**COUNCIL OF INDIGENOUS PEOPLES IN TODAY’S VIETNAM**



**NON-COMPLIANCE BY THE GOVERNMENT OF VIET NAM WITH THE PROVISIONS OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR), PREPARED FOR THE MARCH, 2019 REVIEW SESSION OF THE UNITED NATIONS’ HUMAN RIGHTS COMMITTEE , UN HEADQUARTERS, GENEVA, SWITZERLAND**

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1. **OVERVIEW**

During the course of the past year, the government of Viet Nam has submitted three major human rights compliance reports to key agencies of the United Nations, including the Committee Against Torture, the Human Rights Council, and the Human Rights Committee, reporting on their compliance with each of the major international human rights treaties. As many independent international monitoring groups, such as Human Rights Watch and Amnesty International, as well as numerous non-governmental organizations (NGOs), and even several United Nations agencies and officials have made clear, these official reports grossly underestimate and overlook the substantial degree to which the government of Viet Nam systematically engages in major violations of many of the core provisions of the key international human rights treaties, including the International Covenant on Civil and Political Rights that the UN Human Rights Committee is responsible for monitoring, and the provisions of the Convention Against Torture that the Committee Against Torture reviewed in November, 2018.

Amnesty International, for example, condemned an ”intensified …crackdown on dissent” and any form of criticism of the government and its polices, featuring widespread use of “arbitrary detention … unfair trials, and long-term imprisonment,” as well as “restrictions on movement …surveillance,, harassment and violent assaults,” to prevent and punish any activities deemed threatening to the government and its policies. (Amnesty International, Annual Report on Viet Nam, 2017/2018.) Human Rights Watch, in its Submission to the UN Human Rights Council for the Universal Periodic Review of Vietnam in January, 2019, concluded that the government of Viet Nam “continues to restrict basic freedoms of expression, association, assembly, and religion,” and “has shown little interest in improving its human rights record.” It documented “at least 136 people being held in prison, and subjected to prosecution under vaguely worded and loosely interpreted provisions of its penal code” to punish and suppress taking part in peaceful protests, joining or working with groups the government “deems to be a threat,” or “expressing critical views of the government….”

These independent monitoring organizations and non-governmental groups concluded that in direct contradiction to the government’s claims to the contrary, the government of Viet Nam widely engages in torture and other major human rights violations, subjects its citizens to arbitrary arrest and imprisonment and even their right to life, and denies their basic rights to assemble and express their views, on a regular and systemic basis. These policies and actions constitute systemic and substantial violations of the International Covenant on Civil and Political Rights that need to be addressed by the Human Rights Committee at their Viet Nam compliance review session in March of 2019.

Specifically, the government of Viet Nam has purposefully lied to the Committee Against Torture, and to the Human Rights Committee, when it claimed in its compliance reports to those bodies that only a dozen cases of torture took place in Viet Nam during the prior two years, and those instances represented the unintended and unauthorized actions of a few wayward officials. In fact, as the CAT Committee itself observed, torture in violation of the Convention Against Torture and Article 7 of the ICCPR is a widespread, systemic and fully authorized element of the government of Viet Nam’s law enforcement and judicial systems, directly contrary to what the government of Viet Nam would have the Human Rights Committee believe. The substantial discrepancies between the government of Viet Nam’s claims of compliance with the provisions of the ICCPR, and the reality that major and widespread human rights abuses are taking place in Viet Nam, need to be forcefully emphasized to the members of the government of Viet Nam’s delegation when they appear before the Human Rights Committeeo on 11 and 12 of March.

Viet Nam’s indigenous populations, including the Montagnards, Cham and Khmer Krom peoples, bear an especially heavy burden from these highly repressive policies, including the torture violations, since the government views their ethnic and religious identities and community ties to be inherently subversive and antagonistic to the interests of what they perceive to be the needs of an ethnically unified nation state. As a result, members of the native peoples’ communities are subjected to ongoing surveillance and controls, prohibited from exercising even the most basic of their native cultural and community practices, including use of their language and native names, and are frequently arrested and imprisoned under vague provisions of the penal code that criminalize “infringing on the interests of the State” (Article 331) and “disrupting public order” (Article 318), and “disrupting security” (Article 118). They are beaten, tortured, subjected to long-term imprisonment on an arbitrary basis, and even executed in custody. They and their families are subjected to various forms of involuntary birth control measures, including forced sterilization and abortion, to reduce the size of native populations, in direct violation of their basic protections to life under the ICCPR, and their rights as native peoples under the UN Declaration on the Rights of Indigenous Peoples.

