

# **SOCIALIST REPUBLIC OF VIET NAM/ KINGDOM OF CAMBODIA**

## **No sanctuary: The plight of the Montagnard minority**

### **Background**

In February 2001, thousands of people from indigenous minorities, collectively known as Montagnards, held protests in the Vietnamese Central Highlands focusing on a number of grievances, including anger at government confiscation of their ancestral forest homelands, an influx of lowland Vietnamese settlers taking their agricultural land, lack of freedom of worship for the many who are members of unauthorised evangelical Protestant churches, and denial of basic rights including education in native languages. Some protestors were also calling for independence for the Central Highlands region. The authorities quickly closed off the area and prevented journalists and diplomats from travelling to the provinces to assess the situation. The Vietnamese authorities accused US-based opposition groups of fomenting the unrest.

During this period there were dozens of arrests and reports of torture and ill treatment in the Central Highlands in a harsh crackdown against those involved in the protests. In the weeks and months following the unrest, at least 1500 Montagnards crossed the border to Cambodia, seeking asylum. Those fleeing Vietnam were initially housed in the north eastern provinces of Ratanakiri and Mondulakiri in two camps administered by the United Nations High Commissioner for Refugees (UNHCR) which were established in May 2001.

In July 2001, talks between the Vietnamese and Cambodian governments and UNHCR for the voluntary repatriation of the asylum-seekers foundered when the Vietnamese authorities refused to grant UNHCR unfettered access to the Central Highlands to facilitate safe return.

A tripartite agreement on the voluntary repatriation for Montagnards in the two camps was eventually signed between Viet Nam, Cambodia and UNHCR in January 2002. However, one month later, the governments of Cambodia and Viet Nam agreed to repatriate Montagnard asylum seekers in a process that fell short of usual UNHCR facilitated repatriation practices and procedures.

Despite the tripartite agreement, access to the Central Highlands by UNHCR staff to monitor the situation of returning asylum-seekers was suspended by the Vietnamese authorities after only one visit in February 2002.

In March 2002, the Cambodian authorities gave permission to a 400-strong delegation of Vietnamese officials and relatives of the asylum-seekers to visit the Mondulakiri site. Cambodian police allowed officials to go from hut to hut seeking out individual asylum-

seekers many of whom had taken refuge inside. Threats were also made towards UNHCR staff in the camp. As a result of this intimidation, UNHCR withdrew from the tripartite agreement the following day.

The United Nations High Commissioner for Refugees, in a letter to the Foreign Ministers of Viet Nam and Cambodia stated that :

*“Mindful that UNHCR cannot be part of a process that no longer conforms to its mandate or principles governing voluntary repatriation, I regret to inform you that UNHCR is left with no choice but to disassociate itself from the repatriation agreement. I do not believe that the overall situation is conducive for repatriation in line with international standards and all returns should therefore be suspended”*<sup>1</sup>

On 31 March 2002, Prime Minister Hun Sen announced that the two sites would be closed and newcomers would no longer be accepted. The United States of America agreed to resettle over 900 Montagnard asylum-seekers who remained in Cambodia at that time. The US has been the only country to accept Montagnards for resettlement since the first asylum-seekers crossed from Viet Nam in 2001.

Montagnard asylum-seekers have continued to flee Viet Nam to neighbouring Cambodia and there have been numerous reports of the forcible repatriation or *refoulement* of most of these new arrivals. Since the collapse of the tripartite agreement, UNHCR has been denied access to border areas in north east Cambodia where there have been credible reports of Montagnards hiding in malaria-ridden forests that straddle the border. Many hundreds are reported to have been forcibly deported.<sup>2</sup>

According to many accounts, Cambodia is permitting Vietnamese military/police to cross the border and ‘hunt-down’ Montagnards hiding on the Cambodian side. Those detained by Cambodian authorities in the border areas are handed over to the Vietnamese. Allegations have been made that ‘bounties’ have been paid by the Vietnamese authorities for those handed over.<sup>3</sup> Reports of asylum seekers fleeing to Cambodia and facing similar problems continue to be received.

## Present situation

Recent reports suggest that targeted repression continues in the Vietnamese Central Highlands region aimed at those accused of organizing the 2001 events, those alleged to have links with

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<sup>1</sup> UNHCR press release dated 22 March 2002

<sup>2</sup> There have been consistent and alarming reports regarding the protection of refugees and asylum-seekers in Cambodia in the last year. Amnesty International has issued several *Urgent Actions* on Vietnamese and Chinese asylum-seekers who are feared to have been forcibly returned to their countries of origin. See ASA 23/01/2001, ASA 23/002/2002, ASA 23/007/2002.

