

**Генеральная Ассамблея**

Distr.: General  
24 January 2011  
Russian  
Original: English

**Совет по правам человека****Шестнадцатая сессия**

Пункт 3 повестки дня

**Поощрение и защита всех прав человека,  
гражданских, политических, экономических,  
социальных и культурных прав, включая  
право на развитие**

**Доклад независимого эксперта по вопросам  
меньшинств Гей Макдугалл**

Добавление

**Миссия во Вьетнам (5–15 июля 2010 года)\****Резюме*

Достижения Вьетнама в области сокращения масштабов нищеты получили широкое одобрение. Тем не менее правительство признает, что среди этнических меньшинств уровень бедности по-прежнему высок. Существует явная политическая воля к ликвидации значительных социально-экономических разрывов, которые существуют между этническими меньшинствами, находящимися в неблагоприятном положении, и большинством населения, которое образует народ кинь. Правительство заслуживает похвалы за его инициативы в этом отношении.

Правительственные программы позволили достичь важного прогресса, обеспечив осуществление инфраструктурных проектов и преобразований на местах, в частности в области образования и здравоохранения. Чрезвычайно важно, что планы правительства в отношении экономического роста, особенно в районах, населенных группами меньшинств, осуществляются после проведения всесторонних консультаций с меньшинствами без негативного воздействия на их жизнь и без усугубления их нищеты. С особыми проблемами сталкиваются женщины из числа меньшинств, изолированных в самых отдаленных горных районах.

\* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен.

Доступ к качественному и надлежащему образованию прокладывает путь к развитию и сокращению масштабов нищеты среди меньшинств. Несмотря на впечатляющий прогресс в обеспечении работы школ, меньшинства, как правило, имеют к ним более ограниченный доступ и добиваются меньших результатов в учебе по сравнению с учащимися из числа кинь. Меньшинства не располагают достаточными возможностями для обучения на собственных языках с первых лет образовательного процесса и сопротивляются обучению только на вьетнамском языке. Введение двуязычного образования в регионах проживания меньшинств помогло бы детям из числа меньшинств раньше достигать более существенного прогресса и закладывало бы прочный и культурно приемлемый фундамент для их дальнейшего школьного образования.

Хотя отмечался определенный прогресс в отношении прав религиозных меньшинств, сохраняются определенные проблемы, некоторые из которых могут быть равнозначны отказу в религиозных свободах и другим серьезным нарушениям гражданских прав. Необходимо соблюдать и защищать свободу религии, свободу выражения мнений и право на мирные собрания.

## Annex

### Report of the independent expert on minority issues on her mission to Viet Nam (5 - 15 July 2010)

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## I. Introduction

1. The independent expert on minority issues visited Viet Nam from 5 to 15 July 2010. She wishes to thank the Government of Viet Nam for its cooperation and for the importance that it attached to her visit. The independent expert was provided with extensive access to senior Government officials at both the national and provincial levels, whom she thanks for their time and information. She also wishes to thank the civil society organizations who provided information to her.

2. The independent expert visited Hanoi and regions of significant minority populations, including the provinces of Dien Bien in the northern highlands, Tra Vinh in the Mekong Delta region and the Gia Lai and Kon Tum provinces in the central highlands.

3. Vietnam recognizes 54 distinct ethnic groups with unique religious, linguistic and cultural characteristics and identities. The Kinh constitute the country's ethnic majority, accounting for 85.7 per cent of the population,<sup>1</sup> while ethnic minorities account for 14.3 per cent of the population (12.25 million people). Five ethnic minority groups have populations of over 1 million people: the Tay, 1.63 million; the Thai, 1.55 million; the Muong, 1.27 million; the Khmer, 1.26 million; and the Mong, 1.1 m. Another five groups each have populations of less than 1,000 people.<sup>2</sup> Of 64 provinces, 49 have an ethnic minority population of at least 30 per cent.

4. The independent expert's evaluation of minority issues in Viet Nam is based on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 1992 and other relevant international standards, from which she has identified four broad areas of concern: (a) the protection of a minority's survival, through combating violence against them and preventing genocide; (b) the protection and promotion of the cultural identity of minority groups and the right of national, ethnic, religious or linguistic groups to enjoy their collective identity and to reject forced assimilation; (c) the guarantee of the rights to non-discrimination and equality, including ending structural or systemic discrimination and the promotion of affirmative action when required; and (d) the guarantee of the right to effective participation of members of minorities in public life, especially with regard to decisions that affect them. The independent expert applies a gender perspective in all areas of her work.

5. The independent expert welcomes the constructive engagement of the Government of Viet Nam in relation to her visit. However, during her visit, she was largely confined to meetings arranged by the Government, encountering obstacles that limited opportunities for unaccompanied meetings outside of the presence of Government officials. She therefore does not believe that she had full, free and unfettered access to all parties whom she wished to consult. This impeded her ability to obtain perspectives other than those in consonance with official Government positions.

6. In the present report, the independent expert detail relevant information gained from her consultations in the country, as well as research and information from credible sources. She has tried to record faithfully the views of the Government, to the extent permitted by restrictions on the length of the report. Her conclusions and recommendations are contained in the final section of the report.

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<sup>1</sup> Population and housing census for 2009, available from the website of the General Statistics Office at [www.gso.gov.vn](http://www.gso.gov.vn).

<sup>2</sup> World Bank, Country Social Analysis: Ethnicity and Development in Vietnam, 2009.

## II. Non-discrimination and equality

7. The Constitution of 1992 establishes the right to equality and non-discrimination. According to article 5,

the Socialist Republic of Viet Nam is the unified State of all ethnicities living on the territory of Vietnam. The State carries out a policy of equality, solidarity and mutual cultural assistance among all nationalities, and forbids all acts of ethnic discrimination and division. Every nationality has the right to use its own language and system of writing, to preserve its national cultural identity, and promote its fine customs, habits, traditions and culture. The State has a policy of comprehensive development and assistance, and gradually improves the material and spiritual living conditions of the national ethnic minorities.

8. There is no dedicated, comprehensive, anti-discrimination law in Viet Nam. Non-discrimination provisions exist in the Constitution and in various national laws, including the Civil Code, the Penal Code, the Criminal Procedures Code, the Law on Education and the Labour Code. Article 14 of the Labour Code also establishes that the State is responsible for formulating preferential policies on the creation of employment in order to attract and use ethnic minority employees. The Government has been developing a decree on ethnic minorities with a view to drafting a law on ethnic minorities for submission to the National Assembly.

9. Dedicated State institutions have responsibilities for ethnic minority issues. The Ethnic Council of the National Assembly advises the Assembly on ethnic minority matters and supervises implementation of policies and programmes relevant to ethnic minorities. The Council is empowered to review draft laws and draft ordinances relating to ethnic minorities, and proposes issues for consideration by the Assembly and other State bodies. The Government must consult the Ethnic Council before promulgating decisions on ethnic policies and legislation. The Council President and four deputies are ethnic minorities.