These problems are compounded by the fact that the government of Viet Nam has done virtually nothing to help the native peoples understand that they have rights and protections under the Convention Against Torture, the ICCPR, and other universally recognized international instruments that are binding and can be enforced against violations taking place under the authority of government officials. No Vietnamese or native language versions of these human rights documents have been made available or have been distributed in regions and communities with high native populations.

At the compliance review session on Viet Nam of the UN Committee Against Torture that took place just a few months ago on 14 and 15 November of 2018, the concerns that were expressed by the members of the CAT Committee and by the numerous non-governmental groups that participated in the CAT session, including our own indigenous rights organizations, were significant enough to cause the Committee to formally request the government of Viet Nam to authorize an official invitation to key members of the CAT Committee to conduct an on-site investigatory mission to Viet Nam. A formal invitation by the government of Viet Nam to this effect was in fact made by the government’s head of delegation on November 15, as part of the concluding remarks by Le Quy Vuong, Deputy Minister of Public Security of Viet Nam. (See, OHCHR News Release, “Committee Against Torture Considers the Initial Report of Viet Nam,” p 10, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNewsID=23895&:LangID=E> , 15 November 2018, and paragraph 46, Concluding Observations on the Initial Report of Viet Nam by the CAT Committee, CAT/C/VNM/CO/1. )

The Committee Against Torture’s report on its human rights compliance review session on Viet Nam in November of 2018 provides the most comprehensive and up-to-date listing that is available of the types of issues and concerns that the Human Rights Committee must address in its March session on the status of the government of Viet Nam’s compliance with the provisions of the International Covenant on Civil and Political Rights. Although the ICCPR covers a broader range of human rights requirements than those set out in the Convention Against Torture, which focuses on torture related standards, the CAT Committee’s November 2018 review and report provides a highly useful and well-documented starting point describing some of the key areas of concern under the ICCPR that the Human Rights Committee should consider. Among the major issues dealt with in the CAT Committee compliance review hearing were the following:

1. “Torture, police brutality and deaths in custody remained prevalent” in Viet Nam, and were systemic to the judicial, law enforcement and prison detention systems. (Id., para. 2)

1. While the right to not be tortured is stated in the Constitution and laws of Viet Nam, the available statutory protections are not adequate to prohibit, prevent, and properly punish specific violations of the broad language prohibiting acts of torture. (Id., page one, para. 3, and page 3, remarks of Jens Modvig, Chair of the CAT Committee and Country Co-Rapporteur for Viet Nam)
2. The number of cases of torture reported by the government of Viet Nam to the CAT Committee (“10 cases of torture-related offences … from 2010 to 2015”) grossly under-reported the true number of instances of torture, and the widespread nature of “torture, police brutality and deaths in custody” cases that were reliably reported to the CAT Committee from independent sources. The government of Viet Nam’s delegation denied the CAT Committee’s claim that “torture was prevalent,” but the Committee insisted that the number of reports of torture cases they had received suggested that the government was not telling the truth about the number and systemic nature of torture claims. (Id., at page 3, and page 9)
3. Refugees seeking to flee Viet Nam and gain asylum in other nations were improperly “refouled” back to Viet Nam as a result of pressures made by Vietnamese government officials on other foreign states to secure their improper return. It should be noted that these refugee refoulement violations were a particularly significant problem for indigenous peoples seeking asylum. Six hundred ninety-eight specific cases of improper and forced refoulement of refugees to Viet Nam were cited. (Id., at page 4)
4. “A variety of reports by national and international nongovernmental organizations,” including Human Rights Watch, indicated that arbitrary detentions of political prisoners and prisoners of conscience, with “incommunicado detention … for periods of one month to up to two years,” were commonplace, with arbitrary and secret detentions taking place on a frequent and systemic basis. (Id., page 5)
5. Independent human rights groups were considered and treated “as enemies of the Government,” and members and leaders were regularly and systematically “arrested … for being against the system,” and enemies of the State under vaguely worded national security laws. This included, very prominently, members and leaders of indigenous groups and communities, whose very existence was considered antithetical to the interests of a unified State. (Id., page 5)
6. Grave human rights abuses committed by government officials “were treated lightly by the authorities,” and either ignored, covered up, or given “light punishments.” (Id., page 5)
7. Violent force was commonly used “to disperse demonstrations …, ban … protesting” and otherwise prevent and punish the free expression of views and criticism of the government and its policies, and other forms of free assembly. Minority groups, including the indigenous communities, were especially targeted. (Id., page 6)
8. The Special Rapporteur on Cultural Rights “specifically pointed out the mistreatment of ethnic minorities” and members of the indigenous communities, citing in particular the practice of “land grabs” and other methods of forced displacement and relocation that has disrupted the lives and work ability of many native peoples. He also cited the practice of extensive use of “surveillance … and [use of] excessive force … by the police” to discourage the free association and free speech rights of members of minority groups. (Id., at page 10)