<sup>3</sup> Refugees moved after bounty report, *South China Morning Post*, 13 May 2001

expatriate Montagnard groups advocating independence and influential figures in the growing unofficial Protestant church.

The Vietnamese news agency reported in October 2002 that more than 600 “fast-deployment teams” from the armed forces had be set up in the Central Highlands ready “to help locals whenever they receive calls for help from them.”<sup>4</sup>

The few groups of diplomats or journalists who have had access to the affected area of the Central Highlands have been closely monitored and supervised. Very little verifiable information on the situation in the Central Highlands is coming out of Viet Nam. There are however, official press reports of trials of those alleged to have been involved in the 2001 unrest. Amnesty International has compiled an initial list of eight trials involving 35 Montagnards reported in the official press since late last year (see Appendix 1).

### **Religious repression**

While there is now a greater degree of religious freedom in Viet Nam than there was a decade ago, restrictions remain. The Vietnamese government still insists on control over religious institutions. Those that refuse to comply with this demand face persecution. All religious organizations have to be affiliated to the Communist Party-run Fatherland Front. Government permission is still required for: holding training seminars, meditation sessions, and general meetings; for major repairs or construction of places of worship; charitable activities; operation of religious schools’ ordinations and promotions of clergy and any international activities of religious communities. Those people who are linked to religious groups that are not part of the state-sanctioned churches are frequently harassed, arrested and imprisoned. Even state-approved churches face many problems, notably a lack of clergy, due to the severe restrictions placed on the training and ordination of individuals to the priesthood in the various religions. Relations between Ha Noi and The Vatican, which have long been difficult, have improved in recent years. Most recently, in an unprecedented departure, The Vatican and the Vietnamese authorities have agreed on the ordination of several bishops.<sup>5</sup>

The reported recent huge increase in the number of Protestant converts among Viet Nam’s ethnic minorities has clearly caused concern to the authorities. According to Vietnamese government statistics the numbers of Protestants (“*evangelists*”) in Dak Lak Province (one of the provinces comprising the Central Highlands) has increased from almost 12,000 in 1975 to nearly 100,000 in 1999.<sup>6</sup> In particular, the activities of the non-State sanctioned Dega Protestant Church of Vietnam have been criticized in a vitriolic recent attack in the Vietnamese army newspaper, *Quan Doi Nhan Dan*. The article accused the Dega Protestant Church in Vietnam as “*being not merely a religious organization as it does not*

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<sup>4</sup> Vietnam forces successfully maintain political stability in Central Highlands, VNA news agency web site, Hanoi, in English 21 October 2002.

<sup>5</sup> Vatican and Hanoi sign accord over new bishops, *AFP*, 26 November 2002.

<sup>6</sup> *Statistics on evangelism in some mountainous provinces (1975 – 2000)*, compiled by the Vietnamese Government Committee for Religious Affairs ([http://www.cpv.org.vn/hotnews/reigious/11\\_statistics.htm](http://www.cpv.org.vn/hotnews/reigious/11_statistics.htm))

*care for the spiritual life of believers but is a political organization, disguised as religion to take advantage of people's beliefs to achieve its political plot. Its aim is to sabotage unity among ethnic groups in the Central Highlands and sow division within the Protestant Church in the Country. It also serves as a bridge for hostile forces to cause political instability in Vietnam, and in the Central Highlands in particular.”<sup>7</sup>*

Given this language it seems likely that the Vietnamese authorities are using several of the many religious decrees to justify their actions. For example, Article 5 of Decree NO.69/HDBT prohibits: “any activity using religion to sabotage national independence, oppose the State, sabotage the policy of uniting the whole people, undermine the healthy culture of our nation or prevent the faithful from carrying out their civic duties.” There are numerous loosely worded and ‘catch-all’ provisions in these decrees which, according to the United Nations (UN) Special Rapporteur on Religious Intolerance are “vague and imprecise and therefore liable to permit interference by the authorities, by granting them excessive discretionary powers, in religious matters, including arrest, detention and imprisonment for religious activities that are in full conformity with international law.”<sup>8</sup>

Concerns over the Vietnamese Government’s recent treatment of Protestants among the ethnic minority communities are not new. The 1999 report of the UN Special Rapporteur on Religious Intolerance on Viet Nam states:

*“The situation with regard to the Protestant denominations of ethnic minorities seems to be even more disturbing, as, in addition to the measures applied to the EBUV [Unified Buddhist Church of Viet Nam] and the unofficial Khmer Krom, Cao Dai and Hoa Hao organizations, there have been cases of destruction of places or workshop and ill-treatment aimed at forcing these minorities to give up their newly adopted faith. The authorities are, it seems, dropping their attitude of de facto recognition and laissez-faire and gradually prohibiting those minorities which are experiencing a large number of conversions from exercising any religious activity and hence any manifestation of freedom of religion. What is more, in their opposition to these minorities’ newly adopted faith, the authorities appear to be interfering with the deepest feelings of the faithful. Such interference may definitely be regarded as a violation of freedom of religion as such.”<sup>9</sup>*

The vehemence of these public attacks would tend to lend credence to numerous recent reports from the Central Highlands in the last few months of the forced closure of unauthorized churches and the arrest of pastors, especially from Evangelist Protestant denominations, people obliged to sign documents indicating that they would give up their religion and ceasing their evangelising activities. Whilst Amnesty International is unable to

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<sup>7</sup> Vietnamese army paper criticizes “hostile forces” using religion to cause unrest, *BBC* news story, 26 November 2002

<sup>8</sup> Report of the UN Special Rapporteur on Religious Intolerance: Visit to Viet Nam, C/CN.4/1999/58/Add.2, para 107(d)(i)

<sup>9</sup> *Ibid*, para. 119

categorically confirm these reports, it has been informed, however, that the officially recognized Roman Catholic Conference of Bishops, in a reportedly unprecedented step, wrote an open letter to the Vietnamese National Assembly, in October 2002, to express their grave concerns regarding violations of civil rights of Montagnard Catholics and also Catholics in Son La province in the north of the country.<sup>10</sup> Further credible reports have indicated that the President of the recently sanctioned Evangelical Church of Viet Nam (South) has also written a letter to leading Government figures and departments complaining about recent anti-religious activities. That normally very conservative official umbrella religious organizations would take these unheralded and risky steps would appear to further reinforce concerns over the current wave of religious persecution in Viet Nam.

In July 2002, Viet Nam faced a periodic consideration of its implementation of the International Covenant on Civil and Political Rights (ICCPR) by the UN Human Rights Committee. In its 2002 Concluding Observations, the Committee, whilst noting that Viet Nam denied violating the rights of the Montagnard minorities as enshrined in the Covenant, went on to add that it was concerned about the abundance of information suggesting serious violations of articles 27<sup>11</sup> and 18<sup>12</sup> of the Covenant:

*“The Committee notes that the information provided by the delegation was insufficient for the Committee to have a clear view of the situation in Vietnam with regard to religious freedoms. In the light of information available to the Committee that certain religious practices are repressed or strongly discouraged in Vietnam, the Committee is seriously concerned that the State party’s practice in this respect does not meet the requirements of article 18 of the Covenant. The Committee is deeply concerned by allegations of harassment and detention of religious leaders and regrets that the delegation failed to provide information relating to such allegations. In this context, the Committee is concerned at the*

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<sup>10</sup> *Eglises d’Asie* No. 362

<sup>11</sup> ICCPR Article 27 states that: *In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy culture, to profess and practise their own religion, or to use their own language.*

<sup>12</sup> ICCPR Article 18 states: *1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice. 3. Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.*

*restriction placed on outside observers who wished to investigate the allegations.*<sup>13</sup>

### **Torture and ill-treatment in detention**

Amnesty International is concerned by the conditions of detainees in many prisons and prison camps and particularly in police stations throughout Viet Nam. The prolonged use of solitary confinement in some detention facilities has been reported. The organization has received reports of some political prisoners being held in very small cells with no proper sanitary facilities or of prisoners being held in very overcrowded rooms. Prisoners held in “re-education” or prison camps often have to carry out daily manual labour with only severe ill health excusing prisoners from this work. The allowance of family visits in some cases appears to be arbitrary and health care and diet is frequently far from adequate.

Reports of torture and ill-treatment of those arrested in the Central Highlands since the events of 2001 continue to emerge.<sup>14</sup> Again, Amnesty International is unable to verify individual claims of ill-treatment and torture in detention, but a pattern of credible reports suggest that the treatment of those arrested, particularly by the police, is in violation of both Vietnamese law and obligations under international human rights treaties signed by Viet Nam. These concerns are clearly shared by the UN’s Human Rights Committee which reported, in its concluding observations that it “*remains concerned at the abundance of information regarding the treatment of the Degar (Montagnard) indicating serious violations of article 7.....of the Covenant.*”<sup>15</sup>

#### **ICCPR Article 7:**

*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.*

### **Trials in Viet Nam**

According to Vietnamese official news agency reports, 35 Montagnard men have already been tried and given prison sentences ranging from three to 12 years. No outside observers were allowed to be present at these trials and details of the charges have not been made available. In only one case was the legislation under which the defendants were being tried publicly specified.<sup>16</sup> In most cases these trials appear to have lasted a day or less. Amnesty International has had grave concerns for many years about the independence and impartiality

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<sup>13</sup> Concluding observations of the UN Human Rights Committee; Viet Nam 26/07/2002 CCPR/CO/75/VNM para 16.

