s more room—and some stay at Ami “L”’s home, who has a small church. There are soldier posts along the roads; each post is responsible for controlling a small group of people.⁵⁷

The soldiers also help out with village infrastructure projects, such as digging ditches and helping with planting and harvesting.⁵⁸

They do not allow us to sing

Villages are surrounded or even blocked off by soldiers during Christian holidays such as Christmas and Easter. Soldiers are also deployed to villages to monitor wedding or funeral services, especially if people from several different villages attend. A woman from Dak Lak described the situation:

From 2001 to now, we have had no church in our village. Two or three families can secretly meet together and pray. If the police see us, they arrest us. Every Sunday, police ride motorcycles around the village. If there’s a funeral and people need to come from other villages, they bring many soldiers to control the village. We cannot read the Bible. They do not allow us to sing.⁵⁹

⁵⁵ Human Rights Watch interview on May 13, 2006 with Bahnar woman from Dak Doa district, Gia Lai, who left Vietnam earlier the same month.

⁵⁶ Human Rights Watch interviews with individuals who have recently left the Central Highlands as well as refugees in the U.S. who are in touch with relatives in Vietnam, December 2005-May 2006.

⁵⁷ Human Rights Watch interview on April 18, 2006 with X, an Ede woman who left Vietnam in the spring of 2006.

⁵⁸ Human Rights Watch interview on May 13, 2006 with Bahnar woman from Dak Doa district, Gia Lai, who left Vietnam earlier the same month.

⁵⁹ Human Rights Watch interview on April 18, 2006 with Y, an Ede refugee from Dak Lak, who left Vietnam in the spring of 2006.

Concerned that large gatherings for religious purposes could erupt into unrest, authorities routinely detain people suspected of being religious or political leaders before Christian holidays, especially Christmas. In Dak Doa district of Gia Lai, for example, police arrested a local religious leader right before Christmas 2005:

They arrested and beat him while forcing him to hold his hands straight out like Jesus. Afterwards he had to go to the hospital for a week. Three other people were detained at the same time. In fact, they were political. But they were also our religious leaders.⁶⁰

Some parts of the highlands have seen a gradual lessening of religious persecution. In some areas, the forced recantation meetings appear to have stopped during the last year, and villagers—even those who have not signed pledges in support of the ECVN—are allowed to worship in large groups. A villager from Dak Doa district, Gia Lai, told Human Rights Watch:

Now we can worship as usual in my village. It has changed a lot during the last year. On Wednesdays and Sundays we join to worship in houses, with many people gathering together. I don't know why they are letting us worship like this.

She added, however, that authorities continue to keep an eye on people suspected of blending religion and politics:

Regular Christians who don't do politics are okay. However the four or five people in my village who are suspected of doing politics are still summoned often to the police station.⁶¹

Travel restrictions have also eased up in her commune, the same woman said:

It's no problem to travel between villages. If we want to go to Ho Chi Minh City, though, we have to ask permission from the commune.⁶²

She noted that authorities remained much stricter in nearby Ha Bao commune.

⁶⁰ Human Rights Watch interview on May 13, 2006 with Bahnar woman from Dak Doa district, Gia Lai, who left Vietnam earlier the same month.

⁶¹ Human Rights Watch interview on May 13, 2006 with Bahnar woman from Dak Doa district, Gia Lai, who left Vietnam earlier the same month.

⁶² Ibid.

Case Study: Cu Se District, Gia Lai

Cu Se District is one of the hotspots in Gia Lai province. Human Rights Watch has received information about numerous incidents of forced renunciation ceremonies, beatings, intimidation, and arrests by local authorities in Cu Se between October 2005 and May 2006. The arrests appear to be based on allegations that people were in contact with politically-active Montagnards in the United States or were members of Tin Lanh Dega (Dega Christianity) or the highland political movement. Incidents reported during this period include:

► **May 2006:**

- Nine Jarai men are arrested in late May-early June in villages in Ia Hla, Hbong, Ia Hru, Bo Ngong, Ia Glai, and Ia Deng communes of Cu Se.⁶³ Mid-month one man from Nhon Hoa is arrested, preceded by the arrests earlier in the month of three men from Bo Ngong.

► **April 2006:**

- Eight Jarai men are arrested (four from Nhon Hoa commune and one from Ia Tiem commune on April 13; one from Ia Tiem commune and one from Chu Prong commune on April 8; and one from Cu Se district town on April 20).

► **March 2006:**

- Commune authorities pressure several people in early March to pledge their support for the officially-recognized Evangelical Church of Vietnam (ECVN).
- Provincial and district soldiers and police are posted mid-month in Plei Sur village, Ia Ko Commune; Plei Tao Char and Plei Tao Ko villages, Ia Hru Commune; Plei Sul village, Ia Dun Commune; and Plei Tang Hra and Plei Du Pah villages, Ia Hla Commune. It is not known whether the increased security presence is timed to precede or coincide with a monitoring visit by UNHCR, which takes place around the same time.
- Police arrest three Jarai men, one on March 6 and the others on March 19, from Plei Sur village, Ia Ko commune.
- Four villagers from Ia Hla Commune are reportedly beaten by soldiers.

► **February 2006:**

- Forced renunciation ceremonies in Plei Nang Hra and Plei Tai Glai villages in Ia Ko commune.
- Two people beaten and arrested in Plei Tai Glai village.

⁶³ The charges against the men are not known but local contacts in Cu Se say the men were arrested because they refused to sign pledges supporting the ECVN or are suspected of supporting the highland political movement. It is not known if they were subsequently released or not.

► **December 2005:**

- Arrests and forced renunciation ceremonies in Plei Tao Klah, Ia Hru commune.
- Arrests and forced renunciation ceremonies in Plei Tao Or, Ia Hru commune.
- Police presence and pressure on villagers in Plei Tot not to have contact with Montagnards abroad.
- Arrests in Plei Ia Xam, Ia Hru commune.

► **November 2005:**

- Forced renunciation ceremonies conducted in villages in Ia Dun commune, Ia Blang commune, Ia Ko commune, and Ia Hru commune.

► **October 2005:**

- Forced renunciation ceremonies in Plei Pe (Ia Hlai commune) and Plei Hra (Ia Ko commune).
- Arrest and forced renunciation ceremonies in Plei Du Pah (Ia Hlai commune).
- Pressure on villagers in Plei Tao Rong village, Ia Dun commune not to organize Christmas celebrations.

III. Arrests and Imprisonment of Central Highlanders

The Vietnamese government continues to criminalize peaceful dissent, unsanctioned religious activity, and efforts to seek sanctuary in Cambodia by arresting and imprisoning Central Highlanders for their religious or political beliefs. Human Rights Watch has documented prison sentences for at least 355 Central Highlanders who have been imprisoned since 2001, largely for peaceful political or religious activities.⁶⁴

The arrests and sentencing of Central Highlanders to long prison terms continue. During 2005, more than seventy highlanders were arrested in Gia Lai province alone.⁶⁵ It is not yet known how many were subsequently released and how many are awaiting trial and sentencing.

During 2005, at least 142 (from all five provinces) were sentenced to prison terms, more than double the previous year.⁶⁶ At least thirty of those sentenced in 2005 had been arrested in Cambodia or near the border areas, trying to seek asylum.⁶⁷ They were apprehended by Cambodian police and turned over to Vietnamese authorities without having a chance to make an asylum claim with UNHCR.

Of the 355 people who are currently serving prison sentences, only 159 trials have been reported in the Vietnamese state media or by foreign wire services.⁶⁸ For those for whom charges are known, most have been charged under Vietnam's Penal Code with vaguely-worded national security crimes. These include "undermining the unity policy" (article 87), "disrupting security" (article 89) or "causing public disorder" (article 245).

⁶⁴ The numbers of political prisoners in Vietnam, which have risen sharply since Central Highlanders started being imprisoned in 2001, have not been this high since the 1980s. Of the 355 imprisoned since 2001, Human Rights Watch estimates that approximately fifty may have been released for time served, or for prisoner amnesties. The sentences range from eighteen months to seventeen years.

⁶⁵ Information from Dak Lak and Dak Nong provinces is more difficult to obtain because of the small number of people who have been able to escape from those two provinces in recent years.

⁶⁶ The high number of people sentenced during 2005 can be attributed to the mass arrests that took place after the April 2004 demonstrations, followed by a second wave of arrests towards the end of the year. The numbers imprisoned during previous years were seventy-one (2004), fifty-three (2003), fifty-one (2002), and thirty-four (2001). The year that three individuals' sentencing took place is not known.

⁶⁷ Information about where people were arrested is derived largely from press reports from wire services and government media in Vietnam and Cambodia, as well as reliable sources in border provinces in Cambodia.

⁶⁸ Information about arrests and imprisonment of Central Highlanders comes from a variety of sources, including Vietnamese state media, international wire services, families of prisoners, and other sources in Vietnam, Cambodia, and the United States. See Appendix, page 56 for full listing of Central Highland prisoners as of May 2006.