**II. ISSUES OF SPECIAL CONCERN TO VIET NAM’S INDIGENOUS PEOPLES UNDER THE ICCPR**

As the above findings and observations of the CAT Committee demonstrate, their November, 2018 compliance review session on Viet Nam did a very effective job of highlighting and explaining some of key abuses that the indigenous peoples of Viet Nam are subjected to in violation of the international standards set out not only in the Convention Against Torture, but in the ICCPR as well. The Human Rights Committee needs to give special consideration to how many of the specific provisions of the ICCPR are being consistently and systemically violated by the government of Viet Nam, particularly with respect to its treatment of its indigenous communities. Set out below is an Article by Article review of the abuses taking place in Viet Nam that are in direct violation of the provisions of the ICCPR, with a particular focus on the impacts these violations are having on Viet Nam’s indigenous people and communities:

**A.** **The Rights of Self-Determination and Non-Discrimination (Articles 1 and 2, and Articles 26 and 27 of the ICCPR, and the Guarantees to Freedom of Association and Peaceful Assembly in Articles 21 and 22 of the ICCPR).**

The Human Rights Committee’s review of Viet Nam’s compliance under the ICCPR must start with a consideration of the first two lead-off articles of the Covenant (Articles 1 and 2), and how their provisions are ignored in the way the government of Viet Nam treats its native peoples, and denies them many of the core protections set out in the self-determination and non-discrimination provisions of the ICCPR.

The rights of indigenous peoples and communities in Viet Nam to self-determination and non-discrimination are being violated on an ongoing, systematic and highly extensive basis, through a variety of measures treating them as second class citizens, denying them basic protections under the law, preventing them from exercising basic rights of free association and free expression of their views, and suppressing their ability to maintain and exercise core elements of their cultural and ethnic identities. These policies and practices violate the provisions of the ICCPR as indicated in the heading of this section.

Members of the indigenous communities are prohibited from practicing their native and cultural activities, and even from using their native languages and names, and practicing their own religions, in direct violation of Article 27 of the ICCPR, guaranteeing to ethnic minorities the right to enjoy and exercise their own cultural identities, and to use their own language.

One example of the problems that native peoples have experienced in trying to maintain the use of their own native languages is the treatment that a well-known Khmer Krom Buddist monk received when he attempted to open a school to teach the Khmer language to the members of his temple. He was arrested, thrown into prison and beaten in custody to force him to close the school.

Native peoples are denied the right to come together for native events and observances, and to assemble and associate for any reasons associated with the exercise of their views and their cultural practices, in violation of Article 27, as well as the specific provisions of Articles 21 and 22, guaranteeing freedom of association and assembly. Members, and especially leaders of the native communities, are regularly placed under extensive and unusual surveillance, and are frequently subjected to arbitrary arrest and imprisonment . Many of them are tortured, disappeared and even killed in custody, simply because of their desire to exercise their native community identities and ties in association with others in their community.