<sup>14</sup> *Repression of Montagnards – Conflicts over Land and Religion in Vietnam’s Central Highlands*, Human Rights Watch, April 2002, pages 166 -169.

<sup>15</sup> Concluding observations of the UN Human Rights Committee; Viet Nam 26/07/2002 CCPR/CO/75/VNM para 9.

<sup>16</sup> In the appendix table, Amnesty International has suggested legislation which may have been used to try defendants based on the allegations that appeared in the official press.

of the Vietnamese judicial system. Some of these concerns were also raised by the recent UN Human Rights Committee report: “*The Committee is concerned that the judicial system remains weak due to the scarce number of qualified professionally trained lawyers, lack of resources for the judiciary and their susceptibility to political pressure.*”<sup>17</sup> Amnesty International believes that trials in Viet Nam are routinely unfair, especially trials of such a high level of sensitivity. Whilst there are legal provisions for the role of defenders and the presumption of innocence, however these provisions appear not to be observed in practice, particularly for people detained for their alleged political activities. Despite legal reforms, little change has been witnessed in the conduct of political trials which continue to fall far short of international standards. Often held *in camera*, defendants frequently do not have the right to present a proper defence, to call and question witnesses or to choose a lawyer. Defence lawyers are often assigned to prisoners just before a trial begins, thus denying them adequate time to prepare their case. In addition, defence lawyers are often not permitted to do more in the court than plead for clemency on behalf of their client. The authorities still use measures such as prolonged detention or house-arrest without trial to silence political dissent.

Amnesty International is particularly concerned that some of those tried were charged with “*organising illegal migrations*”. During the meetings in July 2002 as part of the UN Human Rights Committee’s consideration of Viet Nam, the Vietnamese delegation stated: “*The returnees had been welcomed **without any punishment or discrimination** and provided with material assistance and health care to help in their resettlement.*”<sup>18</sup> (See details in the detainee list attached as an appendix to this report).

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<sup>17</sup> Concluding observations of the UN Human Rights Committee ; Viet Nam. 26/07/2002 CCPR/CO/75/VNM para 9.

<sup>18</sup> Summary record of the 2020<sup>th</sup> meeting : Viet Nam. 17/07/2002. CCPR/C/SR.2020. (Summary Record).

## **Recommendations for the Government of Viet Nam**

- Amnesty International calls on the government of Viet Nam to issue clear and unambiguous orders that human rights violations against the Montagnard minority will not be tolerated and to ensure that violations of the rights of the Montagnard asylum-seekers in Cambodia by agents of the Vietnamese State cease immediately.
- The activities of Vietnamese security forces, including both military and police, in the Central Highlands should be open to monitoring by international humanitarian organizations and international non-governmental human rights organizations.
- Any forces engaged in abuses should be immediately suspended from duty, pending investigation. Those against whom there is a case should be brought to justice.
- Amnesty International urges the Vietnamese authorities to ensure prompt, effective, independent and impartial investigations into reports of torture and ill-treatment of the Montagnard civilian population especially those in detention and that those responsible should be brought to Justice.
- Police and military dispatched to the Central Highlands should receive training in basic human rights standards, including and especially the protection of the human rights of detainees.
- Amnesty International urges the Vietnamese government to urgently address the underlying serious human rights problems including issues surrounding the preservation of indigenous culture of the Montagnard minority in the Central Highlands These issues include:
  - the right to the peaceful expression of their political beliefs
  - the right to practice the religion of their choice. This includes the right to freedom of belief and right to assemble as enshrined in Articles 69 and 70 of the 1992 Constitution, but also the right to freedom of worship, as laid down in international law, in particular the ICCPR to which Viet Nam is a state party.
- Based on the available evidence Amnesty International regards the men listed in appendix as possible prisoners of conscience. The organization calls on the Vietnamese authorities to make public information on the charges against them. If they are not held for recognisably criminal offences the organization urges their immediate and unconditional release.
- Amnesty International urges that unfettered access to the Central Highlands should be made available to UNHCR, diplomats and the international press corps. Viet Nam should extend an invitation to the UN Special Rapporteur on the situation of the human rights and fundamental freedoms of indigenous people, the UN Working

Group on Arbitrary Detention, and the UN Special Rapporteur on Torture, to make visits and assess the situation, and make recommendations accordingly.