Of the total currently serving prison sentences, more than sixty were imprisoned after Vietnamese or Cambodian police or border guards arrested them in Cambodia or near the border areas when they attempted to flee to Cambodia to seek asylum. They were sentenced to prison, the majority on charges of “fleeing abroad or defecting to stay overseas with a view to opposing the people’s administration” (article 91).⁶⁹ The forced return of asylum seekers is in violation of Cambodia’s obligations as a signatory to the 1951 Refugee Convention and its 1967 Protocol not to return people to a place where their lives or liberty are at risk, or where they face the possibility of being tortured. It also violates the rights to leave one’s country and to seek asylum outside one’s country that are recognized in articles 13 and 14 of the Universal Declaration of Human Rights.⁷⁰

Among those imprisoned for attempting to seek asylum is Rahlan Tuan, 26, from Cu Se district, Gia Lai. He was arrested on November 19, 2003 by Cambodian security officials after crossing into Cambodia to seek asylum. Following his forced return to Vietnam, Tuan and four others from his district who had been arrested trying to seek asylum in Cambodia were tried on September 20, 2004. Despite the fact that the government’s daily newspaper reported that the five men had been arrested in Cambodia by Cambodian police and border guards in an effort to seek asylum, the five were sentenced to prison terms on charges of “undermining national unity.”⁷¹ According to Vietnamese state media, subversive activities committed by the five included using telephones to communicate with “exiled reactionaries” in the U.S., gathering for “closed door meetings” to discuss the “Dega Protestant Church,” tricking others to “illegally move to other countries,” and collecting money and rice to feed people hiding in the forest.⁷² Rahlan Tuan is currently serving a seven-year sentence.

Like the 2005 Ordinance on Religion, Vietnam’s Penal Code criminalizes non-violent activities that are deemed to threaten national security, public order, and national unity. Many of these provisions disregard fundamental rights and Vietnam’s own treaty commitments, for example, by making peaceful dissent or unsanctioned religious acts a

⁶⁹ To our knowledge, only a small number of highlanders arrested in 2001 were charged with other crimes in addition to disrupting security: five people for illegally detaining people, two people for destroying public property, and two for illegal possession of weapons.

⁷⁰ Information about where people were arrested is derived largely from press reports from wire services and government media in Vietnam and Cambodia, as well as reliable sources in border provinces in Cambodia.

⁷¹ The government’s daily newspaper, Viet Nam News, reported that the five men were arrested in Cambodia by Cambodian police and border guards, trying to seek asylum. Agence France Presse reported that a court official said that the accused men were arrested by Cambodian authorities in November and December 2004, in separate incidents while crossing into Cambodia. “Vietnam jails five minority Christians for anti-government activities,” Agence France Presse, September 21, 2004; “Vietnam sentences Central Highlands dissidents,” Vietnam News Agency, September 20, 2004; “Montagnards Jailed For Undermining Vietnam Natl Security,” Associated Press, September 21, 2004.

⁷² “Vietnam sentences Central Highlands dissidents,” Vietnam News Agency, September 20, 2004.

crime. Some are so vaguely worded that they invite abusive application.⁷³ Invoking “national security” or “national unity” allows the state to assert comprehensive control over political and religious matters and to penalize, arrest, and imprison out-of-favor political and religious leaders and their followers at will. The Penal Code has no exemption for peaceful dissent or expression that does not incite violent acts, thereby jeopardizing those who merely exercise their legitimate rights to freedom of opinion or expression.⁷⁴ By criminalizing peaceful dissent, the Penal Code contradicts the basic right to free expression found in the International Covenant on Civil and Political Rights, acceded to by Vietnam in 1982.⁷⁵

⁷³ Penal Code of the Socialist Republic of Vietnam, cited in *A Selection of Fundamental Laws of Vietnam*, (Hanoi: The Gioi Publishers, 2001)

⁷⁴ See the report of the Working Group on Arbitrary Detention, which visited Vietnam in 1995. Commission on Human Rights, *Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment, Working Group on Arbitrary Detention, Visit to Vietnam*, E/CN.4/1995/31/Add.4, January 18, 1995.

⁷⁵ The 1995 Johannesburg Principles on National Security, Freedom of Expression and Access to Information, an authoritative but non-binding declaration of principles based on international human rights standards, evolving state practice, and the general principles of law, provide that apart from legitimate state secrets, “expression may be punished as a threat to national security only if a government can demonstrate that: a) the expression is intended to incite imminent violence; b) it is likely to incite such violence; and c) there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.”

Central Highlanders currently serving prison sentences include people such as:

- **Siu Boch**, a Jarai man who was arrested on March 10, 2001, after a police raid on Plei Lao, Gia Lai, in which riot police killed one villager and burned down the local church. He is serving an eight-year sentence in Ha Nam prison, north of Hanoi.
- **A Brih**, a Bahnar man from Kontum. After returning from Cambodia in 2002, he was arrested in 2004 on charges of helping others to flee from Vietnam.
- **Y Tim Bya**, an Ede pastor serving a ten-year sentence. He was arrested and forcibly deported from Cambodia in December 2001 along with 167 other Central Highlanders trying to seek asylum. Y Thim is listed on the Vietnamese government's 2002 roster of pastors and evangelists from Dak Lak.
- **Y Lia Nie**, an Ede man who was arrested in 2002 in Dak Lak while reportedly trying to register his child for school. He is currently serving a seven-year sentence. Human Rights Watch has eight original official Dak Lak warrants or citations on file documenting harassment and interrogation of Y Lia Nie about his religious activities by local authorities between 1992-2002.
- **Y Rit Nie**, a young Ede church leader from Buon Poc, Dak Lak. He was arrested trying to flee to Cambodia in 2004. At that time he had been in hiding for two years. He had previously been arrested in December 2001. He is currently serving at least five years in prison.
- **Rmah San**, a Jarai from Dak Lak, arrested in 2004 for having a cell phone and holding prayer meetings in his home; currently serving an eight-year sentence.
- **Siu Bler**, a Jarai man arrested in 2004. Prior to his arrest he had been in hiding, much of the time in an underground dug-out in the jungle, for three years. Police tortured others to learn his whereabouts.

A full listing of Central Highland prisoners is attached in the Appendix, page 55.

IV. Mistreatment of Returnees from Cambodia

When I was finally allowed to return to my village and see my wife, she was shocked by how swollen and bruised my face was.

—Jarai refugee who voluntarily returned to Vietnam from Cambodia in 2005.

Since 2001, several thousand Central Highlanders have fled to Cambodia to escape the Vietnamese government crackdown. Hundreds who were trying to seek UNHCR's protection were forcibly returned by Cambodian and Vietnamese police from border areas in Cambodia.⁷⁶

Of the asylum seekers who have been able to reach the protection of UNHCR, most have been recognized as refugees and resettled abroad. Between 2002 and 2004, several hundred Central Highlanders voluntarily repatriated to Vietnam from UNHCR refugee camps in Cambodia, primarily under bilateral arrangements between Cambodia and Vietnam.

The 2005 Memorandum of Understanding

In January 2005, UNHCR entered into a tripartite Memorandum of Understanding (MoU) with the governments of Cambodia and Vietnam. The agreement, which was signed without advance notice to embassies in Hanoi and Phnom Penh, has been heavily criticized by international and Cambodian rights groups for authorizing forced repatriation of recognized refugees who refuse resettlement abroad, and for its insufficient provisions for monitoring and protection of returnees once back in Vietnam. Although UNHCR acknowledges that there were deficiencies in the MoU, it stands by the agreement, arguing that securing Cambodia's commitment to continue providing temporary asylum to Central Highlanders was a trade-off for insufficient guarantees regarding monitoring and access inside Vietnam.

In fact, in 2004, prior to the agreement, asylum space in Cambodia was at risk. When a number of recognized Highland refugees refused resettlement abroad, Cambodia began

⁷⁶ Human Rights Watch has received periodic reports since 2001 of Cambodian authorities forcibly returning Central Highland asylum seekers to Vietnam. See, for example: "Cambodia: Deportation of Montagnard Refugees to Vietnam," Human Rights Watch press release, May 20, 2001; "Cambodia: Protect Montagnard Refugees Fleeing Vietnam," Human Rights Watch press release, September 25, 2002; *Repression of Montagnards: Conflicts over Land and Religion in Vietnam's Central Highlands* (New York: Human Rights Watch, 2002), pp. 138-143.

to threaten to cease providing temporary asylum to Central Highlanders if a residual population of refugees developed within its territory.⁷⁷ But rather than pressing Cambodia to abide by its obligations under the 1951 Refugee Convention, specifically the prohibition against non-refoulement, UNHCR agreed to a MoU providing for forced returns of refugees who did not want to be resettled abroad.⁷⁸

Under the MoU, refugees who refuse to resettle abroad are to be returned to Vietnam.⁷⁹ 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.⁸⁰ The MoU refers to “safe and orderly” repatriation, but does not require that refugee repatriation be voluntary.⁸¹ The lack of such guarantees may result in the forced return or refoulement of refugees.⁸² This violates the principle of non-refoulement,

⁷⁷ There were various reasons highlanders were refusing resettlement to a third country outside the region. Some were fearful they would never see their spouses and children again. Others said they wanted to wait in Cambodia until the problems in the Central Highlands were resolved, so they could then safely return home at a later date. Others wanted make a political statement—that they fled Vietnam not as economic migrants or in order to resettle abroad, but as victims of persecution.