10. The Committee for Ethnic Minority Affairs is a ministerial-level body with responsibility for planning and implementation of ethnic policies and those for mountainous regions. The Committee is mandated to perform functions of State management of ethnic minority affairs nationwide and in relation to public services. It assists in the development of laws, the implementation and monitoring of programmes, and coordinates liaison between relevant ministries as well as with international agencies and donors.

11. The Government highlights the fact that a number of national organizations at the central and local levels play a key role in promoting the rights of ethnic minority people and monitoring the activities of Government agencies, including the Central Committee of the Vietnamese Fatherland Front, the Women's Union, the Youth Union, the Farmers' Association and the Veterans' Association.

12. Viet Nam is a party to the Convention on the Elimination of All Forms of Racial Discrimination and other core human rights treaties mandating non-discrimination, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

13. Disaggregated data on the basis of ethnic, religious and linguistic criteria are gathered by means of census questionnaire, and include information on health and life expectancy, education, labour force participation and housing. They provide a valuable tool for identifying disparities. The data provided by national authorities, however, are disaggregated for only the five largest ethnic minority groups. The category of "other ethnic groups" is used to aggregate vital statistics about 47 of 53 ethnic groups, totalling some 3.7 million people. This category includes many disadvantaged ethnic groups.

14. While recognizing socio-economic disparities between population groups, the Government explained the inequalities as resulting solely from the geographical remoteness of many ethnic minorities and poor infrastructural development rather than from intentional discrimination. It pointed out that policies are aimed at strengthening equity, union and mutual support among ethnic groups; racial discrimination and division of any kind are prohibited.

15. Discrimination is nevertheless identified as a social problem by non-governmental analysts. The Institute for Studies of Society, Economy and Environment, a non-governmental organization, has surveyed the media and found frequent use of stereotypes and misperceptions in coverage of ethnic minority issues that commonly stigmatize them as backward, passive, ignorant and superstitious.<sup>3</sup> The media reportedly commonly portray the causes of minority poverty as lying in internal factors, such as early marriage, high birth rates, drug and alcohol problems, laziness and dependency on Government support. External factors such as inappropriate policies, the harmful effects of socio-economic programmes and environmental destruction are rarely mentioned. Government agencies involved in implementing policies to support ethnic minorities in poverty reduction and hunger eradication told the independent expert that backwardness in production methods, low levels of education and superstitious practices were realities and challenges that needed to be addressed to help the development of ethnic minority people; they were not stigma.

16. It is possible that such views articulated by the Government may negatively influence public perceptions of ethnic minorities and lead to discriminatory treatment. Economic development and growth have brought relative prosperity to the urban population and some rural communities, including those (generally ethnic Kinh) benefiting from the introduction of such commercial crops as coffee and rubber. In addition to income disparities and geographic remoteness, growing social gaps between majority and ethnic minorities are evident and could prove extremely difficult to redress, further reducing the potential for the upward mobility of minorities.

#### **Ethnic minority women**

17. Consultations with the Viet Nam Women's Union revealed the particular challenges confronting minority women because of their ethnic identity and gender. Gendered social customs and practices in minority societies deprive them of decision-making power. Their education is traditionally a lower priority than that of boys, and their opportunities, both within and beyond their communities, are consequently fewer.

18. Despite national policies and laws requiring gender equality, including the Constitution, the Law on Gender Equality and the Marriage and Family Law, in some communities men customarily control assets, including livestock, which may result in women becoming more vulnerable while bearing a heavier burden of supporting families in poverty. Such customs are contrary to the 2003 Land Law and the 2004 Decree, under which women and men have equal land use rights, and land use certificates of married couples must bear both names. Some minorities, including the Ede and the Mnong communities, have distinctive matrilineal systems in which inheritance is passed through daughters, and the women have the decision-making power. However, the informal practice of some authorities not to recognize women's land use rights in land tenure certificates or women's leadership roles have reportedly undermined these traditions. Men are more likely

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<sup>3</sup> Institute for Studies of Society, Economy and Environment, "Representation of ethnic minorities on mass media", available from [www.isee.org.vn/upload/files/representation-of-ethnic-minorities-on-the-mass-me\\_1278495749.pdf](http://www.isee.org.vn/upload/files/representation-of-ethnic-minorities-on-the-mass-me_1278495749.pdf).

to speak Vietnamese and be targeted as village leaders, while in the past, women had the leadership role.<sup>4</sup>

19. There are documented cases of trafficking of minority women and disappearances of women along suspected trafficking routes. The lack of policed borders notably between Viet Nam and southern China has contributed to the problem. The Women's Union noted that attention was being increasingly paid to this issue, including by its regional offices. Nevertheless, the independent expert is concerned that this problem exists in remote regions that mostly fall under the radar of authorities and may have a disproportionate impact on minority women.

### III. Addressing the poverty of ethnic minorities

20. Viet Nam has been widely praised for its achievements in poverty alleviation. Nevertheless, the Government acknowledges that the poverty rate remains high in almost all provinces with a majority of ethnic minority people. The national poverty rate has been reduced from 58 per cent in 1993 to 16 per cent in 2009. In communes facing extreme hardship, commonly with high minority populations, however, the rate was 32.1 per cent. According to the World Bank, in 2008, 49.8 per cent of ethnic minorities lived in poverty compared to only 8.5 per cent for the Kinh ethnic groups.<sup>5</sup> The extreme poverty rate for ethnic minority groups is 29 per cent, over nine times that of the ethnic majority. The Government stated that significant progress had been made in poverty reduction for ethnic minorities and the poverty rate had dropped from 86.4 per cent in 1993 to 50.3 per cent in 2008, namely, a drop of 3 to 4 per cent per annum.

21. Poverty is being reduced most effectively in urban areas where economic growth levels are high, while it persists in rural areas. This is significant for minorities and programming, since only 11 per cent of ethnic minorities live in urban areas, compared to 29 per cent of the ethnic Kinh.<sup>6</sup> Generally, the participation of ethnic minorities in non-agricultural labour markets is particularly poor, while a high percentage is engaged in farming activities compared to the Kinh and the Hoa. Surveys reveal that 76 per cent of minorities earn income from rice cultivation compared with 37 per cent of the Kinh. Some 27 per cent of Kinh earn income from trade compared to only 2 per cent of ethnic minorities.<sup>7</sup> Consequently, the average ethnic minority worker earns 15 per cent less than the average ethnic majority worker.<sup>8</sup> The remote rural regions in which minorities live and their high reliance on rural agriculture pose special challenges to poverty alleviation.

22. The Government began implementation of its comprehensive poverty reduction and growth strategy in 2002, within the framework of the social and economic development strategy for the period 2001-2010. Policies and programmes are designed to assist ethnic minority development. Others are focused on remote, mountainous and the poorest regions. Resolution 30 A (2008) includes a support programme for rapid and sustainable poverty reduction for 61 of the poorest districts. Decision 1592 (2009) addresses the cultivation of land, and housing and water required to support ethnic minority households. Government representatives pointed out that minorities frequently relied on outdated production methods, and highlighted their efforts to modernize them.