The government of Viet Nam has compounded these problems, and has sought to further punish the members of the native communities, by making it difficult for them to receive delivery of international humanitarian assistance aimed at meeting some of the basic needs that are created by their forced dislocation and their expulsion from their native lands and farms pursuant to government policies. Since 1975, the government has placed severe restrictions on the flow of international assistance to the areas of the Central Highlands where many of the indigenous peoples live. The Central Highlands provinces of Daklak, Kontum, Gialai and Llamdong have been particularly hard hit by these policies aimed at punishing native communities. Actions have been taken by the government’s People’s Aid Coordinating Committee (PACCOM) to close off the delivery of desperately needed food and supplies to native peoples who lost the farm lands that they needed to survive as a result of government supported dislocation and land grabbing policies aimed at native communities and lands.

First and foremost, native peoples in Viet Nam are singled out for especially harsh and discriminatory treatment simply because their membership in a cultural and ethnic minority group is considered, by definition, to constitute a violation of the government of Viet Nam’s belief that any type of divided loyalty constitutes a threat to the government and to national security, because it poses a potential challenge to the hegemony and control of the communist government’s regime. Since historic and long-standing cultural and community ties are especially strong, any effort by native peoples to support their cultural identities is viewed as potentially dangerous to the state, and a threat to the nation’s identity, is forcefully suppressed and punished.

This is the reason why the government of Viet Nam, while it voted in the General Assembly of the United Nations for adoption of the UN Declaration on the Rights of Indigenous Peoples, has steadfastly refused to recognize that native peoples and communities live within its borders. Instead, the government chooses to treat its native peoples as simply “ethnic minorities,” and still has not taken any steps to recognize and acknowledge that its Montagnard, Cham and Khmer Krom peoples, as well as other native communities, constitute indigenous peoples that are subject to the special status and protections of the UN’s Indigenous Peoples Declaration.

The first step that the government of Viet Nam must take to come into compliance with the requirements of the UN Declaration on the Rights of Indigenous Peoples, and Articles One and Two of the ICCPR protecting self-determination rights of native peoples, and assuring nondiscrimination based on race, ethnicity and cultural and religious preferences and associations, would be to accept and grant especially protected legal status to its native peoples, and to end the discriminatory treatment that considers and treats them as subversive elements of society simply because of their ethnic and cultural history and ties. If being a member of a native community were no longer considered and treated, by definition, as a crime and a threat to national security, that would be a first step towards ending the practices of criminal surveillance, arbitrary arrests, torture and abuse in detention, and so many other violations of the ICCPR that flow from the designation of native peoples as criminals and threats to national security, by the very nature of their existence.

The Human Rights Committee, in its compliance review session on Viet Nam needs to closely question the members of the Vietnamese government’s delegation about all aspects of the policies and practices that treat the members of the indigenous communities on a discriminatory basis, with an emphasis on the policies that deny them equal rights to educational and employment opportunities, prevent them from freely exercising their religious beliefs, restrict their freedom of movement, force them out of their native lands through land seizures, and intrude on basic elements of their family and community lives.

**B. The Inherent Right to Life, and the Prohibition Against Genocide (Article 6 of the ICCPR).** The guarantees of Article 6 of protection of the right to life, and prohibiting genocide as the worst and most extreme violation of the right to life, have special meaning and significance for the indigenous peoples of Viet Nam. Over the years the government of Viet Nam has undertaken a variety of repressive policies and practices against its native peoples that constitute major violations of the protections of Article 6. Direct campaigns of murder and mass executions have been conducted against the Montagnard people and others who are considered to have challenged the unity of the state, and the power of the Communist government. In the case of the Montagnards, they were treated as enemies of the state because of their support for the French, South Viet Nam and United States military forces during the Viet Nam armed conflicts during the 1940s through 70s. At the end of these wars, instead of being treated as prisoners of war, or as allies of a defeated enemy, they were arrested and killed on a mass basis. Hundreds of thousands of members of the Montagnard community were executed on an arbitrary and unlawful basis pursuant to this policy. Many of their native villages were destroyed, and the residents were subjected to forced displacement. Their farms and lands were unlawfully appropriated and given to Vietnamese citizens, without any semblance of due process, and without any compensation being provided. Many members of the native community died simply because their means to earn a living and/or to obtain food from their farms was taken from them by the government.