⁷⁸ Some UNHCR officials have cited Article 32 of the Refugee Convention to support this position. Article 32 relates to national security and public order grounds for expelling refugees lawfully in the territory of the asylum state, and provides for due process, including appeals and reasonable time for such refugees faced with expulsion to seek admission to another country. There is, however, no suggestion that Article 32 trumps Article 33’s prohibition on expelling or returning refugees “in any manner whatsoever” to a place where their lives or freedom would be threatened. Conceivably Montagnard refugees lawfully in Cambodia could be expelled from Cambodia after a proper legal procedure based on necessary and legitimate grounds, but not to a place where their lives or freedom would be threatened.

⁷⁹ This provision arose because of Cambodia’s unwillingness to countenance a residual population of Central Highland refugees in Phnom Penh, despite its obligations as a signatory to the 1951 Refugee Convention. Cambodia took this stance after a number of Central Highlanders who had been recognized as refugees by UNHCR in 2004 refused the option of third-country resettlement, and also chose not to opt for repatriation.

⁸⁰ Refugee Convention, Article 1.C. A leading commentator on the Refugee Convention, James C. Hathaway, writes, “In contrast to [UNHCR’s] emphasis on the pursuit of durable solutions, the Refugee Convention gives priority to allowing refugees to make their own decisions about how best to respond to their predicament.... Rather than propelling refugees toward some means of ending their stay abroad, the Refugee Convention emphasizes instead the right of refugees to take the time they need to decide when and if they wish to pursue a durable solution.” James C. Hathaway, *The Rights of Refugees under International Law*, (New York: Cambridge University Press, 2005), p. 914.

⁸¹ The MOU states: “Those who neither want to resettle in a third country nor to return to Vietnam will have one month following determination of their status to decide either to go to a third country or to come back to Vietnam. If then they do not decide, the Royal Government of Cambodia and the UNHCR will work with the Vietnamese Government to bring them back to Vietnam in an orderly and safe fashion and in conformity with national and international laws.” This contradicts UNHCR’s principles on voluntary repatriation. Global Consultations on International Protection, *Voluntary Repatriation*, EC/GC/02/05, April 25, 2002, para.7

⁸² UNHCR’s Handbook on Voluntary Repatriation states: “the involuntary return of refugees would in practice amount to refoulement....as a general rule, UNHCR should be convinced that the positive pull factors in the country of origin are an overriding element in the decision to return, rather than possible push factors in the country of origin or negative pull factors.” UNHCR, Division of International Protection, Handbook on Voluntary Repatriation, 1996, pp. 10-11.

which is the cornerstone of refugee protection. UNHCR is duty-bound by Article 33 of its own Refugee Convention to oppose the expulsion or return of a refugee to a place where a refugee's life or freedom would be threatened. Yet, under the MoU, 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.

Forced return of Central Highlanders to Vietnam under current conditions runs counter to UNHCR's own guidelines on voluntary repatriation and risks violation of Cambodia's non-refoulement obligations under international refugee and human rights law.⁸³ More worrying still, the MoU makes no promises that the Vietnamese government will not punish or prosecute returnees for practicing their religion or expressing their political opinions. By specifying that the Vietnamese government agrees not to punish or prosecute returnees for their "illegal departure," the MoU remains conspicuously silent regarding the range of other grounds for which the Vietnamese authorities may punish returnees. This is particularly troubling, given the numerous recorded cases of Vietnamese government persecution, abuse, and torture of activists, religious leaders, and individuals who have been deported or who have voluntarily returned from Cambodia.⁸⁴

Finally, the MoU fails to provide 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. The MoU states only that the Vietnamese Government and UNHCR will "consult and cooperate" on visits to the returnees "at an appropriate time."

Many of UNHCR's monitoring visits to the Central Highlands have not been conducted in a way that would allow returnees to speak freely and confidentially. UNHCR's visits with returnees have often been conducted in group settings or in the presence of government officials and both uniformed and plainclothed police,⁸⁵ making it difficult for returnees to speak frankly.

⁸³ That is, Article 3 of the Convention Against Torture and Article 33 of the 1951 Refugee Convention.

⁸⁴ See: Amnesty International, "No sanctuary: The plight of the Montagnard minority," ASA 41/011/2002, December 18, 2002 [online] <http://web.amnesty.org/library/index/ENGASA410052004>, (retrieved May20, 2006). Amnesty International, "Renewed concern for the Montagnard minority," ASA 41/005/2004, April 28, 2004 [online] <http://web.amnesty.org/library/index/ENGASA410052004>, (retrieved May20, 2006). "Vietnam: Torture, Arrests of Montagnard Christians," Human Rights Watch Briefing Paper, January 2005.

⁸⁵ Returnees interviewed by Human Rights Watch stated that people they knew to be police officers were posted in plain clothes near their homes and close to the UNHCR delegation during monitoring trips. While it is not known if UNHCR was aware of the presence of undercover police during the visits, certainly UNHCR would have been aware of the presence of uniformed security officials.

Detention and Interrogation of Returnees

Since the signing of the MoU in January, ninety-six Central Highlanders have repatriated voluntarily. In July 2005, despite protests from the international community, Cambodian authorities forcibly returned ninety-four other Central Highlanders whose asylum claims had been rejected by UNHCR, but who adamantly did not wish to return to Vietnam.⁸⁶

The July 2005 Deportation

The Central Highlanders forcibly returned to Vietnam on July 20, 2005 were not recognized refugees, having had their claims for refugee status rejected by UNHCR. However the forced return was carried out under the auspices of the January 2005 MoU. The agreement provides for the forced return to Vietnam of refugees who refuse third-country resettlement, as well as asylum seekers whose refugee claims have been rejected by UNHCR. But it also provides that UNHCR will work with the governments of Cambodia and Vietnam to “bring back [to Vietnam] in an orderly and safe fashion” and “in conformity with national and international law” those Montagnards who do not agree to either resettle abroad or “voluntarily” return to Vietnam.⁸⁷

Instead, Cambodian police used unwarranted violence during the forced return, which was carried out in the presence of UNHCR personnel.⁸⁸ This was despite the fact that the asylum seekers at no time acted violently toward the police. They merely attempted to passively resist instructions to board the buses by sitting down and linking their arms together. After the asylum seekers ignored an order to board the buses, the police made no attempt at negotiation. Instead they began to slap, hit and use batons to beat the asylum seekers. They dragged people out of the facility by their arms, legs and, in several cases, by their hair, and pushed them on to buses. Police beat at least one woman with a baby strapped to her back, and kicked other asylum seekers as they were seated. They beat individuals with batons and used electric prods to inflict shock, even as people were boarding the buses.

⁸⁶ “Cambodia: Police Brutality during Forced Return of Montagnards,” Human Rights Watch press release, July 25, 2005.

⁸⁷ “Memorandum of Understanding Between the Government of the Socialist Republic of Vietnam, the Royal Government of Cambodia and the United Nations High Commissioner for Refugees on the Settlement of Issues Relating to the Vietnamese Central Highlands Ethnic Minority People in Cambodia,” signed by Le Cong Phung, First Deputy Minister, Vietnam Ministry of Foreign Affairs, Long Visalo, Secretary of State, Cambodia Ministry of Foreign Affairs and International Cooperation; and Erika Feller, Director, UNHCR Department of Intl Protection, January 25, 2005, Hanoi, Vietnam.

⁸⁸ William Shaw and Phann Ana, “Police Forcibly Repatriate 101 Montagnards,” Cambodia Daily, July 21, 2006; “CHRAC Condemns Forced and Violent Repatriation of 100 Montagnards,” Cambodian Human Rights Action Committee press release, July 20, 2005; “Cambodia: 100 Montagnards Forced Back to Vietnam,” Refugees International press release, July 20, 2005; “Cambodia: Police Brutality during Forced Return of Montagnards,” Human Rights Watch press release, July 25, 2005.

One of those forcibly returned to Vietnam on July 20, 2005 was “S,” a sixteen-year-old boy who was sent back with his family. In May 2006, Human Rights Watch received information that S and his older brother had been arrested and detained by Vietnamese authorities. During their two-week in detention, they were questioned about why they had fled to Cambodia in the past and whether they were planning to try to escape again. It is not known whether they were beaten in police custody.⁸⁹ Since their release, police have monitored their house and prohibited them from leaving the village without permission.

S’s family had originally tried to flee to Cambodia in August 2004. S’s father had been detained several times in Vietnam for practicing Christianity and participating in demonstrations. In July 2003 the father was arrested for allegedly helping to guide a group of asylum seekers to Cambodia. He was beaten with an electric shock baton and forced to sign a pledge stating that he would no longer evangelize or participate in political activities.

