

PUBLIC

AI Index: ASA 41/021/2005

UA 190/05

Forcible return/fear for safety

20 July 2005

CAMBODIA/VIET NAM

**More than 100 Montagnard asylum-seekers
Other Montagnard asylum-seekers**

Over 100 ethnic minority Montagnard people were forcibly returned from Cambodia to Viet Nam on 20 July. Some of them may be at risk of serious human rights violations, including torture, but the group have been denied refugee status by the United Nations High Commissioner for Refugees (UNHCR). Amnesty International is concerned that other Montagnard asylum-seekers remaining in Cambodia may also be at risk of forcible return to Viet Nam.

The police used excessive force to remove the group, who were fearful of being sent back to Viet Nam, from a site in the Cambodian capital, Phnom Penh. Police beat some of them, including women and children, with clubs, and used electric batons while dragging them onto trucks to transport them to the border, where they handed them over to the Vietnamese authorities.

Hundreds of Montagnard asylum-seekers have fled the Central Highlands area of Viet Nam since 2001. At present there is no permanent international monitoring presence in the Central Highlands, to provide objective and impartial information on the human rights situation in general and the situation of those returned from Cambodia in particular.

In January 2005 the governments of Viet Nam and Cambodia signed an agreement with the UNHCR, intended to resolve the situation of around 750 Montagnard asylum-seekers living in various sites in Phnom Penh. Under the agreement some of them have been resettled in third countries, and a small number have returned voluntarily to Viet Nam. The agreement contains significant gaps which may serve to diminish the protection of these people's fundamental human rights, particularly those who are returned to Viet Nam. It contains a commitment by the Vietnamese authorities not to punish returnees for illegally leaving the country, but this does not preclude punishment for their religious or political beliefs. It has been reported that Vietnamese police have ill-treated some of those who returned voluntarily earlier this year, and placed them under surveillance and house arrest. The agreement provides only that Viet Nam will "consult and cooperate" with the UNHCR on visits to returnees at an appropriate time. To date a single UNHCR delegate has been able to make only two short visits to the Central Highlands, under difficult circumstances, to monitor the situation of some of the returnees.

BACKGROUND INFORMATION

Cambodia is a state party to the 1951 Refugee Convention and its 1967 Protocol, but the authorities have failed to fully honour their obligations towards refugees and asylum-seekers. In particular they have failed to provide effective protection to refugees in recent years, particularly Montagnard asylum-seekers. Hundreds of asylum-seekers have been resettled in third countries under the auspices of the UNHCR, but hundreds of others at grave risk of human rights violations have been forcibly returned to their countries of origin.

Montagnard asylum-seekers fled to Cambodia after major protests against government policies in the Central Highlands in 2001, and again following similar protests in April 2004, both of which were brutally suppressed. The protests resulted from longstanding land-ownership and religious freedom issues, as well as restrictions on freedom of movement and communication. Since the protests the authorities have only allowed the international community extremely limited and highly controlled access to the Central Highlands. No independent human rights monitoring is permitted, and there are reports that the human rights situation in the Central Highlands remains serious. Since 2001 around 200 Montagnards have been sentenced to long terms of imprisonment in connection with the protests.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English, French or your own language:

To the Cambodian authorities:

- expressing concern that the police used excessive force in forcibly returning more than 100 Montagnards to Viet Nam on 20 July;
- stressing that Cambodia is a state party to the 1951 Refugee Convention, and to the UN Convention against Torture and is therefore obliged not to forcibly return anyone to a country where they would be at risk of serious human rights violations;
- urging Cambodia to provide protection to all asylum-seekers on its territory, including Montagnards, until they are able to access a durable solution to their plight, which can include their voluntary return to Viet Nam in safety and dignity, resettlement to a third country, or settlement in Cambodia

To the Vietnamese authorities:

- expressing concern for the safety of more than 100 Montagnards forcibly returned to Viet Nam on 20 July;
- seeking guarantees that the returnees will be treated in accordance with international human rights standards, including freedom from arbitrary detention and the absolute prohibition on torture;
- calling on the authorities to allow immediate and unrestricted access for independent and international human rights monitors, including the UNHCR, to the Central Highlands, in order to monitor and report on the situation of the returnees;
- calling for the UN Special Rapporteur on Torture, the UN Special Rapporteur on Religious Intolerance, and the UN Working Group on Arbitrary Detention to be invited to freely assess the human rights situations in the Central Highlands.

APPEALS TO:

Cambodian authorities:

Sar Kheng
Deputy Prime Minister & Co-Minister of Interior
Ministry of Interior, 275 Norodom Blvd
Phnom Penh, Kingdom of Cambodia
Fax: + 855 23 21 27 08
Salutation: Dear Minister

Hun Sen
Prime Minister
Office of the Prime Minister
Phnom Penh, Kingdom of Cambodia
Fax: + 855 12 81 37 81
Salutation: Dear Prime Minister

Vietnamese authorities:

Phan Van Khai
Prime Minister
Office of the Prime Minister
Hoang Hoa Tham
Ha Noi
Socialist Republic of Viet Nam
Fax: + 844 823 4137

Salutation: Dear Prime Minister

Le Hong Anh
Minister of Public Security
Ministry of Public Security
15 Tran Binh Trong Street
Hoan Kiem District
Ha Noi
Socialist Republic of Viet Nam

Fax: + 844 199 2682 (c/o Ministry of Foreign Affairs)
Salutation: Dear Minister

COPIES TO: diplomatic representatives of Cambodia and Viet Nam accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 31 August 2005.