- Amnesty International calls upon Viet Nam to permit humanitarian agencies access to work across the Central Highlands.
- Amnesty International urges the Vietnamese authorities to permit human rights monitors and other non-governmental organizations access to the Central Highlands in line with the concluding observations of the UN Human Rights Committee.<sup>19</sup>
- Amnesty International urges that independent observers be allowed to attend trials of those linked with the uprising in 2001 and its aftermath.
- Amnesty International believes that people should not be prosecuted for having fled the country or having helped others to do so. Charges should only be brought for those accused of recognizably criminal offences.
- Amnesty International urges the Vietnamese government or its agents to refrain from engaging in any way with the Cambodian government or its agents in a manner which results, directly or indirectly, in the forcible repatriation from Cambodia of Montagnard asylum-seekers.

## **Recommendations for the Government of Cambodia**

- Amnesty International calls on the Government of Cambodia to respect the right to seek asylum and offer protection to asylum-seekers in accordance with Cambodia's obligation under the 1951 UN Refugee Convention and its 1967 Protocol, to which Cambodia is a state party.
- Amnesty International calls on the Government of Cambodia to respect the principle of *non-refoulement*, which is binding on all states as international customary law and which interdicts states from returning individuals to a country where they will face serious human rights violations.
- Amnesty International urges that Cambodia permits unfettered access to UNHCR and humanitarian agencies to assist asylum-seekers throughout Mondulkiri and Ratanakiri Provinces.
- Amnesty International calls on the Cambodian authorities not to prosecute or harass those who have attempted to assist asylum-seekers from Viet Nam, regardless of nationality.

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<sup>19</sup> *Ibid*

## Recommendations to the United Nations High Commissioner for Refugees (UNHCR)

- Amnesty International urges UNHCR to seek the assistance of the international community at the highest levels to remind both Viet Nam and Cambodia of their responsibilities to uphold basic standards of human rights in addressing the causes that might lead to the further flight of Montagnards, and in ensuring the protection of Montagnard asylum-seekers in Cambodia.
- Amnesty International calls on UNHCR to urgently re-establish a presence in Mondulkiri and Ratanakiri provinces, in order to ensure protection, at least provisionally, for newly arrived asylum seekers whether in camps or local settlements.
- Amnesty International calls on UNHCR to ensure that any returns are conducted in safety and dignity and that decisions to repatriate are not taken under conditions of duress or solely because alternative solutions are not offered.
- Amnesty International calls on UNHCR to monitor and report on the treatment of persons prosecuted or harassed in any way for assisting asylum seekers in Cambodia.

## Recommendations for the international community

- Amnesty International requests the international community to use all available avenues to encourage the Vietnamese government to grant access to outside observers to the Central Highlands in accordance with the above recommendations.
- Amnesty International requests the international community to use every available opportunity to remind the government of Viet Nam of its obligations to safeguard and uphold the fundamental human rights of all of its citizens as guaranteed under international law.
- Amnesty International requests the international community to use all available avenues to encourage the Cambodian government to abide by its obligations as enshrined in the UN Refugee Convention and the principle under international law of *non-refoulement* which interdicts any state from returning individuals to a country where they will face serious human rights violations.
- Amnesty International urges the international community to offer to assist Cambodia fulfil its responsibilities under the UN Refugee Convention bearing in mind the political sensitivities that confront Cambodia by offering protection to asylum-seekers from Viet Nam.

## APPENDIX 1

### Initial list of Montagnard prisoners who have already been tried and sentenced

This initial list has been compiled from information published in the official Vietnamese press reported by international wire services. It is not comprehensive and cannot be regarded as a representative sample of cases. Many arrests linked to political or religious beliefs are never reported in the official media. Hundreds more people have been reported detained or missing but their whereabouts have yet to be confirmed by official sources. Amnesty International has suggested legislation which may have been used to try defendants based on the allegations that appeared in the official press. This legislation is provided in Appendix 2.

	NAME/AGE/ ETHNICITY	RESIDENCE	DATE OF ARREST	TRIAL DETAILS	SENTENCE	CHARGES
1	<b>Bom Jana</b> [m], 45, Bahnar ethnic group	Dak Doa District, Gia Lai Province	February 2001	Tried by the People's Court of Gia Lai Province on 26 September 2001	12 years' imprisonment plus five year's probation, possibly under Article 87 (Undermining the unity policy) or Article 89 (Disrupting security) of the Viet Nam Penal Code	Accused of being the leader of "civil unrest" in February 2001 in Pleiku town, Gia Lai province. Allegations include organizing illegal activities for "attempting to break national unity", for attempting to establish an independent state and inciting social disorder and instability. <sup>1</sup>