Large numbers of other native communities were subjected to similar, if more subtle forms of population control aimed at limiting their births and the size of their communities. Various measures of involuntary birth control, such as forced abortion and sterilization, were imposed on native women against their will, often without their knowledge and meaningful consent.

The widespread use of these policies must be considered to constitute genocide in violation both of Article 6(3) of the ICCPR, and the terms of the Genocide Convention, since they were designed, and had the direct effect, of killing a substantial number of native peoples, because of their ethnic identities and ties. On 9 May 2016, the Council of Indigenous Peoples in Today’s Viet Nam submitted an “Urgent Petition to the United Nations Security Council” explaining in detail why the policies and practices of the government of Viet Nam in repressing its native peoples should be considered genocide, and violations of the Genocide Convention. The Petition pointed out that “over the course of a number of decades, the government of Viet Nam has engaged in an ongoing and increasingly violent and pernicious campaign of harsh repression amounting to genocide and crimes against humanity against its indigenous peoples …” that seek the destruction of native peoples and their communities “in whole or in part,” in violation of the specific terms of the Genocide Convention and Articles 6 and 7of the Treaty of Rome (the legal basis for the International Criminal Court). The Petition cites policies and practices of the government of Viet Nam, including its forced abortion and involuntary sterilization policies directed in a significant way against members of the indigenous communities, and also including the systemic application of torture, arbitrary arrest, long-term imprisonment, and attacks and physical assaults, disappearances and executions in custody, as evidence of a widespread and systemic policy aimed in whole or in part at the destruction and suppression of Viet Nam’s native peoples. These policies and practices violate Article 6 of the ICCPR in addition to the Genocide Convention.

**C. The Infliction of Arbitrary Arrest, Imprisonment andTorture Against Members and Leaders of the Indigenous Communities (Articles 7 and 9 of the ICCPR).**  As the Committee Against Torture demonstrated and documented most recently in its 14 and 15 November, 2018 hearings on compliance by the government of Viet Nam under the Convention Against Torture, the evidence is overwhelming that Viet Nam (despite its assurances to the contrary, including its compliance report submissions to the CAT Committee and to the Human Rights Committee) has been engaging in widespreadand systemic policies of torture and arbitrary arrest and imprisonment, directed to a substantial degree against its native peoples.

For example, in its concluding observations on the Viet Nam compliance review issued on 15 November, the CAT Committee listed, among the principal subjects of concern that it identified, the fact that government officials, with the “consent or acquiescence” of the government, are “committing acts of torture” on a much more widespread basis than the government’s compliance report under CAT would suggest. (CAT Committee, Concluding Observations on the Initial Report of Viet Nam Under the ICCPR, CAT/C/VNM/CO/1, page 2.) The CAT Committee also suggested that these major torture violations were not being properly or effectively prosecuted, allowing the perpetrators to escape punishment, and to act with impunity. (Id. at page 3) The CAT Committee suggested that the “widespread use of torture” as an instrument of official government policy and practice be ended, that “the principal of command or superior responsibility” be more effectively applied to hold government authorities fully accountable, and that significantly more prosecutions of torture abuses take place. (Id. at pages 4 and 5)

These findings are amply supported by similar findings and documentation provided by a number of the leading and most authoritative international human rights monitoring groups, including Amnesty International and Human Rights Watch.  These groups’ most recent country reports on Viet Nam demonstrate conclusively the widespread and systematic nature of the torture and arbitrary arrest and imprisonment practices carried out by Viet Nam, and provide a number of well-documented case studies that exemplify the extensive and substantial nature of these abuses.