During the family’s attempt to flee to Cambodia in 2004, S—the youngest son—got separated from his family in the forest and was arrested by Vietnamese authorities. The rest of the family managed to reach the protection of UNHCR in Cambodia.

S, who was fifteen-years-old at the time, was held in detention for several days at a police station near the border, where he was handcuffed, beaten, and interrogated about his father’s activities. He was punched in the face and stomach, and beaten on his shoulders with the butt of a gun. At one point the police held a gun to his head and threatened to kill him. He was then taken to the district office, where he was interrogated for another three days. The police beat and slapped him in the face during questioning and at one point a police officer put the leg of a chair on S’s foot and sat on the chair.

After his release, five soldiers were stationed in S’s home. The police monitored him constantly and did not allow him to leave his village or even his home without notifying the authorities beforehand and checking in with them afterwards.

In June 2005, S was finally able to flee to Cambodia. However he and his family were rejected for asylum by UNHCR, even on appeal. They were forcibly returned to Vietnam on July 20, 2005.

⁸⁹ Information received by Human Rights Watch on June 5, 2006 from a human rights lawyer who interviewed family members of S, currently living abroad. The family members spoke directly by telephone with S’s parents in Vietnam on May 31, 2006. The parents confirmed that their two sons had been detained for two weeks but were afraid to provide any details.

“Double Back” Returnees

In December 2005, Human Rights Watch interviewed three “double back” refugees—Central Highlanders who, on returning from Cambodia to Vietnam, experienced such severe persecution that they fled a second time to Cambodia to seek the protection of UNHCR. The returnees interviewed in December were the first known to have fled a second time to Cambodia after being repatriated to Vietnam under the provisions of the MoU.

Human Rights Watch’s latest interviews—as well as corroborating reports about mistreatment of returnees received since 2003—indicate that at least some returnees to Vietnam suffer detention, mistreatment, and torture upon return.⁹⁰ Human Rights Watch’s principal findings from these latest first-hand testimonies, as well as reports received from Vietnam in April and May 2005, and May 2006,⁹¹ about mistreatment of returnees, are that:

- Immediately upon return to Vietnam some returnees have been detained in dark cells in the provincial prison for three to seven days.
- The returnees have been interrogated every day about why they had left Vietnam and pressured to renounce their religion.
- They have been beaten and tortured during interrogation.
- Upon return to their villages, some have not been allowed to freely leave their villages or even their homes at times, and have been regularly questioned by local authorities about their whereabouts and their activities.
- Some appear to have been forced to appear before the state media making statements of remorse about fleeing to Cambodia.⁹²

⁹⁰ For additional testimonies about mistreatment of returnees, see: “Vietnam: Torture, Arrests of Montagnard Christians,” A Human Rights Watch Briefing Paper, January 2005; “Vietnam: Persecution of Montagnards Continues,” A Human Rights Watch Briefing Paper, May 2005.

⁹¹ In April 2005, Human Rights Watch received disturbing information about eight Central Highlanders who were among thirty-five who voluntarily returned to Vietnam in March 2005 from UNHCR shelters in Phnom Penh, Cambodia. Sources in Ia Grai district reported that after Vietnamese officials received the group of returnees at the border on March 11, 2005, they drove them to Ho Chi Minh City, where they were held for several days. The nine villagers were then handed over to Gia Lai provincial authorities in Pleiku provincial town, where they were held for a week. According to these reports, while in police custody in the provincial police station, at least four of the eight villagers were beaten during interrogation. This included being stabbed in the hand with a writing pen, punched in the thigh, back, and stomach, and slapped across the face. The returnees were then discharged to district police officials and escorted back to their villages by commune police officers. Upon return to their villages they were confined to their homes, at least initially. See: “Vietnam: Persecution of Montagnards Continues,” A Human Rights Watch Briefing Paper, May 2005.

⁹² For example, a highlander who returned to Vietnam on March 31, 2005 was quoted in the Vietnamese state press the next day as saying: “I was deceived into crossing the border into Cambodia where I was forced to stay in a concentration camp, with little food and sleep. The terrible men that mislead us said we would have lots of

The experiences of the returnees interviewed by Human Rights Watch in December 2005 stand in contrast to assurances they say they were given by UNHCR prior to returning to Vietnam. One of the men, whose asylum claim had been rejected by UNHCR, said he returned because “the U.N. told me there were no more problems in Vietnam. The Vietnamese police would not be angry when I returned, and I could practice my religion.”⁹³

P, a Jarai man, a recognized refugee who voluntarily returned to Vietnam in May 2005, told Human Rights Watch that upon return he was detained in a dark cell for three nights at the provincial prison, with his hands tied even when he was given food. He was brought to an upstairs room every day for interrogation. During the first session, he said, the police asked him why he went to Cambodia. “I told them I fled because I was afraid the police would beat me,” he said. “As a response, they punched me in the face with their fists four times.”⁹⁴

During subsequent interrogation sessions he was beaten in the chest, back, groin, and face; kicked in his stomach and shins with army boots; and slapped in the face. Police inserted writing pens between his fingers and then tied his hands tightly with a rope, squeezing his fingers and causing excruciating pain.⁹⁵

“When I was finally allowed to return to my village and see my wife, she was shocked by how swollen and bruised my face was,” he said.

During his time in the village, police were stationed outside his house every night. He was largely confined to his home; his wife tended the farm and brought him food. He was not allowed to gather with others for church.

P was arrested and tortured again in July 2005 after his return to his village. He was detained for five nights in a dark cell and repeatedly pressured to renounce his religion. During interrogation sessions, police forced him to lie down on his back, with his hands

money and a house, but in reality there was nothing.” “More Illegal Migrants Repatriated from Cambodia,” Vietnam News Brief Service, April 1, 2005. In 2004, members of a group of thirteen Bunong who returned to Vietnam from a UNHCR site in Cambodia in October 2004 were quoted in the Vietnamese state press stating that they had been trained by UNHCR staff in the Phnom Penh sites to return to Vietnam as spies. “Vietnam accuses UNHCR of instigating refugees exodus to Cambodia,” Associated Press, December 29, 2004, citing An ninh The gioi (World Security) newspaper and Vietnam News Service, December 29, 2004.

⁹³ Human Rights Watch interview with C, a Jarai returnee from Vietnam, December 2005.

⁹⁴ Human Rights Watch interview with P, a Jarai returnee from Vietnam, December 2005.

⁹⁵ Human Rights Watch has received accounts of this type of torture from other Central Highland returnees, for example refugees from Ea H'leo district, Dak Lak, regarding their detention in 2002.

and feet raised in the air for three hours. If he dropped his hands or feet, he was beaten. He was also hung upside down by his feet for thirty minutes at a time. He was questioned about Dega Christianity, accused of helping people hiding in the forest, and pressured to provide names and locations of religious leaders as well as people in hiding.

Another returnee, “C,” said that he was detained, interrogated, and beaten during seven days’ detention in Pleiku immediately upon return to Vietnam in March 2005.⁹⁶ After he was allowed to return to his village, he was summoned to the commune office many times; on average three times a month. Sometimes he was interrogated and released after a few hours, but on at least two additional occasions he was detained, for two days each time.

In September I was held for two days at the commune police station. I was warned not to gather for religious worship, but not beaten. In October, I was summoned again and held for two days. The police warned me to stop following my religion. They slapped me in the face, and boxed me on my ears until blood came out.

Fearing that the police would follow up on their threat to send him to prison in Hanoi the next time he was summoned, and also anxious because of the arrest of a religious leader in his area, C decided to try to flee to Cambodia again.

They told me if we catch you again you will spend nine or ten years in prison. I was afraid and I ran.

At the end of the interview, when asked whether he had anything else to say, C said:

This is the second time I’ve fled to Cambodia. Whether I live or die depends on the international [organizations]. If they send me back to Vietnam, I’m dead. I ran because I was afraid. They can beat or kill me in Cambodia, send me to prison here, but I won’t go back to Vietnam.

These testimonies, which were brought to the attention of UNHCR in January 2006, 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.

⁹⁶ Human Rights Watch interview with C, a Jarai returnee from Vietnam, December 2005.

Human Rights Watch does not suggest that all returnees have been subjected to such persecution. The fact that we have been able to document a number of credible cases where torture and other severe forms of persecution have occurred, however, is an indication that assurances Vietnam has made in formal agreements not to harm returnees cannot be trusted, and that Vietnamese action still falls well short of respect for the human rights it is obligated to uphold as a signatory to the International Covenant on Civil and Political Rights.

Without a sufficient international monitoring presence and Vietnam's refusal to acknowledge past abuses and these recent cases, there is little reason to believe that things are any different for many returnees.

Mistreatment of Highlanders in Vietnam with Families in the U.S.

Wives of refugees who have resettled abroad—especially those whose husbands are politically active or who have petitioned for them to join them in the U.S.—are treated with suspicion by local authorities. Money sent by husbands to their families in Vietnam is often rejected by local banking services, or police confiscate portions of the remittances as soon as they are collected.⁹⁷

A Jarai man who sent money and a box of clothes and school supplies to his wife said that the police confiscated the entire box.⁹⁸ They interrogated his wife for two days about what the money was for.