<sup>4</sup> World Bank, *Ethnicity and Development in Vietnam*, 2009, p. 48.

<sup>5</sup> World Bank, *Viet Nam Development Reports for 2008 and 2009*.

<sup>6</sup> World Bank, *Ethnicity and Development in Vietnam*, 2009, p. 17.

<sup>7</sup> *Ibid.*, p. 34.

<sup>8</sup> Hai-Anh Dang, "A widening poverty gap for ethnic minorities", January 2010, p. 8.

23. In addition to the provision of seeds and livestock, an interest-free loans scheme for agricultural development and modernizing production was introduced in 2007. In 2008, around 1 million poor ethnic minority households had access to preferential credit, and 650,000 poor people received training. Nevertheless, the Country Social Analysis of the World Bank, highlights the fact that, while minorities report a pressing need for credit to assist them with agricultural production, they commonly have less access to credit, have not been sufficiently targeted by credit schemes, receive smaller loans and are vulnerable to predatory lending.

24. The programme for the socio-economic development of extremely difficult communes, also known as programme 135, was established in 1998 to implement Government policies targeting the most vulnerable communes, promoting production and access to basic infrastructure, improving education, training local officials and raising people's awareness of better living standards.<sup>9</sup> Under the responsibility of the Committee for Ethnic Minority Affairs, programme 135 was designed to address a wide variety of causes of poverty particular to ethnic minorities.

25. Programme 135 included needs assessments and consultations with local ethnic groups, local officials and specialist consultants. The current phase of the programme seeks (a) to radically accelerate production and promote market-oriented agricultural development; (b) to improve the socio-cultural life of ethnic minority groups and narrow the gap in living standards; and (c) to eradicate hunger and reduce the poverty rate by 3 to 5 per cent per year to below 30 per cent.

26. Communities visited by the independent expert confirmed that Government programmes, including programme 135, had brought significant improvements to their lives. A high proportion of the funds allocated to the programme (some 70 per cent) have been dedicated to the development of infrastructure, including roads and bridges, health and education facilities, water and sanitation. Community members welcomed these developments, while some declared that further improvements and capacity were required to meet community needs fully.<sup>10</sup>

27. While new roads have connected isolated areas and rural communities with markets, some community members told the independent expert that they lacked the means to transport surplus produce to market. They remained reliant on agents who visited villages and purchased their surpluses, hence they were unable to obtain the best market price and secure higher incomes. Similar issues existed with regard to the sale of handicrafts and textiles produced, since communities still had limited access to markets or the market knowledge to ensure fair prices from intermediaries.

28. Some sources expressed concerns over aspects of programme 135 and other poverty alleviation programmes that have a regional rather than a community-targeted focus. Critics stated that a disproportionate number of those who had benefited from these programmes were ethnic Kinh living in targeted regions. Attention was drawn to poverty rates in the central highlands, which in aggregate terms fell by 23 per cent over the period 2002-2006. Some non-governmental organizations claimed, however, that relatively little improvement in living standards for ethnic minorities in the region had been achieved, and that their

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<sup>9</sup> Ha Viet Quan, "Programme 135: Sharing lessons on poverty reduction and development schemes for ethnic minorities in Vietnam", available from [www.un.org/esa/socdev/egms/docs/2009/Ghana/Quan.pdf](http://www.un.org/esa/socdev/egms/docs/2009/Ghana/Quan.pdf).

<sup>10</sup> Quyen et al., Report on results of citizen's report card survey on people's satisfaction with P135-II, Hanoi, 2009.



poverty rates had remained high, while for ethnic Kinh in the same region poverty has declined by 4.6 per cent per year.<sup>11</sup>

29. Ethnic minority women face unique challenges and are among the most vulnerable of the poor in Viet Nam. Patriarchal traditions persist, limiting women's decision-making power in most minority communities. Minority social customs commonly dictate that males control financial assets, livestock and land-use rights certificates, potentially creating difficulties for realizing the property and land rights of minority women. A World Bank study highlighted the fact that 87 per cent of ethnic minority women in rural areas worked in agriculture and yet had limited security in land tenure. In the event of the death of the husband or divorce, women may be left particularly vulnerable.

30. The slower pace of poverty reduction for minority populations inevitably leads to growth in the poverty gap between the majority and minority populations over time. In its Social Analysis Report for 2009, the World Bank identified six key factors contributing to the persistent and disproportionate levels of poverty experienced by minorities: (a) inequalities in education; (b) less mobility and the impact on them of majority migration to minority regions; (c) poor access to formal financial services; (d) less productive land and greater dependence on swidden agriculture; (e) poorer market access and lower returns from markets; and (f) the impact of negative stereotyping and misconceptions about minorities as backward and conservative. The importance of each of these factors became evident to the expert during her visit.

## A. Land rights and the impact of economic development

31. Land is a vital asset for ethnic minority livelihoods and a key component of rural poverty reduction. Landlessness has, however, increased in minority areas. The land reforms implemented following the unification of Viet Nam in 1975 placed all land under the ownership of the State, which assigns rights to use land to individuals. While minority regions are frequently dominated by forestry land, these lands are subject to Government allocation, and therefore frequently no longer available for community use. Only 24 per cent of ethnic minorities reported having rights in forestry land.<sup>12</sup> Studies conclude that many do not have access to forest resources, even in areas where there are few other livelihood opportunities, and that poverty and livelihood improvement are rarely mentioned in forestry planning. This has reportedly been disruptive to traditional forest-based minority economies.

32. Ethnic Khmer minority representatives reported the loss of ancestral farmlands in the fertile Mekong Delta. They maintained that Khmer were relocated away from southern border provinces during the war with Cambodia owing to their perceived ties with that country. Upon their return, lands had allegedly been allocated to ethnic Kinh, leaving many landless. Huge resettlement efforts brought ethnic Kinh to territories previously occupied by ethnic Khmer. Sources stated that many ethnic Khmer had consequently become poor wage labourers. Protests over land rights have been witnessed, even though they are generally banned or have allegedly met with a harsh response by the authorities. The Government contests these claims with regard to the treatment of demonstrators, but concedes that loss of land and disputes over land-use rights were regrettably the result of evacuation and return following the war.

<sup>11</sup> See "The Government committee is not enough: CEMA of Vietnam", Asian Indigenous and Tribal Peoples Network, October – December 2008, available from [www.aitpn.org/IRQ/Vol-III/issue\\_4/story06.html](http://www.aitpn.org/IRQ/Vol-III/issue_4/story06.html).

<sup>12</sup> See Claude René Heimo, "Forest and forest land allocation in Viet Nam: some open questions", available from the website [www.snvworld.org](http://www.snvworld.org).