	<b>NAME/AGE/ ETHNICITY</b>	<b>RESIDENCE</b>	<b>DATE OF ARREST</b>	<b>TRIAL DETAILS</b>	<b>SENTENCE</b>	<b>CHARGES</b>
2	<b>Ksor Kroih</b> [m], 39	Dak Doa District, Gia Lai Province	February 2001	As above	11 years' imprisonment plus five years' probation	Accused of being a leading "accomplice" of Bom Jana, above, in the "civil unrest" in February 2001 in Pleiku town, Gia Lai Province.
3	<b>Ksor Poi</b> [m], 41	Dak Doa District, Gia Lai Province	February 2001	As above	10 years' imprisonment plus five years' probation	As above
4	<b>Siu Yiu</b> [m]	Cu Prong District, Gia Lai Province	Not known	As above	Between six and eight years' imprisonment plus three years' probation	Accused of being an accomplice of Bom Jana, above, in the "civil unrest" in February 2001 in Pleiku town, Gia Lai Province. <sup>2</sup>
5	<b>Siu Boch</b> [m]	Cu Se District, Gia Lai Province	Not known	As above	Between six and eight years' imprisonment plus three years' probation	As above
6	<b>Siu Tinh</b> [m]	As above	February 2001	As above	Between six and eight years' imprisonment plus three years' probation	As above

	<b>NAME/AGE/ ETHNICITY</b>	<b>RESIDENCE</b>	<b>DATE OF ARREST</b>	<b>TRIAL DETAILS</b>	<b>SENTENCE</b>	<b>CHARGES</b>
7	<b>Siu Un</b> [m]	H'leo District, Dak Lak Province	February 2001	As above	Between six and eight years' imprisonment plus three years' probation	As above
8	<b>Y Nuen Bya</b> [m]	Ea Sup District, Dak Lak Province	February 2001	Tried by the People's Court of Dak Lak Province on 26 September 2001	Eleven years' imprisonment under Article 89 ( Disrupting security) and Article 220 (Breaching regulations on maintenance, repair and/or management traffic works) of the Viet Nam Penal Code, as specified in official media report	Charged with "destabilizing security" during civil unrest which took place in Buon Ma Thuot City and other locations in Dak Lak Province in February 2001. Allegations included the setting up of an independent state and intention to establish a "breakaway" Protestant church. <sup>3</sup>
9	<b>Y Rin Kpa</b> [m]	Ea H'Leo District, Dak Lak Province	Not known	As above	Ten years' imprisonment under Articles 89 and 220 of the Viet Nam Penal Code	As above

	<b>NAME/AGE/ ETHNICITY</b>	<b>RESIDENCE</b>	<b>DATE OF ARREST</b>	<b>TRIAL DETAILS</b>	<b>SENTENCE</b>	<b>CHARGES</b>
10	<b>Y Nok Molo</b> [m]	Krong Buk District, Dak Lak Province	February 2001	As above	Eight years' imprisonment under Articles 89 and 220 of the Viet Nam Penal Code	As above
11	<b>Nay D'ruk</b> alias <b>Y Drut</b> <b>Nie</b> [m]	Ea H'Leo District, Dak Lak Province	Not known	As above	Seven years' imprisonment under Articles 89 and 220 of the Viet Nam Penal Code	As above
12	<b>Y Phen Ksor</b> [m]	Ea H'Leo District, Dak Lak Province	Not known	As above	Seven years' imprisonment under Articles 89 and 220 of the Viet Nam Penal Code	As above
13	<b>Y B'Hiet Nie</b> <b>Kdam</b> [m]	Krong Buk District, Dak Lak Province	Not known	As above	Six years' imprisonment under Articles 89 and 220 of the Viet Nam Penal Code	As above

	<b>NAME/AGE/ ETHNICITY</b>	<b>RESIDENCE</b>	<b>DATE OF ARREST</b>	<b>TRIAL DETAILS</b>	<b>SENTENCE</b>	<b>CHARGES</b>
14	<b>Y Tum Mlo</b> [m]	Krong Hnang District, Dak Lak Province	February 2001	As above	Eight years' and four months imprisonment under Articles 89 and 220 of the Viet Nam Penal Code	Charged with "destabilizing security" and the "illegal possession of military weapons" during civil unrest which took place in Buon Ma Thuot City and other locations in Dak Lak Province in February 2001. Allegations included the setting up of an independent state and intention to establish a "breakaway" Protestant church.
15 to 20	<b>Six men</b> – names unknown	Not known	Not known	Tried by courts in Ea H'Leo, Ea Sup and Krong Pach districts of Dak Lak Province on 18 October 2001	Between three years' suspended and five years' imprisonment, possibly under Article 88 (Conducting propaganda against the Socialist Republic of Viet Nam) of the Viet Nam Penal Code	Charged with "distributing propaganda and inciting the local ethnic minority people to cause social unrest in Buon Ma Thuot City, Dak Lak Province in February 2001. <sup>4</sup>