They told my wife that next time I send money, she must tell them—they will take half. The police officer tried to force her to sign a form saying that next time she would turn over 50 percent of the money to him.

Some women with husbands in the United States are summoned regularly to the local police station for questioning, as described by a Bahnar woman:

When my husband fled to Cambodia [in 2001], the authorities followed me a lot. They thought I would also try to flee. After my husband went to the U.S. the police asked me many questions: does he send money, how often, how much, and so on. I wanted to buy a hand phone because I live far from the district town but they did not allow me. They were afraid I would help the political movement.⁹⁹

⁹⁷ Human Rights Watch interviews with refugees in the United States who have family members in Vietnam, 2002-2006, as well as with newly-arrived family members from Vietnam joining refugees who resettled to the United States earlier, February-May 2006.

⁹⁸ Human Rights Watch interview with Jarai refugee in the United States who received this information from his wife in Cu Se district the night before his interview on April 18, 2006.

⁹⁹ Human Rights Watch interview on May 13, 2006 with Bahnar woman from Dak Doa district, Gia Lai, who left Vietnam earlier the same month.

An Ede woman from Dak Lak showed Human Rights Watch twelve citations to the commune and district police stations that she had received from 2003 to 2006.

They would ask me about my husband: What does he do in the U.S.? Does he send you money? Do you talk with him on the phone? What do you talk about?¹⁰⁰

In 2003 she was jailed for eleven days at the district police station. She was accused of bringing food to her uncle, who was in hiding, and pressured to reveal his whereabouts.

They were angry, and slapped me on the face and choked me. They asked me if I wanted to die. ... The police made me kneel for three hours on my knees, with my hands up in the air. They placed a Bible in front of me and told me, “Pray to your Bible to help you now.” Then they put me in a cell. My hands and legs were tied. It was difficult to eat. Friends had to help each other eat.

In 2005, her paperwork to join her husband in the United States started to come through.¹⁰¹ When she went to the U.S. Consulate in Ho Chi Minh City to obtain her visa, police and soldiers went to her house to ask where she was.

When I got home, they sent me a warrant for questioning by the village, commune and district police. They asked what I had told the U.S. Consulate. They asked, “Who interviewed you—American or Vietnamese? Did you know the person? What did he look like? What was his name?”

Months later, when all her paperwork was completed for resettlement to the United States, a district policeman called her in one last time.

He said, “Now you are going to the United States. Tell everyone over there—your husband, your aunts and uncles, all your people: don’t do any political work over there. If you do, think about what will happen to your family still in Vietnam—your sister, your brother.”

Within two months of her arrival in the United States, her brother was arrested, beaten, and jailed on accusations of using an Internet phone to relay information to his sister and other family members in the U.S.¹⁰²

¹⁰⁰ Human Rights Watch interview on April 18, 2006 with X, an Ede woman who left Vietnam in the spring of 2006.

¹⁰¹ Since 2001, Central Highland refugees who have resettled to the United States have petitioned for their families in Vietnam to join them under a US Family Reunification Program called “Visa 93.” While the Vietnamese government was initially very slow to authorize passports and other documentation required for

V. Flawed International Monitoring and Protection in the Central Highlands

I feel quite confident, based on what I've seen and heard, that the situation is such that people's needs are being addressed and that their protection concerns are being addressed.

—Erika Feller, UNHCR Assistant High Commissioner for Protection, after a visit to the Central Highlands in April 2006¹⁰³

The Vietnamese government has created the impression of greater openness by allowing UNHCR to have more access to the Central Highlands yet that access continues to be monitored and often takes place in a climate of fear. Moreover, UNHCR's apparent strategy of trying to gain greater access by making laudatory statements about the situation in the Central Highlands undermines its fundamental mandate: to ensure the safety of those who are repatriated and obtain reliable and objective information needed for other potential returnees to make informed decisions about repatriation.

In other attempts to restrict information coming out of the Central Highlands, the Vietnamese government has punished highlanders suspected of reporting rights abuses to international organizations, and has tightly controlled visits by foreign journalists and diplomats.¹⁰⁴

Montagnard family reunification cases that had been approved by the United States, during the last year a number of families—the vast majority from Gia Lai province—have arrived in the United States.

¹⁰² The brother has been placed under house arrest under Administrative Detention Decree 31/CP. This account is similar to the testimony of an Ede woman who arrived in the United States in March as part of the Family Reunification program. Before leaving for the US to join her husband, a police officer threatened her, saying: "When you go to the United States of America you can not say anything bad about the Vietnamese government. If you do, you can not come back to Vietnam because your family members are in our hands and we will use all our power against them." They then made her sign a paper saying that she would not say anything bad about the Vietnamese government after leaving Vietnam. H'Pun Mlo, "Human Rights in Vietnam," Congressional Testimony before the Committee on House International Relations Subcommittee on Africa, Global Human Rights and International Operations, CQ Transcriptions, March 29, 2006.

¹⁰³ UN says Vietnam's Montagnard refugees are welcomed back," Agence France Presse, April 29, 2006.

¹⁰⁴ A Western correspondent who went on a government-organized press tour to the Central Highlands in 2004 said that he estimated that dozens of security personnel were working overtime during the journalists' trip to prevent them from having candid conversations with villagers. During the tour, he said, "provincial officials consistently impeded our ability to report freely and fairly and to speak to people alone, without the presence of numerous official personnel. Scores of local officials were on hand at every village, looming over our interviews and clearly giving villagers instructions to stay away from us." A Bunong man from Dak Nong described a visit to his village in 2005 by diplomats: "In November of last year when the US Embassy went to my village the police put my father in the woods [outside of the village]. He served the church before—when there was one in our village. He knows everything, and the authorities are afraid he will try to speak to the delegation." Email correspondence between western journalist formerly based in Hanoi and Human Rights Watch, July 2004. Human Rights Watch interview with a Bunong refugee in the United States, who received this information from his family in Dak Nong province the night before his interview on April 18, 2006.

Obstacle Course

Y, an Ede woman whose uncle is in prison and husband is in the US said that police attempted to bar a foreign journalist who dropped by her village un-announced from talking to villagers. Immediately after the journalist left the village, she and her brother were summoned to the police station because they had met with the journalist and helped to translate from Ede into Vietnamese.

They yelled at us and hurt my brother. They asked me how the journalist knew my house and address, and how he knew my uncle is in prison. They asked me what the journalist had asked us, and blamed me for him coming to our house. They said, “Do you want to go to jail? Next time, don’t do that. Next time, if a journalist comes, call us to translate. Don’t let a journalist come to your home.”¹⁰⁵

Two days later she and her brother were summoned by the police and forced to stand in front of the entire village and admit their guilt, she said. Her uncle in prison was punished also. “They hit him in the mouth, knocking out some teeth,” she said.

UNHCR Monitoring Missions

UNHCR has conducted twelve monitoring missions to the Central Highlands since March 2005, when Central Highlanders first began to return to Vietnam under the provisions of the 2005 MoU. More than half of the visits have included international staff from UNHCR. Police and government officials, including provincial and district Peoples’ Committee chiefs, have accompanied UNHCR on all the monitoring missions, sitting in on most of the meetings with returnees. According to UNHCR, some of the visits have been heavily monitored by officials, some lightly monitored, and some not monitored at all.¹⁰⁶

UNHCR was unable to conduct private meetings with returnees until its ninth monitoring mission to the Central Highlands in February 2006. During that trip, authorities allowed UNHCR to meet privately with returnees in Dak Lak, but not in Gia Lai, where the majority of the returnees live. Diplomatic personnel from the U.S. and the European Union have also visited returnees, managing to meet privately with some of them.

¹⁰⁵ Human Rights Watch interview on April 18, 2006 with X, an Ede woman who left Vietnam in the spring of 2006.

¹⁰⁶ Human Rights Watch interviews with UNHCR officials in Bangkok and Geneva, February 2006.

Rosy Picture

During the first UNHCR monitoring trip on March 18-21, 2005, UNHCR staff member Vu Anh Son, a Vietnamese national, visited eighteen out of thirty-five returnees who had been repatriated since March. A press release issued by UNHCR described the visit:

Son said all of the returnees he met said they had stopped over in Pleiku, the provincial capital of Gia Lai, for a period of two to five days immediately after their return to Viet Nam. They said they were questioned by the local authorities about the reasons for their departure and were told about the government policies towards minorities and Montagnard returnees. They also underwent certain administrative formalities.

“No one I met amongst the returnees claimed they were beaten or harassed during their stay in Pleiku or upon their return home,” said Son, who visited the returnees in their homes. “They all seemed in good shape.”...