33. Information received suggests discontent among ethnic minorities in the central highlands over confiscation of their ancestral agricultural lands on which their livelihoods depend. Large areas of fertile lands have been turned over to industrial crops, including coffee and rubber, while massive in-migration of ethnic Kinh has put additional pressure on scarce available land. Some ethnic minority sources report alleged “land-grabs” and criticize resettlement programmes aimed at turning minority agricultural practices towards sedentary agriculture and removing them to make land available to migrant Kinh. They report that peaceful demonstrations over these issues have been met with excessive force, violence and arrests by the authorities.

34. Since the 1960s, there have been cases of internal migration and relocation of many ethnic Kinh populations, resulting in significant demographic change in some regions. The creation of “new economic zones” in minority areas led to an influx of mainly ethnic Kinh supported by the Government. The Government has recently undertaken to restrict such migrations. Some analysts predict, however, that climate change could make sea levels rise, potentially affecting millions living in low-lying coastal plains and delta regions, requiring mass relocations to regions now occupied by minorities.

35. Some minorities have been resettled from traditional villages to new permanent settlements to make way for economic development projects. The experiences witnessed following the development of the Son La hydropower project demonstrate the need for careful management of such projects and consultation with minorities to ensure that projects do not have a negative impact on communities. The hydropower project required the largest involuntary resettlement of people, many of them minorities, in the country’s history. By 2010, 91,000 people or 18,968 households in the provinces of Son La, Lai Chau and Dien Bien were to be resettled.<sup>13</sup> In studies, the Vietnam Union of Science and Technology Associations recognized serious attempts to implement resettlement in a positive manner, but concluded that significant improvement was required in a number of respects.

36. According to a more recent report by the Vietnam Union of Science and Technology Associations, relocation is breaking down existing social structures and community relationships and creating trauma for minority groups. Administrative hurdles and delays have resulted in people being moved before necessary infrastructure is in place. The availability of sufficient arable land has been a major problem, making the provision of “land for land” compensation difficult. Most are left without any agricultural land. The land that will eventually be provided will be taken from host communities, which could lead to intercommunity conflicts. Resettled communities are not given adequate assistance in their transition to alternative forms of upland agriculture production suitable to their new localities, leading to greater food insecurity and signs of increased poverty.<sup>14</sup>

37. Concerns have also been raised regarding the potential impact of planned bauxite mining in the central highlands on minorities.<sup>15</sup> Concerns include the displacement of minority communities and pollution of soil and water sources by mining waste. Pilot projects will help to assess the impact, however assurances have been called for regarding the environmental cost and the rights of affected communities, including appropriate compensation. Communities have previously complained that compensation for confiscated land has not been equivalent to their loss, sometimes resulting in tensions and protests.

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<sup>13</sup> “A work in progress: study on the impacts of Vietnam's Son La hydropower project”, Vietnam Union of Science and Technology Associations, Hanoi, 2006.

<sup>14</sup> Follow-up study on impacts of resettlement of Son La hydropower plant, Hanoi, 2008.

<sup>15</sup> See “Foreign donors caution Vietnam on bauxite mining”, 10 June 2009, available from [www.monstersandcritics.com./news/asiapacific/news/article\\_1482523.php/Foreign\\_donors\\_caution\\_Vietnam\\_on\\_bauxite\\_mining](http://www.monstersandcritics.com./news/asiapacific/news/article_1482523.php/Foreign_donors_caution_Vietnam_on_bauxite_mining).

38. The Government of Viet Nam pointed out that, while some resettlement of communities has been necessary, it is conducted on a voluntary basis and with the agreement of local authorities, affected people and project investors for the benefit of the community. The National Assembly has established practices for resettlement and compensation based on the principle that “the new residential location must be better than the old one”. The Government highlights the fact that some communities have faced hazards, such as landslides, owing to climate change and the environmental impact of certain cultivation methods. It claimed that resettlements had resulted in better, safer homes and more stable livelihoods, and that socio-economic projects had created jobs and improved livelihoods.

## **B. Access to health care**

39. The Government highlighted the fact that it gave budget priority to health care, providing clinical and treatment services to ethnic minority people, especially local health care for poor and remote areas. According to a document prepared by the Committee on Ethnic Minority Affairs for the meeting with the independent expert, all poor communes now have access to some form of communal health clinics and health workers, 95 per cent of poor people from communes coming under programme 135 assistance for those with exceptional difficulties have health security cards, while poor households benefit from reduction of health charges. Programme 139 also provided free health-care certificates to over 4 million poor and minority people.

40. In the rural district of Dak To in Kon Tum Province, the independent expert visited a newly constructed health clinic servicing ethnic minorities. The clinic had two assistant doctors who had returned to the commune, as required, following their medical studies. The clinic handles basic medical needs and provides health information to community members. Community leaders confirmed that they had health insurance cards and that children under six years of age received free medical care. They nevertheless pointed out that the clinic lacked a qualified doctor and they would like provisions for more serious medical conditions.

41. Consultations by the independent expert revealed that, while improvements are evident, the provision of even primary health-care clinics and community-based medical practitioners is insufficient to meet the needs of many communities. Health-care needs may be most acute in regions in which living conditions are the harshest and where there is least access to clean water and basic sanitation. In the most remote villages, there continues to be a heavy reliance on traditional medicine, cultural practices and religious customs.

42. Maternal health care in particular must be a priority. According to information included in the United Nations Viet Nam Gender Briefing Kit (2009), the maternal mortality rate in the central highlands and the northern mountainous regions is four to eight times higher than that in the lowland plains. More than 70 per cent of pregnant women reportedly practice home delivery in some communes and districts. Lack of information relating to reproductive health, as well as early marriage practices in some ethnic minority groups, contributes to the higher risk of medical complications for minority women.

## **IV. Language and education**

43. Vietnamese is the official language of Viet Nam, the medium of instruction in schools and of administration. Many minority communities in isolated and remote locations do not frequently interact in Vietnamese. Many speak ethnic languages in almost all family and social interactions, and others, particularly older generations, speak and understand

only a little Vietnamese. Only 24 ethnic minority languages have written scripts, which creates particular challenges for their preservation.

44. Article 7 of the Education Law stipulates that Vietnamese is the official language to be used in schools and other educational institutions, and that the State should enable ethnic minority people to learn their spoken and written languages in order to preserve and develop their ethnic cultural identity, helping pupils from ethnic minorities easily absorb knowledge when they study in schools and other educational institutions. The teaching and learning of these languages is to be conducted in accordance with the Government regulations. Despite positive provisions relating to minority languages, however, in practice all children are taught in Vietnamese (other than those taught in the context of pilot projects initiated in cooperation with the United Nations Children's Fund (UNICEF)). Minority languages are taught in some schools only as separate subjects and not as the medium of instruction.