	<b>NAME/AGE/ ETHNICITY</b>	<b>RESIDENCE</b>	<b>DATE OF ARREST</b>	<b>TRIAL DETAILS</b>	<b>SENTENCE</b>	<b>CHARGES</b>
21	<b>Siu Un</b> [m]	Ayun Pa District, Gia Lai Province	Not known	Tried by Ayun Pa District Court, Gia Lai Province in October 2001	Eight years' imprisonment, possibly under Article 89 (Disrupting security)	Charged with detaining and beating the deputy police chief and his nephew for several hours because they had tried to prevent villagers joining the mass protests in Pleiku town, Gia Lai province in early February. <sup>5</sup>
22	<b>Y Nglu</b> [m]	As above	Not known	As above	Seven years' imprisonment	As above
23	<b>Siu Seo</b> [m]	As above	Not known	As above	Five years' imprisonment	As above
24	<b>Siu Tel</b> [m]	As above	Not known	As above	Five years' imprisonment	As above
25	<b>Ro Mah Djoan</b> [m]	As above	Not known	As above	Five years' imprisonment	As above

	<b>NAME/AGE/ ETHNICITY</b>	<b>RESIDENCE</b>	<b>DATE OF ARREST</b>	<b>TRIAL DETAILS</b>	<b>SENTENCE</b>	<b>CHARGES</b>
26	<b>Siu Beng</b> [m], 38, Jarai ethnic group	Chu Se District, Gia Lai Province	Arrested in Cambodia in April 2001 and deported to Viet Nam	Tried by Chu Se District People’s Court on 25 January 2002	Six and a half years’ imprisonment, possibly under Article 91 (Fleeing abroad or defecting to stay overseas with a view to opposing the people’s administration) of the Viet Nam Penal Code	Charged with “organizing illegal migrations” of Montagnards to Cambodia. <sup>6</sup>
27	<b>Siu Be</b> [m], 44, Jarai ethnic group	As above	As above	As above	Three and a half years’ imprisonment	As above
28	<b>H’Naoch alias Hnoch</b> [m], 43, Bahnar ethnic group	Chu Se District, Gia Lai Province	Arrested in Cambodia in May 2001 and deported to Viet Nam	As above	Five and a half years’ imprisonment	As above
29	<b>K’Pa Hling alias Kpas Kling</b> [m], Jarai ethnic group	As above	As above	As above	Five and a half years’ imprisonment	As above

	<b>NAME/AGE/ ETHNICITY</b>	<b>RESIDENCE</b>	<b>DATE OF ARREST</b>	<b>TRIAL DETAILS</b>	<b>SENTENCE</b>	<b>CHARGES</b>
30	<b>Rlan Loa</b> [m], 38, Jarai ethnic group	Krong Pa District, Gia Lai Province	Arrested in Cambodia on 28 January 2002 and forcibly returned to Viet Nam	Tried by Gia Lai Provincial People’s Court on 1 August 2002	Nine years’ imprisonment plus five years’ probation, possibly under Article 91 (Fleeing abroad or defecting to stay overseas with a view to opposing the people’s administration) of the Viet Nam Penal Code.	Charged with “illegally leaving Viet Nam to work against the people’s authorities”. He was accused of inciting anti-government protests among Protestant Christians with the aid of US-based Montagnard group. <sup>7</sup>
31	<b>Y Tim E Ban</b> alias <b>A Ma</b> <b>Chinh</b> [m], Ede ethnic group	Buon Ma Thuot, Dak Lak Province	24 December 2001	Tried by Dak Lak Provincial People’s Court on 22 October 2002	Eight years’ imprisonment plus two years’ probation, possibly under Article 91 (Fleeing abroad or defecting to stay overseas with a view to opposing the people’s administration) of the Viet Nam Penal Code.	Charged with “inciting local people to flee the country” and “compromising national security on the night of December 24, 2001 and sabotaging the popular regime” by organizing an escape of people into Cambodia. <sup>8</sup>