The extensive and substantial nature of the torture and arbitrary arrest and imprisonment violations currently being committed by the government of Viet Nam caused the Committee Against Torture, at their November, 2018 review session with government of Viet Nam officials, to specifically request that the government issue a formal invitation to the CAT Committee to conduct an on-site monitoring mission to Viet Nam to examine these issues in greater detail. This request was granted, and the head of the Viet Nam government’s delegation, Le Quy Vuong, on the final day of the review session, issued a formal invitation to the CAT Committee to visit Viet Nam and conduct an on-site monitoring mission. We urge the Human Rights Committee, as part of their review session with Viet Nam in March, to request that members of the Human Rights Committee be included in the UN on-site monitoring delegation, with the specific purpose of monitoring how Viet Nam’s torture and arbitrary arrest and detention policies adversely affect the native populations in that country, in violation of the Articles 7 and 9 of the ICCPR.

**D. Mistreatment and Refoulement of Refugees, in Violation of Articles 12 and 13 of the ICCPR.** The freedom of movement protections of Article 12, and the rights to leave a country and to be protected from expulsion as aliens under Article 13, are violated in the way that members of the native communities and others seeking to claim asylum and leave Viet Nam for neighboring nations are denied these rights, and are forcibly made to return to Viet Nam despite the protections against refoulement that are firmly entrenched in the Refugee Convention, and widely recognized in international law. Hundreds of Montagnards and other native peoples seeking asylum in Thailand and other neighboring nations have been forced to return, and are treated as criminals for claiming persecution by Vietnamese authorities, and for seeking refuge elsewhere.

The Montagnards and other native peoples have been forced into exile and to seek refugee status by the policies and practices of the government of Viet Nam that seek to punish them for fighting against the Communists during the Indo-China wars. They have been targeted by the government for arrests and executions, with many of their communities and ancestral lands purposefully expropriated by the government through a series of arbitrary and unlawful forced resettlement projects.

To make matters worse for these refugees, “Vietnam imposes criminal penalties on dissenters returned” to Vietnam after seeking asylum abroad, under Article 91 of the Vietnamese Criminal Code, which provides 3 to 12 years in prison for those who ‘flee abroad or defect … overseas with a view to opposing’” the government. (Protect Montagnards Refugees, Human Rights Watch, September 12, 2017.)

The history of the persecution of the Montagnards, forcing them to flee Vietnam to seek asylum, is “long and well-documented,” based on their support for “the French and Americans … during the war years between 1946 and 1975” and their adoption of Christianity. Since the Communists assumed power, these native peoples have faced extensive “political persecution, forced repudiations of their faith,” the closing of their places of worship, and “constant monitoring and surveillance by Vietnam police soldiers and officials,” who accuse them of having “authonomous thoughts” contrary to the government’s interests. They have been subjected to torture, “arbitrary arrest and mistreatment in custody,” and otherwise subjected to abuse and genocide on a mass scale. (Human Rights Watch, Id. at page 3.)

Human Rights Watch and other international monitoring groups have documented numerous specific cases of Montagnards and other native peoples who have been arrested, imprisoned and tortured on their forced return to Viet Nam, in direct violation of the torture prohibitions and refugee protections of the Convention Against Torture and the ICCPR.

Hundreds of these refugees, many of whom were granted refugee status by the Office of the UN High Commissioner for Refugees, fled persecution by the government of Viet Nam, only to be forced back to Viet Nam by the efforts of the Vietnamese government, to face additional torture and persecution on their return.

**E. Equality and Equal Treatment Before the Law, Under Articles 14 and 26 of the ICCPR.**  The protections of equality before the law (Article 26), and equal treatment under the law (Article 14), are especially applicable to the way that the indigenous peoples of Viet Nam are given second class status, and are denied basic rights and protections that are afforded to others. In addition to not being permitted to exercise their native customs, use their native names and languages, and practice their native religions, members of the indigenous communities are not treated equally with respect to access to education and to jobs.

To give just a few examples of this problem, members of the native communities, regardless of their skills and capabilities, are denied the right to apply for and receive Fulbright Scholarships and other educational opportunities abroad. The few indigenous students that are allowed to travel abroad typically must be able to demonstrate strong ties to the Communist Party of Vietnam, or are required to engage in intelligence gathering activities as the price for being granted educational benefits.