45. Ethnic Khmer representatives provided information to the independent expert in which they alleged restrictions on the Khmer language in schools and public places. They claimed that Khmer was not offered even as a separate subject in schools in Khmer regions in southern Viet Nam, and that the teaching of the Khmer language was therefore limited to the home or to those who attend Pagoda or *pali* religious schools. They also claimed that ethnic Khmer had faced restrictions on their activities to use, teach or promote the Khmer language, and that the authorities imposed strict restrictions on the publication of books or documents in Khmer.

46. The Government contested these allegations and stated that it took steps to encourage the preservation and development of the languages of ethnic minorities. It added that the national television channel had daily programmes in 13 languages of ethnic minorities, including Khmer. National radio had a separate station for 11 ethnic minority languages (VOV4), including Khmer. Daily and weekly newspapers and electronic news portals are also available in Khmer.

47. According to a UNICEF briefing note on ethnic minority people's right to use their mother tongue as languages of instruction in school provided to the independent expert, the primary school completion rate among ethnic minority children is just 60.6 per cent compared to 86.4 per cent for the majority Kinh. For some of the most disadvantaged ethnic minorities, the completion rate is far lower. Beyond primary education, the situation becomes even more serious for ethnic minorities, with far fewer progressing to secondary level. Disparities between ethnic minority groups also become more pronounced. While large minorities, including the Hoa, the Tay and the Muong, have better educational outcomes, some groups, such as the H'mong, Bana and H're, demonstrate particularly poor education outcomes.

48. A survey has revealed that, in 30 per cent of ethnic minority households, at least one child had dropped out of school before completion of a grade, compared to 16 per cent of Kinh.<sup>16</sup> Contrary to the view that cultural factors within minority communities have the most significant impact on drop-out rates, minorities reported that excessive school fees, high opportunity costs (child's labour required at home), poor instruction and the distance of schools were the most important causes of the high drop-out rate. Minorities are also more likely to enrol late for primary school and lack pre-school access. The survey concluded that these were all factors suggesting that better education policies and financial support were needed rather than a change in attitude or culture among minorities.<sup>17</sup>

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<sup>16</sup> World Bank, *Ethnicity and Development in Vietnam*, 2009, p. 25.

<sup>17</sup> *Ibid.*, p. 26.

49. For minority women, the problem of illiteracy is acute, and many can neither read nor write in any language. According to a World Bank study of 2006,<sup>18</sup> while literacy rates for ethnic Kinh women are 92 per cent, for ethnic Thai women the figure is 70 per cent; for H'mong women, it is just 22 per cent. Lack of education and literacy and of the ability to speak Vietnamese severely limits the opportunities available to women and their possibilities to interact beyond their communities or to seek wage labour.

50. The Government has increased the number of schools in minority localities significantly, as was demonstrated to the independent expert in several minority regions visited. It remains unclear, however, the extent to which adequate education facilities have reached the most remote regions. The establishment of boarding schools has been a positive initiative to address the lack of physical access to schools. Data provided by the Government of Viet Nam in a memo to the expert on 5 January 2011 showed that, in 2008 and 2009, there were 1,657 ethnic minority boarding schools in the country, including 629 primary schools, 895 secondary schools and 133 high schools, attended by a total of 144,124 students. However, access to such schools remains extremely limited in some regions. Reduction of school fees, financial grants to families and free meals have contributed to a general increase in enrolment of minority children at all levels.

51. Steps taken to increase the number of ethnic minority teachers include the introduction of scholarships for persons belonging to ethnic minorities to train as teachers and the establishment of teacher training institutions in minority regions. The Ministry of Education pointed out that ethnic minorities now account for 10.86 per cent of teachers at the primary level, 5.9 per cent of teachers at the lower secondary level, and 4 per cent at the higher secondary level.<sup>19</sup> The Government acknowledges the persistent challenges with regard to the provision of teaching staff in minority regions, including the lack of competitive salaries. Teachers who relocate to ethnic minority areas now receive an additional 70 per cent of their salary as an incentive.

52. To promote ethnic minority enrolment in further education, a programme initiated in 1990 allows minority students who have performed well at school but who may not meet the standard required to pass entrance exams to be nominated to enter university after one year of further preparatory study. While the programme is open to the ethnic Kinh majority, nominations of Kinh must not exceed 15 per cent of total nominations. The programme requires members of ethnic minorities who receive scholarships for university education outside their home region to return to their province of origin to take up positions upon graduation.

## A. Bilingual education

53. The fact that minority children do not receive instruction in their mother tongue in their early years of primary school has created a language barrier for children who begin their education with little if any understanding of Vietnamese. They struggle with being taught solely in Vietnamese and cannot participate confidently in active learning. The problem is compounded by the fact that there are few teachers from minority communities who can communicate effectively in ethnic minority languages. Teachers who do not come from ethnic minorities themselves are, however, increasingly required to learn the local language of the region in which they will teach.

<sup>18</sup> World Bank et al., *Viet Nam Country Gender Assessment*, Hanoi, December 2006.

<sup>19</sup> Pursuant to decree 61/2006/ND-CP, a policy on assistance to teachers has been in place since June 2006.

54. With the ultimate goal of fluency in Vietnamese, bilingual education helps minority children to make better early progress in education and provides a strong and culturally appropriate foundation for their future schooling. It is not sufficient that minority ethnic languages are taught only in a separate language course.

55. During the independent expert's visit, the Prime Minister signed a decree on the teaching and learning of ethnic minority languages in regular educational institutions and full-time education centres. The decree regulates the teaching and learning of ethnic minority spoken and written languages in institutions within the national education system. Education experts who spoke with the expert during her visit interpreted the decree as a continuing restriction on the teaching of ethnic minority languages solely as separate language courses, not to be used as the medium of instruction.

## **B. Action Research on Mother Tongue-based Bilingual Education**

56. Since 2008, the Research Centre for Ethnic Minority Education of the Ministry of Education and Training, supported by UNICEF, has been implementing and monitoring the Action Research on Mother Tongue-based Bilingual Education. The programme aims to (a) design and implement an approach to mother tongue-based bilingual education in selected pre-primary and primary schools and to evaluate the results through an action research model; and (b) support the development of an applicable and sustainable policy for bilingual education. It is being implemented in three provinces (Lao Cai, Gai Lai and Tra Vinh), initially focusing on three ethnic minority languages: H'mong, Jrai and Kmer.

57. The approach of the above-mentioned programme uses ethnic minority languages as the main language of instruction and introduces Vietnamese as a second language for preschool, and primary school first and second grade students. Vietnamese is introduced as a language of instruction in third grade together with the mother tongue. The years from the third to the fifth grades are a transition period. By the end of the fifth grade, students are expected to have developed bilingualism and biliteracy, and to meet the standards of the national curriculum. Students in each province will complete the pilot project by 2015. The approach aims to help ethnic minority children to overcome the language barrier, enabling them to read and write in their mother tongue first, and then to transfer these skills to learning Vietnamese.