	<b>NAME/AGE/ ETHNICITY</b>	<b>RESIDENCE</b>	<b>DATE OF ARREST</b>	<b>TRIAL DETAILS</b>	<b>SENTENCE</b>	<b>CHARGES</b>
32	<b>Y Coi B Krong</b> alias <b>A Ma Hnal</b> , [m], Ede ethnic group	Buon Ma Thuot, Dak Lak Province	As above	As above	Eight years' imprisonment plus two years' probation	As above
33	<b>Y Tho Mas E</b> <b>Ya</b> alias <b>A Ma</b> <b>Wel</b> [m], Ede ethnic group	Dak Mil District, Dak Lak Province	As above	As above	Eight years' imprisonment plus two years' probation	As above
34	<b>Ksor Dar</b> [m], 47, Jarai ethnic group	Not known	Not known	Tried by a court in Gia Lai Province on 15 November 2002	Three years' imprisonment, possibly under Article 91 (Fleeing abroad or defecting to stay overseas with a view to opposing the people's administration) of the Viet Nam Penal Code.	Accused of helping others across the border into Cambodia. <sup>9</sup>
35	<b>Rah Lan Phyui</b> [m], 29, Jarai ethnic group	Not known	Not known	As above	Two years' imprisonment	As above

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<sup>1</sup> Viet Nam: Central Highland civil unrest leader sentenced to 12 years in jail, BBC translation of a Vietnamese language *Voice of Viet Nam* text website article on 27 September 2001

<sup>2</sup> Names of the accomplices are taken from a *Reuters* article: Viet Nam jails more separatists for highland unrest, dated 28 September 2001

<sup>3</sup> Stiff jail terms mandated for saboteurs of public security, *Viet Nam News* dated 27 September 2001

<sup>4</sup> Viet Nam: Dak Lak court concludes trial of six ethnic minority dissidents, BBC translation of *Voice of Viet Nam* text website on 18 October 2001

<sup>5</sup> Vietnamese court sentences five more people in Central Highlands unrest, *Associated Press* article dated 7 November 2001

<sup>6</sup> Four defendants receive jails terms for organizing illegal migrations, *Viet Nam News Agency*, 27 January 2002

<sup>7</sup> Viet Nam jails Montagnard for nine years over unrest, *Agence France Presse*, 7 October 2002

<sup>8</sup> Three Montagnards jailed in Viet Nam for organizing escape to Cambodia, *Agence France Presse*, 24 October 2002; Viet Nam imprison three Central Highlands ethnic “reactionaries”, *Viet Nam News Agency*, 24 October 2002

<sup>9</sup> Viet Nam sentences two ethnic minority men to jail terms in restive Central Highlands, *Associated Press*, 18 November 2002

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## **APPENDIX 2**

### **Articles of the Penal Code of the Socialist Republic of Viet Nam believed to have been used against defendants brought to trial for their alleged involvement in the February 2001 civil unrest in the Central Highlands, and its aftermath**

#### **Chapter XI Crimes infringing upon national security**

##### **Article 87. Undermining the unity policy**

1. Those who commit one of the following acts with a view to opposing the people's administration shall be sentenced to between five and 15 years of imprisonment:
  - a) Sowing division among people of different strata, between people and the armed forces or the people's administration or social organizations;
  - b) Sowing hatred, ethnic bias and/or division, infringing upon the rights to equality among the community of Vietnamese nationalities;
  - c) Sowing division between religious people and non-religious people, division between religious believers and the people's administration or social organizations;
  - d) Undermining the implementation of policies for international solidarity.
2. In the case of committing less serious crimes, the offenders shall be sentenced to between two and seven years of imprisonment.

##### **Article 88. Conducting propaganda against the Socialist Republic of Viet Nam**

1. Those who commit one of the following acts against the Socialist Republic of Viet Nam shall be sentenced to between 10 and 20 years of imprisonment.
  - a) Propagating against, distorting and/or defaming the people's administration;
  - b) Propagating psychological warfare and spreading fabricated news in order to foment confusion among people;
  - c) Making, storing and/or circulating documents and/or cultural products with contents against the Socialist Republic of Viet Nam.
2. In the case of committing less serious crimes, the offenders shall be sentenced to between three and 12 years of imprisonment.

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**Article 89. Disrupting security**

1. Those who intend to oppose the people's administration by inciting, involving and gathering many people to disrupt security, oppose officials on public duties, obstruct activities of agencies and/or organizations...shall be sentenced to between five and 15 years of imprisonment.
2. Other accomplices shall be sentenced to between two and seven years of imprisonment

**Article 91. Fleeing abroad or defecting to stay overseas with a view to opposing the people's administration**

1. Those who flee abroad or defect to stay overseas with a view to opposing the people's administration shall be sentenced to between three and 12 years of imprisonment.
2. Organizers, coercers and instigators shall be sentenced to between five and 15 years of imprisonment.
3. In the case of committing particularly serious crimes, the offenders shall be sentenced to between 12 and 20 years of imprisonment or life imprisonment.