The problem is not limited to those seeking educational opportunities abroad. Within Vietnam itself severe restrictions are imposed on native peoples seeking enrollment in schools, particularly at the higher levels, and applying for jobs, including those in the public service. The percentage of native peoples allowed to obtain higher education, and to hold public jobs and higher level employment positions, including in the teaching profession, is just a tiny fraction of the national averages for the population as a whole, and is indicative of the second class status that indigenous peoples are afforded by official and unofficial government policy and practice.

**F. Interference With Privacy, Family and Home, in Violation of Article 17 of the ICCPR.**

The problem of forced abortions and sterilization (noted above) is only one critical element of the substantial number of violations of the Article 17 prohibitions against interference with family and privacy rights that the government of Viet Nam engages in on a regular and widespread basis. The prohibitions against using native names and languages also negatively impacts the ability of the family and the native community to remain intact.

Another aspect of the Article 17 violations concerns the long-standing policy of denying Montagnard and other native peoples the right to travel freely, both within and outside of Viet Nam, for purposes of family unification or to maintain the integrity of the family as a group. The family members of individuals who have sought asylum in other countries have been particularly disadvantaged and discriminated against, no doubt to further punish those who have chosen to speak out against the government, or to demonstrate their distaste of government policies by seeking refuge elsewhere.

The extensive use of land grabbing, forced dislocation and arbitrary arrest practices, directed against native peoples and their communities as part of the government’s policy of removing indigenous peoples from their lands, and restricting their activities and the size of their communities, helps to explain why so many Montagnards and other native peoples have been forced to flee Viet Nam and seek asylum in neighboring countries.

**G. Denial of Freedom of Thought, Conscience and Religion Under Article 18 of the ICCPR, and the Rights to Freedom of Expression, Association and Assembly Under Articles 19, 21 and 22 of the ICCPR.**

Many of the major human rights abuses amounting to serious violations of the ICCPR, as described above, involve infringements of the rights to thought, conscience and religion under Article 18, and the rights to freedom of expression, association and assembly under Articles 19, 21 and 22. Members of the native communities are prohibited from practicing their native religious beliefs in the same way that their use of their native names and languages has been circumscribed. Individuals and families found to have exercised their rights to practice and observe their native beliefs are closely monitored, and are harshly interrogated and jailed when they engage in native practices and customs. Those who seek to meet with others in the native community to protest, or even to discuss these problems, are arrested and frequently physically assaulted while in custody, in direct violation of Articles 19, 21 and 22.

In their extremely well-documented report presented to the UN Committee Against Torture in November, 2018, a coalition of groups dealing with freedom of expression and freedom of association violations in Viet Nam, including Boat People SOS, Defend the Defenders, the Independent Journalists’ Association of Vietnam and the Former Vietnamese Prisoners of Conscience, provided detailed information on very recent actions by the government in harshly repressing peaceful demonstrations that took place in June of 1018, when those seeking to exercise their free speech and free association rights were cruelly beaten, arrested and subjected to various forms of arbitrary intimidation and punishment by government security forces. In their report, “Vietnam’s Persecution Against Protesters During June 2018 Mass Demonstrations,” jointly submitted to the Committee Against Torture, dated October, 2018, the groups cited and documented over 200 arrests in Binh Thuan Province, and 310 arrests in Ho Chi Minh City (formerly Saigon), with many of those arrested reportedly beaten and tortured while in custody. In addition, those suspected of having participated in planning or carrying out demonstrations were subjected to intimidation and harassment by authorities on an ongoing basis for several months following the protests, with many imprisoned for long sentences on such vaguely worded charges as ”disrupting public order.” (Ibid.)

The freedom of religion protections of Article 18 of the ICCPR have particular significance for the indigenous communities, since they follow their own religious practices, and belong to religions, including Christianity, that are not officially recognized or authorized by the Communist government. As a result, they frequently are persecuted for their religious beliefs and practices. On November 18, 2016, Vietnam adopted its first law on religion. Critics argue that the law limits religious freedom by increasing state control over religious practices, and by criminalizing independent religious groups. (See, “Montagnards: Escaping Vietnam,” Aljazeera News Network, 24 March 2017, www.aljazeera.com/indepth/features/2017 ) These restrictions have a particularly negative impact on native peoples, and the religions they practice that are not officially recognized by the government. A 2015 Human Rights Watch report stated that the Montagnards and other native peoples in the Central Highlands of Viet Nam have been especially targeted by “a series of crackdowns … [by] Vietnamese authorities as part of a systematic, high-level policy meant to rid the country of so-called ‘evil-way’ religions practiced by” native peoples in that region. According to the Human Rights Watch report, peaceful protests by native religious practitioners resulted in highly repressive responses from authorities. Practitioners were forbidden to attend religious observances, and police arrested hundreds of practitioners, subjected them to torture to extract confessions, and closed their places of worship. (Described and quoted by Aljazeera article, Id. at page 5.)