58. Assessment results have been highly encouraging and demonstrate evidence of improved performance of students involved in the programme. Students demonstrated higher levels of confidence in their learning activities when learning in their mother tongues, improved communications skills and improved skills in the Vietnamese language. In Lao Cai province, positive results have led the Provincial Department of Education and Training to expand the approach to other schools, using their own resources. The independent expert attended a training session for teachers taking part in the programme. The teachers unanimously confirmed the positive findings from their own classroom experiences in minority communities. They highlighted additional benefits, including the increased possibilities for parents who do not speak Vietnamese to interact with their children's education and the strong support of communities who want their children to learn their mother-tongue language and Vietnamese. Teachers noted the need for more text books in minority languages and curricula that are appropriate for bilingual teaching.

## **V. Religious minorities**

59. Article 70 of the Constitution specifies that "Citizens have the right to freedom of belief and religion, and may practice or not practice any religion. All religions are equal

before the law. Public places of religious worship are protected by law". The Ordinance on Belief and Religion came into effect on 15 November 2004 with the aim of concretizing the constitutional provisions into institutionalized policies and guidelines, and is the primary document governing religious practices.<sup>20</sup> The Government issued Decree 22/2005/ND-CP in March 2005 to provide additional guidance on the Ordinance on Religion and Belief. The Decree provides procedures for official recognition and registration of religious organizations, their places of worship, clerics and activities.

60. While the Government arranged meetings with a number of religious leaders during the independent expert's visit, including a pastor of the Protestant Church, a Khmer Buddhist leader and representatives of the Catholic Church, it is regrettable that the expert's access was closely controlled by the Government; access was not free nor unfettered. The expert therefore cannot conclude that those meetings fully reflected the range of perspectives and opinions relevant to religious freedoms in Viet Nam.

61. Those with whom the independent expert spoke during the above meetings uniformly conveyed the message that there were no issues of concern with regard to religious freedoms and places of worship. This opinion was, however, contradictory to reports and information provided to the expert by various credible sources prior to her mission. Numerous issues of concern had been detailed, which the expert raised directly with the Government Committee on Religious Affairs in Hanoi and with provincial authorities. In each case, the expert was assured of the Government's commitment to religious freedoms and that no undue restrictions affected members of any faith. The Committee on Ethnic Minority Affairs, in the document prepared for the meeting with the expert (see paragraph 38 above) stated that the Government "consistently pursues policies that respect and protect citizen's right to freedom of belief, to follow or not to follow a religion, and to participate in ordinary religious activities in accordance with the law."

62. The concerns expressed to the independent expert related to restrictions on organized activities of some religious groups, notably some Protestant and unrecognized Buddhist denominations. Advocates for religious freedom have complained of the Government's excessive role in overseeing and regulating religious activity. Religious groups must be officially recognized and registered in order to practice legally. Sources reported excessive delays and obstruction to registration of some churches. Lack of official recognition has reportedly affected the Unified Buddhist Church of Viet Nam, some Protestant churches, groups belonging to the Hoa Hao Buddhist Churches and some Cao Dai groups.

63. While some sources acknowledge that many unregistered churches are tolerated and allowed to practice informally, others have reportedly been obstructed and experienced harassment, surveillance, intimidation and sometimes violence against church members. Others reported actions by the authorities, such as demands for lists of congregations, as a condition for registration and harassment of those attending unrecognized churches, such as the Protestant "House Churches" in the central highlands.

64. During the independent expert's visit to Gia Lai Province, she sought information from the provincial Government regarding allegations of the arrest, trial and sentencing of numerous ethnic minority Christians and members of Protestant churches. Non-governmental organizations maintain that the grounds for harassment were their religious activities and their protests over confiscations of land. The Vietnamese media reported the sentencing of numerous individuals to 7 to 12 years of imprisonment in 2009 and 2010 for the crime of "undermining national unity" in activities that included planning

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<sup>20</sup> Article 38 establishes that, "in cases where the international treaties Viet Nam signed or acceded to have provisions different to provisions of this Ordinance, such provisions of the international treaty shall be followed".

demonstrations. Independent non-governmental organizations claimed that more than 200 “Montagnard” Christians were imprisoned in Gia Lai as a result of peaceful religious activities and participation in demonstrations in 2001, 2004 and 2008. The Government insists that the offences for which they were convicted were “undermining national unity” through “acts against public security and order”.

65. Protestant leaders with whom the independent expert spoke in Hanoi during meetings arranged by the Government expressed satisfaction with their religious freedoms, stated that there are no restrictions on Protestant churches and would not comment on specific allegations. The Government issued instruction No. 01/2005/CT-TTg on 4 February 2004 “to address remaining concerns related to religious activities of Protestants, especially ethnic minority groups in the central highlands, as well as the Mong and Dao ethnic minority groups in the northern highlands, in order to normalize religious life of Protestants so that followers of this belief and religion can have peace of mind and remain closely connected to their communities”. The Government emphasizes that any trials and imprisonment were fully in accordance with the law and based on a criminal act, such as violence during demonstrations.

66. During the independent expert’s visit to Tra Vinh in the Mekong Delta, she consulted provincial authorities regarding the situation of ethnic minority Khmer and Khmer Theravada Buddhist monks. The Khmer leaders with whom the Government arranged for the expert to meet expressed their satisfaction with religious freedoms and Government actions. However, information provided to the expert would indicate interference with religious practices and harsh responses to protests conducted by ethnic Khmer. Khmer Theravada Buddhists come under the oversight of the Vietnamese Buddhist Sangha and reportedly desire greater autonomy over their religious affairs and activities, including decisions regarding ordinations, religious ceremonies and the content of religious studies offered at pagoda schools. Publicly available reports allege that, following peaceful demonstrations, numerous Khmer monks were defrocked by local authorities. Others have allegedly been imprisoned or face pagoda detention and surveillance.

67. Improvements in freedom of religion in Viet Nam have been reported. There has been an increase in religious activity by previously restricted religious groups. Reports of abuses of religious freedoms have diminished. Implementation of the legal framework on religious freedoms is considered to have improved, including at the provincial and local level, with positive results for religious rights. The number of religious organizations receiving national recognition has increased and some unrecognized churches have been allowed to practice with the knowledge of local officials. Some restrictions on large-scale religious gatherings and celebrations have reportedly been eased.

68. Training courses for local officials and religious leaders have been held to ensure appropriate implementation of policies, highlighting the fact that practices such as forced renunciation of faith are strictly forbidden. The Government has removed obstacles to the training of religious leaders for Catholics, Buddhists and Protestant religions, resulting in an increase in the number of monks, pastors and priests. Relations between the Government and the Catholic Church have reportedly continued to improve and a more positive attitude towards Protestant groups is suggested. The Government reported that, between 2005 and 2008, 3,277 places of worship were built, upgraded or renovated. A delegation from the United States Commission on International Religious Freedoms was allowed to visit Viet Nam in May 2009.