The stories of the Montagnards’ return are all quite similar, Son reported. They mentioned their stay in Pleiku, then the return to their villages and normal life where most are involved in the cultivation of crops such as peppers, manioc, cashews and rice.¹⁰⁷

During UNHCR’s second monitoring mission, conducted from June 22-24, 2005, Vu Anh Son was quoted as saying:

I have met thirty-two out of the forty returnees in these two provinces. They were glad to see me. I noticed that they had stable lives and were being treated the same as other local people. They were neither beaten nor mistreated upon returning to their native villages. Some told me they were given rice, salt and kerosene in aid by the local authorities and that they have benefited from a local poverty reduction programme such as being provided with a cow for raising. All their stories reflected a fact that the local authorities have shown consideration to all people in general and the returnees in particular. Comparing this fact with the

¹⁰⁷ “Montagnard returnees to Viet Nam in good shape, says UNHCR,” UNHCR Press Release, May 24, 2005.

contents of the tripartite MoU for solving issues of Tay Nguyen (Central Highlands) ethnic minority people who illegally cross the border to Cambodia, which also includes voluntary repatriation option, we noted that the Vietnamese Government has been doing [sic] its commitments, which are to welcome back the returnees and facilitate their reintegration. The local authorities in the two provinces that we visited have also been fully observing the agreement reached by the three parties. In our meetings with the returnees, they themselves told us that they had been treated fairly, and had not been subjected to any mistreatment or discrimination after their repatriation.¹⁰⁸

Unfortunately, these comments cannot be taken at face value. It was unfair of UNHCR to put a national staff member in the position of publicly commenting on the situation in his own country. Vietnam remains a one-party state that strongly represses criticism of the government. As a Vietnamese national, if the staff person had said anything negative, he would likely have been subject to some form of retaliation.

International UNHCR staff members were allowed to participate in the fourth monitoring mission, conducted from August 2-4, 2005. UNHCR released a press statement quoting UNHCR Regional Representative Hasim Utkan, the head of the monitoring mission, while he was still in the Central Highlands:

“This was a very encouraging and enlightening visit. It’s a process well worth continuing,” [Utkan] said by telephone from Pleiku in the Vietnamese central highlands.

“The overall impression of the mission was that the visited Montagnards, an ethnic minority in Viet Nam, seemed well, in good physical condition and under no particular threat or duress.”

UNHCR was accompanied by three Vietnamese officials during the interviews, some of which were conducted on a group basis. The interviewees generally appeared relaxed. Some Montagnards were interviewed in a school, others in their villages and another group at a vocational training centre where they were attending a job training course.

...

¹⁰⁸ Vietnam News Agency Bulletin, August 7, 2005.

“We could visit whoever we wanted. We asked the Vietnamese authorities to see specific cases, and this was arranged without problems. We also asked to see a mixture of returnees and deportees, which was also arranged,” said Utkan.¹⁰⁹

In another interview about the same trip, Utkan lauded the local authorities:

...If I had to refer to my most vivid impression, this will be for the excellent work done by the local authorities in Chu Se [Cu Se] district. They have an impressive Chairman and are devoting a lot of attention to the returnees. They have the right approach and they know that it is important that the returnees feel welcome. I was impressed by the determination with which they have been offering jobs to the returnees. They want them to focus on the future and they definitely provide the right incentive for that.¹¹⁰

These are astonishing statements given the long record of abuse against Central Highlanders by local officials, particularly in Cu Se district. (See box on page 20 summarizing ongoing abuses in Cu Se, including forced renunciation ceremonies, beatings, intimidation, and arrests by local authorities).

UNHCR’s Public Information office published a glowing account of Utkan’s second monitoring mission to the Central Highlands, and quoted him commenting on the refugee claims of Montagnards in Cambodia:

“From what I understand after talking to the returnees, many of these people believed that they would get more land if they were to reach UNHCR in Cambodia. This is very sad. There is something ethically wrong in starting these kind of unfounded rumors which place people at risk,” said Utkan. He said he was also told by some Montagnards that they went to Cambodia because they thought they would have a better life. “One returnee told us that when he realized that he had been

¹⁰⁹ “UNHCR mission finds Montagnard returnees and deportees well,” UNHCR Press Release, August 5, 2005.

¹¹⁰ “UNHCR Representative talks about Vietnam’s Central Highlands visit,” Thai News Service (from Vietnam News Service), August 9, 2005. See also: “Monitoring Visit to Montagnards Show Returnees Benefited from Assistance,” UNHCR Press Release, September 5, 2005.

misled, he immediately asked UNHCR to facilitate his return,” he added.¹¹¹

The UNHCR Representative’s characterization of Central Highland asylum seekers as having been “misled” with false promises of land in Cambodia is the same accusation made by the Vietnamese authorities in numerous press articles about Montagnard refugees and asylum seekers. There is little doubt that the Vietnamese government highly welcomes this statement. But such a statement has other repercussions. It is highly prejudicial to the refugee status determination interview process for UNHCR’s Regional Representative to publicly cast doubt on the validity of Montagnard refugee claims, by saying that asylum seekers had been misled. UNHCR officers charged with determining Montagnard refugee claims in Cambodia would likely be influenced by the highest-ranking UNHCR official in the region saying that these asylum seekers had been duped and were motivated to go to Cambodia for economic reasons.

Returnees’ Experiences and UNHCR Responses

In contrast to UNHCR’s assessments of its monitoring missions, highlanders interviewed by Human Rights Watch gave precise accounts of serious threats and intimidation prior to UNHCR monitoring missions to the Central Highlands, and stressed the fear and unease they felt about the heavy presence of government officials, police, and people known to be undercover police accompanying the delegations. Their testimony demonstrates that UNHCR’s superficial contact with them has done little to deter Vietnamese authorities from persecuting highlanders, while reducing returnees’ confidence in UNHCR’s ability to help them.

P, one of the returnees interviewed by Human Rights Watch, said that the day before the UNHCR monitoring mission was set to arrive in his village in June 2005, he was visited by the police in his home:

They went to every house in the village to make sure everybody was afraid [to speak to the U.N.]. The Vietnamese authorities were very worried that somebody would talk to the U.N. People were told

¹¹¹ Jennifer Pagonis, “Monitoring visits to Montagnards show returnees benefit from assistance,” UNHCR news story, September 5, 2005 [online] <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=431c64694&page=news>, (retrieved May 31, 2006.)

beforehand only to say good things, such as “Vietnam is fine, we are allowed to follow Christianity, and there is no mistreatment.”

The day before the U.N. came to the village there were ten secret police carrying wooden and rubber sticks. They hid the sticks when the U.N. arrived and took them out again when the U.N. left. They threatened to beat anybody who said negative things to the U.N. The police guarded the road so nobody could go out.

When the U.N. came to the village, many people, including the village chief, soldiers, and police in civilian clothing surrounded the U.N. staff. I was in my house with my wife. Three policemen in civilian clothing were stationed in front of my house. The U.N. came to my house. They talked to me briefly and took pictures of me and my house. The U.N. team included two people who could speak Vietnamese.¹¹²

P, who had been tortured in police custody since his return to Vietnam, said:

The foreigners asked me why I had returned to Vietnam. I told them I missed my family. The U.N. also asked about any mistreatment but I was too afraid to answer. I told them I had not been hit or threatened. I didn't dare tell them I'd been sent to prison; if I told, they would have beaten me. I was also asked whether I had a farm. I said that the Vietnamese took all my land. The U.N. did not really respond to that; they did not say much. They made some notes and then left. They were only a few minutes in my house.

The Vietnamese state media published the following about UNHCR's visit to P's village:

[The UNHCR Representative] said that this time his delegation had met four returnees.... They all told him that they had been incited by bad elements and vowed they would never illegally leave their homeland again. According to [the UNHCR Representative], the four people and their families are leading a stable life and they all have land for farming,

¹¹² Human Rights Watch interview with P, a Jarai returnee from Vietnam, December 2005.

farming machines like tractors, and expensive home amenities such as motorbikes and television sets.¹¹³

P, whose face was bruised and swollen when he first returned to his village in early June from beatings he received in police detention, is mentioned in the news report:

[The UNHCR Representative] cited the case of P... who returned to the village on June 1 this year in poor health and was immediately taken to hospital for treatment. He has now recovered and his family has also received rice aid from the local authorities during the off-season period.¹¹⁴

Afraid to Speak

Another returnee, C, described the visit to his village by UNHCR in July 2005.¹¹⁵ UNHCR officials did not enter his house; instead the village's ten returnees from Cambodia were called to the commune office to meet the UNHCR delegation. One of the returnees who spoke some English was held in the same building, but upstairs, away from the delegation. "He was not allowed to meet UNHCR because he can understand and speak English a bit," said C.

About twenty people, including the district chief and many plain clothed police, were present during the meeting. In addition, police in civilian clothing guarded the roads, C said, because "they were afraid somebody would talk to the foreigners."

UNHCR Representative Hasim Utkan, who sat in front at a desk, spoke in English but C believed the translation in Vietnamese was not correct.¹¹⁶ It was translated that the foreigner stated that they should not worry and that things were easy here in Vietnam.

The UNHCR representative asked who had been in Cambodia and the ten returnees stood up. UNHCR asked how they were doing (someone replied fine) and took some pictures. After the pictures they could sit down.

¹¹³ "UNHCR checks on repatriated ethnic minorities in Gia Lai," Vietnam News Agency Bulletin, August 5, 2005.