1. **CONCLUSIONS AND RECOMMENDED ACTIONS**

As the United Nations’ Committee Against Torture previously concluded just three months ago as a result of its November, 2018 review of compliance by the government of Viet Nam under the Convention Against Torture, and as is similarly obvious in the government of Viet Nam’s report on compliance under the ICCPR currently under review by the Human Rights Committee, the claims being made by government officials that torture and other major human rights abuses are minor and insignificant in Viet Nam, and those violations that do occur are the result of the aberrant and unauthorized actions of just a few wayward officials, are blatantly false and inaccurate, if not intentionally misleading. The CAT Committee was so clear and forceful in its questioning of the accuracy and truthfulness of the government of Viet Nam’s claims of compliance, that in its concluding observations it felt compelled to formally request an on-site monitoring visit to Viet Nam to further investigate the seriousness of the torture abuses that were taking place in that country on a widespread and systematic basis. That request for an on-site monitoring review was granted by the government of Viet Nam’s delegation on the final day of the CAT review session, and presumably will take place later this year.

Problems associated with widespread and systematic violations of the provisions of the ICCPR are similarly widespread in scope, and systemic in nature. These ICCPR abuses have been found to exist and have been substantially documented by Human Rights Watch, Amnesty International and many other highly credible international human rights monitoring organizations, along the lines reviewed above in this report, following the specific Articles of the ICCPR that are being violated on a regular basis by the officially authorized actions of the government of Viet Nam.

In addition, as noted, the indigenous peoples of Viet Nam bear a substantial part of the burden of these systemic human rights abuses, since their observance and loyalty to their native cultures and religions, as well as simply their ties to their ethnic origins and communities, are taken by the government, by definition, as constituting essential threats to the existence and unity of the Viet Nam Socialist Republic. As a result, the government has harshly repressed and penalized its native peoples and indigenous communities for doing nothing more than associating with others in their communities to peacefully observe their native cultures, and to exercise their free speech and free association rights under the ICCPR. The government’s highly repressive policies and actions directly violate many of the principal provisions of the ICCPR, as itemized and described in this report.

Given the substantial and systemic violations of the ICCPR by the government of Viet Nam, it is urgently recommended that the Human Rights Committee follow the lead of the Committee Against Torture, by not accepting the assurances of compliance by the government’s officials at face value, and by calling for very detailed and specific information on each of the major abuses that have been amply described and documented by the international community, and in this report. Members of the delegation of the government of Viet Nam must be pressed to provide more detailed explanations as to why their claims of compliance with the provisions of the ICCPR are not at all consistent with the clear showings of systemic and widespread violations that the Committee Against Torture and other international monitors have found to exist.

Moreover, the job of the Human Rights Committee in its 125th session in reviewing the compliance report of the government of Viet Nam under the ICCPR cannot be properly and effectively carried out unless the Committee seeks active participation in the on-site monitoring mission that the Committee Against Torture has been invited to conduct. We urge the Human Rights Committee to follow the CAT Committee’s lead by formally requesting that it be invited to participate in the upcoming on-site review, so that it can deal on a more effective basis with not only the torture related issues that is the focus of the CAT Committee’s interest, but also the much wider range of major human rights abuses that are covered by the provisions of the ICCPR that the Human Rights Committee is responsible for evaluating and monitoring. This includes, as noted in this report, the self-determination, right to life, and discriminatory treatment violations experienced on a widespread basis by Viet Nam’s native peoples and communities, as well as the arbitrary arrest and imprisonment, torture, and free expression and association violations that also are covered under specific provisions of the ICCPR.