## VI. Political participation of minorities

69. A total of 33 of the country's ethnic minority groups are represented in the National Assembly, whose leadership sets targets for the representation of minorities and women. In its statement made at the second session of the Forum on Minority Issues, which focused on the political participation of ethnic minority people, the Government of Viet Nam pointed out that, in 2009, 87 of 493 Assembly representatives were from ethnic minorities, 39 of whom were women. Some 17.6 per cent of the total number of deputies are minorities, higher than the 13.8 per cent of ethnic minorities in the population. In the composition of people's councils at all levels in the period 1999-2003, the proportion of people's deputies from ethnic minorities was 14 per cent at the provincial level, 17 per cent at the district level and 19 per cent at the commune level. In the period 2004-2009, these figures had reportedly risen to 20.53, 20.18 and 24.4 per cent respectively.

70. The Viet Nam Fatherland Front and the Communist Party compile candidate lists for elections to the National Assembly and seek to ensure representativeness by establishing numerical targets for ethnic minorities. Subsequently, the Fatherland Front and ethnic minority associations seek suitable candidates from ethnic minorities who they nominate as ethnic minority candidates. The Government pointed out that people belonging to ethnic minorities held key positions in State organs, from central to local levels, including the Vice Chairman of the National Assembly, the Chairman of the Council on Ethnic Minorities of the Assembly, and the Minister-Chairman of the Committee for Ethnic Minority Affairs.

71. The 39-member Council on Ethnic Minorities is the key body of the National Assembly through which ethnic minority issues are channelled. Leadership positions are held by deputies from ethnic minorities, and all 33 minorities represented in the National Assembly are represented in the Council, which also includes two Kinh deputies. The Council plays an oversight role with regard to legislation relating to matters affecting minorities and the State's long-term strategies for ethnic minorities, including programme 135 and poverty reduction policies. It also produces annual implementation reports.

72. A study by the Inter-Parliamentary Union concluded that the capacity of the Council to review legislation and to make proposals to the National Assembly required strengthening, including through improvements to the capacity of its members. While the Council provides important electoral training for ethnic minority candidates, there is no consistent training offered for the more challenging duties of legislating and oversight of Government policies.<sup>21</sup> Analysts also describe a lack of consultation by the Council with local levels of government concerning minority issues. Such improvements, together with effective processes of consultation with minority communities, could strengthen the Council's oversight of ethnic minority policies and its overall effectiveness.

73. The Government acknowledged that challenges remain with regard to ensuring the effective political participation of minorities and highlighted the inadequate number of local officials from ethnic minorities. Government efforts to encourage greater minority political participation include training programmes for future civil servants and civic awareness programmes in minority communities. In May 2010, the first nationwide representative congress of ethnic minorities in Viet Nam was convened, bringing together representatives of minority groups to offer an opportunity for minorities to voice their issues to senior Government officials.

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<sup>21</sup> Sonia Palmieri, "Representation from the top: ethnic minorities in the National Assembly of Viet Nam", Inter-Parliamentary Union and United Nations Development Programme, 2010.

74. Customary practices remain important in many ethnic minority communities, and include village constitutions, conventions and regulations, as well as forms of leadership structures. These structures have not been recognized in State law and no mechanisms exist to allow minority governance structures and the minority leaders that they produce to be taken into account at the regional and national levels. Analysts consider that minorities should have a greater say in the selection of their representatives, which would result in greater confidence and trust in those representatives who have stronger connections with communities and a greater understanding of their issues. The Government pointed out that the State respects the customary practices of ethnic minorities and has promulgated specific policies to enhance the role of village and tribal leaders.

## **VII. Conclusions and recommendations**

75. It is evident to the independent expert from her visit and the information received that the Government of Viet Nam recognizes its minority populations as important constituent parts of the country, and understands many of the challenges that it faces to ensure the rights of minorities in every sphere of life. Viet Nam is a poor country, a victim of devastating wars and subject to natural disasters. Yet, considerable resources have been dedicated to improving the lives of ethnic minorities and to develop the infrastructure and service provision in the most remote, disadvantaged and mountainous regions. There is evident political will to address the sizeable socio-economic gaps that exist between disadvantaged ethnic minorities and the majority Kinh population. The Government deserves to be commended for its initiatives in this respect.

76. Despite valuable constitutional and legal provisions, many belonging to minority groups continue to experience serious disadvantages. They experience severe challenges in all aspects of life, including with respect to opportunities for education and employment, their socio-economic and geographical mobility, and their ability to engage fully and in a meaningful way in the decision-making process about policies that affect them. As the majority population benefits from impressive economic growth and prosperity, minorities risk being left ever further behind. Undoubtedly, their inequality is heightened by their geographic remoteness and sole reliance on agricultural livelihoods. As the Government has begun to demonstrate, however, much can be done to put minorities on the path to progress.

77. Minorities are burdened further by perceptions of them as backward, passive, ignorant and the architects of their own poverty and under-development. Besides constituting unfortunate stereotypes, this perception is used to lend justification to a top-down model of decision-making about minority issues and development models that undervalues genuine consultative processes and traditional knowledge. The Government should undertake a vigorous public education campaign to address civil society and official attitudes about persons belonging to minorities and their contributions to society.

78. The Government should also address the lack of a comprehensive legislative framework to guarantee non-discrimination and to promote and protect minority rights. In addition to comprehensive legislation, an independent agency should be established with the authority to monitor enforcement of these rights, such as an ombudsperson's office or a national institution on human rights established in conformity with the Paris Principles.

79. Economic and social data disaggregated on the basis of ethnic, religious and linguistic criteria are a valuable resource for the Government as it seeks to introduce

policies to ensure equality and non-discrimination. Such data allow problems faced by particular groups to be identified and targeted responses to be formulated. However, to be fully effective, the data must be fully “unpacked” and comprehensively analysed to reveal the unique circumstances of all, including the smaller minority groups currently only included in the category of “other ethnic groups”. The resulting information should then be applied practically in the planning of policies and programmes to meet the needs of specific communities.

## A. Poverty alleviation and development

80. Additional development and poverty reduction investment targeted at minorities is required urgently to close the poverty gap faced by ethnic groups. Efforts to increase the agricultural output and incomes of minorities should be encouraged in consultation with minority communities. Efforts to improve access to markets for ethnic minorities also require further support, including the provision of transport and simple information technology to allow minorities to be aware of market prices and maximize their potential incomes. Targeted microfinance schemes should be made easily available to minority communities. Attention should also be paid to increasing the opportunities for minorities to have to access diverse labour markets and to participate effectively in economic life.

81. Improvements in infrastructure, roads and access to minority communes are vital, and the Government should maintain and increase its attention to these efforts.

82. While greater access potentially brings benefits to minority communities, it may also bring new challenges and problems that the Government must guard against. Minority regions are proving increasingly valuable for the cultivation of commercial cash crops, the exploitation of natural resources, such as bauxite mining and forest resources, and for hydroelectric power and other mega-development projects. Greater access may also provide more opportunities for migration of other population groups and economic interests into minority regions. Prior possession and usage rights should be recognized as creating a superior interest in remaining on traditional lands.