¹¹⁴ Ibid.

¹¹⁵ Human Rights Watch interview with C, a Jarai returnee from Vietnam, December 2005.

¹¹⁶ C recognized Hasim Utkan from photographs shown him during the interview.

The UNHCR representative asked a lot of questions but C could not understand very well; his Vietnamese language comprehension is low.

Beforehand the police had told us not to speak, to be quiet—they would talk to the foreigners. I did not say a word. We wanted to speak. The Vietnamese would not let us speak. Those who knew English were taken away.

It was translated that the foreigners had come to the village to see the situation; they were worried that the returnees had been mistreated. “None of us spoke about problems—we were all too afraid,” said C, who had been detained and beaten at the provincial prison in Pleiku for seven days upon his return to Vietnam in March 2005.

UNHCR: No Signs of Fear

UNHCR remained convinced that all was well. After a monitoring mission from August 22-24, 2005, UNHCR issued a press release quoting Utkan while he was still in Vietnam.¹¹⁷ “It’s very reassuring to see the returnees are treated as victims, not culprits, by the local authorities,” he said. “We also noticed the positive interaction between the returnees and the local authorities,” he said, adding, “There were no signs of fear.” In an interview with the Vietnamese state media before leaving Vietnam, Utkan mentioned a “candid discussion” between returnees and authorities in Krong Pa district, which he highlighted in post-mission briefings with diplomats and nongovernmental organizations as well:

In Krong Pa, I witnessed a very open exchange between a group of three returnees and the Chairman of the People’s Committee. The returnees had already received some assistance, but they wanted more. They were clearly not afraid to ask for more, and this produced a very candid discussion. Another returnee asked the Chairman to assist him to get a new identity card, as he had apparently lost the original. He was reassured that this could be easily done. It was really interesting to watch the interaction between the returnees and the local authorities. There was no sign of tension. Returnees asked practical questions and were keen to go on with their lives.¹¹⁸

¹¹⁷ “Monitoring visits to Montagnards show returnees benefit from assistance,” UNHCR Press Release, September 5, 2005.

¹¹⁸ Ibid.

In April 2006, Erika Feller, the Assistant High Commissioner for Protection, the second highest ranking official in UNHCR and the person who negotiated the MoU, visited the Central Highlands. In a press briefing in Hanoi on April 28, Feller stated:

I feel quite confident, based on what I've seen and heard, that the situation is such that people's needs are being addressed and that their protection concerns are being addressed.¹¹⁹

Feller said that the returnees she spoke with had left Vietnam mostly for economic reasons, although others could have had "broader ambitions to land ownership, practice of religion and a range of things."¹²⁰ She said she hoped that over time, certain issues would be addressed, including "the concerns people have expressed to us about their capacity to practice their religion in the way they want to."¹²¹

As for the MoU, Feller said, "We've put in place a good framework ... to enable people to reintegrate into community and society....I came away with the feeling that the situation is working well."¹²² UNHCR issued a press statement coinciding with Feller's mission saying that the refugee agency "has no serious concerns" about conditions for the 200 Central Highlanders who have returned to Vietnam.¹²³

Human Rights Watch extensively briefed the UNHCR Assistant High Commissioner for Protection on the findings of this report well in advance of her April 2006 mission to Vietnam, and made available to UNHCR the testimonies of returnees who had been forced during previous UNHCR missions to tell UNHCR monitors that all was well.¹²⁴

¹¹⁹ UN says Vietnam's Montagnard refugees are welcomed back," Agence France Presse, April 29, 2006.

¹²⁰ "Vietnam cooperates in sensitive Highlands – U.N.," Reuters, April 28, 2006; "UNHCR urges Vietnam to prevent minority people from leaving home," Xinhua News Agency, April 28, 2006; "UNHCR: Vietnam properly carries out tripartite MoU," Vietnam News Agency, April 29, 2006.

¹²¹ UN says Vietnam's Montagnard refugees are welcomed back," Agence France Presse, April 29, 2006.

¹²² "Resettlement of Montagnards 'Working Well,'" Associated Press, April 28, 2006.

¹²³ "UN Agency has 'No Serious Concerns' Over Montagnard Returnees in Viet Nam," UNHCR, April 28, 2006.

¹²⁴ The perspective of Vietnamese officials towards monitoring of returnees is reflected in an article about a two-day training course organized by UNHCR for provincial officials: "The issue of monitoring returnees generated a lively debate among participants with most frankly admitting they could not understand the reason why UNHCR and other embassies in Viet Nam have been focusing on a small group of people despite the efforts made by the local authorities to improve their living conditions. While they recognised the importance of implementing the Hanoi agreement, which specified that returnees to Viet Nam would not be prosecuted or face discrimination, many participants felt there were too many monitoring visits and did not understand why the international community insisted on visiting controversial cases, on the basis of unfounded allegations. They felt this showed a lack of trust and confidence in the local authorities." "Training Vietnamese provincial officials creates greater understanding of UNHCR's Montagnard monitoring," UNHCR Press Release, May 18, 2006.

Ongoing Rationalizations

UNHCR continues to rationalize its participation in a flawed MoU that provides for forced returns of recognized refugees to their country of origin. UNHCR officials now say that “country of origin” information obtained from their monitoring missions demonstrates considerable improvement in the situation in the Central Highlands.¹²⁵

UNHCR officials have said that they do not consider the cases raised by Human Rights Watch as providing sufficient grounds for UNHCR to change its approach toward Montagnard refugees.¹²⁶ They say that they do not believe there is a consistent pattern of gross human rights violations in Vietnam, nor a consistent pattern of abuses of returnees, but rather some “problematic individual cases.”¹²⁷

Their policy will be to continue to not oppose the forced returns of those found not to be refugees, and to provide repatriation counseling to and facilitate the return of those refugees who do not want resettlement.

¹²⁵ Human Rights Watch interviews with UNHCR officials in Bangkok and Geneva, February and March 2006.

¹²⁶ Ibid.

¹²⁷ Ibid.

VI. Recommendations

The information documented in this report demonstrates that the Vietnamese government continues to persecute Central Highlanders for their religious and political beliefs. Officials continue to force highland Christians to sign pledges renouncing their religion. Hundreds of highlanders are wasting away in Vietnamese prisons. Authorities have detained, beaten, and threatened returnees from UNHCR sites in Cambodia and people who have families in the United States. Some returnees have been coerced into painting a rosy—and false—picture of their situation for UNHCR monitors.

In light of reports of ongoing persecution, mistreatment, and imprisonment of Central Highlanders, including returnees from Cambodia, Human Rights Watch urges the international community to insist that Vietnam respect the basic human rights of its citizens. UNHCR should suspend its involvement in repatriation of highlanders and terminate or re-negotiate its tripartite agreement with Vietnam and Cambodia, and the United States should maintain its designation of Vietnam as a “Country of Particular Concern” for religious persecution.

Specifically, Human Rights Watch recommends the following:

To the Socialist Republic of Vietnam:

Freedom of Religion

- End the restrictions on gatherings of religious groups that are not registered with the government, abolish the practice of forced recantations of faith or pressure to affiliate with officially registered religious organizations, and bring an end to abusive police surveillance and harassment of religious leaders and followers.
- Allow highlanders to belong to or organize independent religious organizations and freely conduct religious activities.
- Invite the U.N. Special Rapporteur on Religious Intolerance, who visited Vietnam in 1998, for a follow-up visit to Vietnam, with unrestricted access to the Central Highlands and prisons throughout Vietnam.

Freedom of Expression, Association, and Assembly

- Amend provisions of Vietnam’s Criminal Code that restrict and criminalize the right to peaceful dissent, particularly the provisions on national security.

- Release all highlanders imprisoned for peaceful expression of their political or religious beliefs.
- Permit the right to hold and express political opinions that run counter to state policy, including peaceful advocacy of autonomy and independence.
- End the bans in some parts of the Central Highlands on gatherings of more than four people.
- Conduct an independent investigation as to whether excessive force was used by Vietnamese police and military (and civilians enlisted to act on their behalf) during the suppression of the April 2004 protests and other reported incidents of torture, arbitrary detention, and forced recantation of faith.

Central Highland Prisoners

- Publish a central, public registry of the names and locations of all Central Highlanders held in pretrial detention, as well as any charges against them, and the names, charges, sentences, and locations of those who have been convicted and sentenced. Release information about the status of persons included in Human Rights Watch's list of 355 Central Highlanders known to be in prison as of May 2006.
- Commit to a timetable for the unconditional release of all persons in the Central Highlands who are being held for the peaceful expression of their political or religious beliefs—including church leaders, land rights activists, and supporters of the highland independence movement.
- Invite the U.N. Working Group on Arbitrary Detention, which visited Vietnam in 1994, to visit Vietnam, with unrestricted access to the Central Highlands and prisons throughout Vietnam.
- Conduct penal, legal, and court proceedings with greater transparency and accountability. Publicly announce trials and charges in advance of trial proceedings, which should be public. Guarantee that any persons charged in connection with the protests in the Central Highlands, the highland political movement, or membership in unregistered churches receive trials in accordance with international fair trial standards set forth in Article 14 of the International Covenant on Civil and Political Rights (ICCPR) to which Vietnam is a party. The trials should be public and open to Vietnamese citizens, international observers, and independent monitors. Those accused should have access to legal counsel of their choosing and the free assistance of an interpreter where necessary, as mandated by both the ICCPR and Vietnam's Constitution.

- End the arbitrary detention of highlanders who have returned from Cambodia to Vietnam either voluntarily or against their will. Release highlanders who have been sentenced to prison after being arrested and deported from Cambodia or the border areas attempting to seek asylum.
- Repeal the 1997 Administrative Detention Directive 31/CP, which authorizes detention without trial for up to two years for individuals deemed to have violated national security laws.

Torture

- Make a public commitment to end the practice of torture. Appoint a special commission to investigate allegations of torture in the Central Highlands and to recommend appropriate prosecutions and discipline.
- Invite the U.N. Special Rapporteur on Torture to visit Vietnam, with unrestricted access to the Central Highlands and prisons throughout Vietnam.

Freedom to Seek Asylum or Emigrate Abroad

- Authorize the re-opening of an internationally-staffed UNHCR office in Hanoi, and the opening of field offices in Pleiku, Buon Mathuot, and Dak Nong, staffed by international and Vietnamese personnel, to improve the possibilities for more orderly repatriation and resettlement.
- Invite the US Embassy to open a consulate in Pleiku or Buon Ma Thuot to facilitate and expedite family reunification applications.
- Release all highlanders imprisoned on charges of “fleeing abroad” or “assisting others to flee to oppose the Peoples’ Administration” under article 91 of Vietnam’s Penal Code after being arrested and deported from Cambodia or border areas attempting to seek asylum.
- Stop threatening returnees prior to and during UNHCR monitoring missions.
- Allow UNHCR and other international monitors free, unfettered, and private access to returnees.

To the UN High Commissioner for Refugees:

- Do 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.

- Oppose the forced return of Montagnards to the Central Highlands as long as religious and political persecution of Central Highlanders continues.
- Insist on free, unfettered, unannounced, and in-depth UNHCR monitoring missions to the Central Highlands before, during, and after any repatriation in order to provide independent information to potential returnees and thoroughly monitor their protection upon return. Continue to push for private and confidential access to Central Highland interviewees in a non-coercive environment.
- Guarantee that any repatriation of Central Highland asylum seekers and refugees is based on fully informed and voluntary decisions. Provide asylum seekers and refugees accurate and complete information about the situation in Vietnam so that they can make informed choices about whether to repatriate. They should be provided full information on their rights, as well as access to relevant, accurate, and unbiased information regarding their options and conditions in their home areas in Vietnam.
- Ensure that Central Highland asylum seekers in Cambodia are provided with independent and unbiased legal advice and counseling regarding the appeal process, repatriation, and resettlement. Ensure that they have the opportunity to make free and informed choices regarding these options and for their choices to be respected and upheld.
- Oppose the forced return of Central Highland refugees who refuse third country resettlement.
- Seek funding for UNHCR to establish field offices in Pleiku, Buon Mathuot and Dak Nong, staffed by international and Vietnamese personnel, to improve the possibilities for more orderly repatriation and resettlement.
- Encourage the Vietnamese government to continue to streamline the procedures for family reunification of Central Highlanders in Vietnam who have received authorization from resettlement countries to join family members who have resettled abroad. Insist that the Vietnamese government not persecute and discriminate against Central Highlanders whose families have petitioned for family reunification.

If the January 2005 Memorandum of Understanding between UNHCR and the governments of Cambodia and Vietnam, which expired in July 2005, is re-negotiated, ensure that the revised MoU and its implementation:

- Fully complies with international law, including the 1951 Convention Relating to the Status of Refugees, its 1967 Protocol, and accepted standards of refugee

protection and guidelines for voluntary repatriation, as reinforced by the UNHCR Executive Committee.

- Strictly adheres to UNHCR guidelines and international law regarding non-refoulement, voluntary repatriation, and effective protection and monitoring of returnees in their countries of origin.
- Includes provisions for independent and unbiased legal advice and counseling to be provided to asylum seekers in Cambodia regarding the appeal process, repatriation, and resettlement.
- Omits references in the current MoU by the Vietnamese government alleging that Central Highland asylum seekers “cross the border without authorization into Cambodia, not because they are oppressed, persecuted or forced to flee.”
- Expands and strengthens safeguards for returnees by guaranteeing that they will not be punished, persecuted, discriminated against, or prosecuted for their religious or political beliefs or for their departure from Vietnam.

To the international community, including intergovernmental organizations:

- Press for revision of the January 2005 tripartite agreement between UNHCR, Vietnam and Cambodia in order that strengthened provisions be included to ensure that (a) refugee decisions on durable solutions are fully informed and voluntary (b) returnees are not punished, discriminated against, or prosecuted for having left Vietnam, or for their religious and political beliefs; nor are they threatened and intimidated prior to visits by international delegations; and c) UNHCR has full and unfettered access to returnees inside Vietnam.
- Encourage the Vietnamese government to continue to streamline the procedures for family reunification of Central Highlanders in Vietnam for those who have received authorization from resettlement countries to join family members who have resettled abroad. Insist that the Vietnamese government not persecute and discriminate against Central Highlanders whose family has petitioned for family reunification.
- Regularly dispatch diplomatic representatives based in Vietnam to travel to the Central Highlands to assess human rights conditions.
- Promote development projects in the Central Highlands that maximize the presence of international actors in the Central Highlands.

To the Royal Government of Cambodia:

- Provide asylum to Central Highland refugees until safe and proper durable solutions become available for them.
- Prevent the involuntary return of any refugee or asylum seeker to Vietnam—including those whose asylum claims may have been initially rejected by UNHCR—until it has been determined that adequate monitoring and protection measures are in place to ensure that returnees can go back voluntarily and in safety and in dignity.
- Honor its obligations under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol not to return refugees to a place where their lives or freedom would be threatened.
- Meet its legal obligations under the Convention Against Torture not to return a person to another state where there are substantial grounds to believe that he or she would be in danger of being subjected to torture.

To the United States Government:

- Continue Vietnam's designation as a "Country of Particular Concern" for its violations of the right to religious freedom until substantial progress is made, specifically by ending the restrictions on gatherings of religious groups that are not registered with the government, abolishing the practice of forced recantations of faith, and bringing to an end abusive police surveillance and harassment of religious leaders and followers.
- Adapt and update for their present circumstances, based on the standards established by the Lautenberg Amendment¹²⁸ and under the Orderly Departure (ODP) and Resettlement Opportunity for Vietnamese Returnees (ROVR) programs,¹²⁹ criteria to establish eligibility for U.S. refugee resettlement for Central Highlanders in Cambodia who have been screened out by UNHCR, who were unable to apply for or complete ODP or ROVR applications and who are in danger of being forcibly returned to Vietnam. Consider such cases without a UNHCR referral.

¹²⁸ Under the Lautenberg Amendment, the U.S. refugee admissions program has given special consideration in requesting refugee status to certain religious minorities in the former Soviet Union who also have close family ties to the U.S. See Pub. L. No. 101-167, § 599D(b)(C), 103 Stat. 1261 (1989). See also "Proposed Refugee Admissions for Fiscal Year 2006: Report to the Congress," submitted on behalf of the President of the United States to the Committees on the Judiciary, United States Senate and United States House of Representatives in fulfillment of the requirements of section 207(e) (1)-(7) of the Immigration and Nationality Act, September 2005. [online] <http://www.state.gov/g/prm/refadm/rls/rpts/52366.htm> (retrieved May 31, 2006).

¹²⁹ See Julia Taft, Assistant Secretary of State, Statement before the Senate Foreign Relations Committee, March 10, 1998 for a description of Montagnard refugee processing under the ROVR and ODP programs. [online] <http://canberra.usembassy.gov/hyper/1998/WF980310/epf206.htm> (retrieved May 31, 2006).

- Continue to fund development projects in the Central Highlands aimed at reintegrating returnees and opening the region to greater engagement by international humanitarian actors whose presence should improve human rights conditions.

Appendix: Listing of Central Highland Prisoners, May 2006

The following listing of highlanders currently imprisoned or detained in Vietnam for peaceful expression of their religious or political beliefs, or for attempting to flee to Cambodia, should not be considered to be exhaustive. Vietnam does not allow access to its prisons by independent monitors, nor does it generally publish the names, locations, and charges against people in detention. This listing is derived from investigations by Human Rights Watch, from official Vietnamese sources as reported in the state media, and from other sources that provided sufficient information to indicate a high probability that the persons have been imprisoned. The charges, when known, are all derived from official Vietnamese state media accounts.¹³⁰

¹³⁰ Errors in listings of prisoners in Vietnam are difficult to avoid because the Vietnamese government does not make public the names of people who have been detained, convicted or sentenced; their places of detention; or the charges against them.