83. Poverty reduction policies relating to minorities should prioritize the preservation of their unique cultures, languages, traditions and lifestyles. Traditional livelihood practices should be approached as having value and presumed to be potentially compatible with increased progress and prosperity, unless disproven. It is critical that the Government ensure that economic growth in rural and remote geographical locations is achieved without negatively affecting the lives or cultures of minorities or deepening their poverty.

84. Meaningful consultations with minority communities and their full participation in decisions that affect them, on all matters from local to the national level, are fundamental rights of minorities. Failure to establish a genuine and effective consultative process with minorities results in inappropriate development approaches. The independent expert is concerned that interactions with minority communities are frequently characterized by top-down approaches that do not fully conform with the principles of free, prior and informed consultation with and consent of the affected communities.

## **B. Language and education**

85. The importance of improving the education outcomes of minorities cannot be overstated. Access to quality and appropriate education is a fundamental gateway to development and poverty eradication for minorities in Viet Nam. It is also essential for the preservation and promotion of minority cultures, languages and identities. Education helps minorities to take control of their lives and to fulfil their potential as equal stakeholders in the development of the State. Improving the access and education outcomes of minority girls should be given particular and targeted attention.

86. The independent expert recognizes the considerable efforts of the Government in the field of education and commends it for its significant achievements to date. The Government has set impressive targets with regard to the provision of schools to all communes, completion of education and the elimination of illiteracy for all those 25 years of age, for example. Her consultations did, however, expose continuing concerns relating to minority access to education, the quality and appropriateness of education methods, and great disparities in education outcomes between majority Kinh students and ethnic minorities.

87. Ethnic minority children should become proficient in Vietnamese in addition to their mother-tongue language to enable them to take part fully in wider society as equal citizens, to contribute their skills fully, and to enable them to claim their rights. The independent expert saw clear evidence that bilingual education ultimately serves to increase the potential of ethnic minority children and communities to learn and use Vietnamese.

88. The new decree on the teaching and learning of ethnic minority languages should explicitly allow ethnic minority languages to be taught and used as a medium of instruction in schools and provide guidance on how this should be implemented.

89. With the ultimate aim of proficiency in Vietnamese and as a means to implement fully the provisions in the Constitution relating to ethnic minority languages, the Government should permit and support bilingual education for ethnic minority children, commencing with their minority language as the medium of instruction in the early years of primary school. This will help ethnic minority children to preserve their cultural and linguistic identity and, as envisaged in article 7 of the Education Law, help pupils from ethnic minorities to easily absorb knowledge when they study in schools and other educational institutions. Creative and flexible approaches to teaching may be demanded in some minority communities that do not have written scripts.

90. In the light of the highly positive preliminary results of the Mother Tongue-based Bilingual Education pilot programme, the Government should increase support for local authorities to apply this approach with technical assistance provided to the provinces by the Ministry of Education and Training and UNICEF. Following the example of Lao Cai province, which adopted the programme and subsequently expanded the approach to other schools, additional provinces should be encouraged to adopt the approach. Consultations with key institutions, including the Communist Party and mass organizations, are encouraged to highlight the benefits of the programme.

91. In provinces where there are challenges to the full implementation of bilingual education programmes, including those with numerous languages or in which ethnic communities are small, educational authorities should be empowered to take specific action to address the needs of ethnic minority children, including by instructing

teachers who speak ethnic minority languages to use those languages consistently in their teaching activities; increasing provision of training in local languages for Kinh teachers in ethnic minority areas; and supporting ethnic minorities to become teachers and teaching assistants.

### C. Religious minorities

92. The independent expert was informed of some progress and positive developments with regard to religious freedoms and the rights of religious minorities. She was also informed, however, of persistent problems, some of which may constitute denial of religious freedoms and other human rights violations.

93. The independent expert remains concerned by continuous reports that legitimate religious practices and peaceful protests by religious minorities, including ethnic minority Protestants, H'mong Christians and Khmer Buddhists, have resulted in restrictions on the freedoms of movement, expression and assembly, harassment and imprisonment. The Government must respect fully the rights of religious minorities and refrain from imposing unjustified restrictions or penalties on individuals and communities exercising their right to peaceful protest.

94. The bureaucratic controls on faith establishments appear to be used most assiduously with respect to Protestant churches and to be grounded in the history of opposition to the Government by ethnic minorities located in the central highlands that also identified as members of the Protestant church.

95. The Government appears to believe that remnants of the political opposition group remain and attempt to conceal their activities by presenting them in the guise of religious practices. As articulated in the Instruction of the Prime Minister on tasks regarding Protestantism (2005), the task of the Government is "to combat resolutely designs and manoeuvres of hostile elements to abuse religion and the Protestant signboard to incite and lure people, sow division in the nation and conduct activities against the country". The Instruction makes a distinction, however, between those who have "a need for purely religious practices" and those who act on behalf of the United Front for the Liberation of Oppressed Races, or Dega Protestantism. Even the more benign category, however, appears to be under restrictions, even though they are of a lesser and more temporary nature.

96. National security and national unity are issues of great importance to the Government, and harsh penalties exist in law for those considered to be undermining them. Efforts to ensure security and consolidation of national unity, however, must comply with international human rights obligations and must not infringe the rights of ethnic or religious minorities.

97. Persistent allegations of arbitrary detention and mistreatment of detainees, including those from ethnic and religious minorities, are serious concerns that require responses and assurances from the Government that due process and the rule of law are consistently applied in line with international standards and enforced at the national and provincial levels. All those in detention for activities that would, under international standards, constitute the peaceful exercise of their rights should be released immediately.

#### **D. Political participation**

98. The Government has demonstrated positive practice in promoting the representation of ethnic minorities in the National Assembly. Nevertheless, a number of challenges remain to ensure the effective political participation of minorities at all levels of government.

99. Importantly, ethnic minority communities should in all instances freely select, in a genuinely participatory process, those who will represent them, thereby empowering leaders to take office with the full confidence of their communities. Methods should be sought to integrate the customary governance structures with the process of selection for leadership roles in State structures.

100. The Council on Ethnic Minorities of the National Assembly should enhance its oversight of the work of the Government's Committee on Ethnic Minorities, and members of the Council should receive training in mainstreaming minority issues into legislation and public policies to make them effective in carrying out their responsibilities.

#### **E. Further engagement with United Nations human rights mechanisms**

101. The independent expert welcomes the Government's undertaking to extend further invitations to other United Nations human rights experts in the months ahead. She hopes that these will include invitations to a wide range of special procedures mandate holders, including those with mandates in the area of civil and political rights. Specifically, she recommends that the Government invite the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Working Group on Arbitrary Detention. These mandates should be allowed free and unfettered access to all parties they wish to meet and to all regions of the country.

102. The independent expert encourages the Government of Viet Nam to consider possibilities for technical cooperation in the field of human rights, including the rights of minorities, with the Office of the United Nations High Commissioner for Human Rights.

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