



## សហព័ន្ធខ្មែរកម្ពុជា-ក្រោម

KHMERS KAMPUCHEA-KROM FEDERATION

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### The Khmer-Krom's Right to Self-Determination in the Mekong Delta

#### Introduction

The Khmers Kampuchea-Krom Federation (KKF) is a non-profit organization based in the United States to advocate for the fundamental rights of the Khmer-Krom, the indigenous peoples of the Mekong Delta in Vietnam. KKF has attended the United Nations Permanent Forum on Indigenous Issues (UNPFII) in New York since 2004 and has also participated in the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) in Geneva since 2007. KKF has been accepted to be an associate with the United Nations Department of Global Communication (UN DGC) since November 2015.

The Khmer-Krom people have been living on their ancestral land in the Mekong Delta for thousands of years. The Khmer-Krom people call their homeland, in their Khmer language, Kampuchea-Krom.

The government of Vietnam has not recognized the Khmer-Krom as indigenous peoples but instead labels them as the Khmer Ethnic Minority. As the Mekong Delta's indigenous peoples, the Khmer-Krom people prefer to identify themselves as Khmer-Krom to preserve their cultural identity, remain connected to their ancestral land, and distinguish themselves from their Khmer siblings in Cambodia.

The government of Vietnam conducted the Population and Housing Census in 2019. Most of the Khmer-Krom did not receive the Census form or were not aware of it to be able to represent themselves in the Census. The Census Form and Instructions were not in the Khmer language. The lack of Khmer language and Khmer Census Workers caused millions of Khmer-Krom were undercounted. Thus, the statistical data reported by the government of Vietnam regarding the Khmer-Krom demographic is questionable.

Consequently, lacking recognition as the indigenous peoples and losing the *right* to self-identify as Khmer-Krom prevents the Khmer-Krom from seeking the right to self-determination as enshrined in Article 1 of the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic Social and Cultural Rights (ICESCR), and in Article 3 and

Article 4 of the United Nations Declaration on the Rights of Indigenous Peoples (UN DRIP). Vietnam signed and ratified the ICCPR and ICESCR in 1982. Vietnam signed to adopt the UN DRIP in 2007.

This submission aims to provide the true living situation of the Khmer-Krom people who do not enjoy fundamental rights, especially the right to self-determination for their destiny, on their ancestral land in the Mekong Delta. It also provides recommendations to ensure that the Khmer-Krom have the right to self-determination as the Mekong Delta's indigenous peoples.

## **Lack of Access and Representation**

The majority of the information shared in Vietnam is in Vietnamese. As of today, some of the Khmer-Krom people, particularly the elders, cannot read or write Vietnamese fluently. The government does not provide public documents or forms in the Khmer language.

Because the Khmer-Krom people are also not officially recognized as the indigenous peoples, the rights that they would be entitled to are limited. They are only accorded status as one of 54 ethnic groups. This prevents legitimate claims to lands that were taken from them, as will be discussed regarding the use of land.

Their ability to freely express themselves is suppressed, as they are arrested when they organize and peacefully protest the conditions that lead to their poverty. This will also be discussed in the section on access to land.

The Khmer-Krom are unable to form their own associations. Associations can only be formed with consent from the Government. This restricts the ability of the Khmer-Krom to form communities that promote and protect their interests.

Living in a one-party communist state, the Khmer-Krom do not have the option to participate in a free and fair election to elect leaders to represent their common interests. The Vietnamese government has instead appointed a few specific Khmer-Krom people in certain positions, including in the National Assembly. These elected officials do not voice the interests and concerns of the Khmer-Krom but are there to merely promulgate the government's policies. Moreover, in each province in the Mekong Delta, the Vietnamese government established provincial ethnic affairs offices. Khmer-Krom people have been appointed to work in the ethnic affairs only to act as speakers to propagate the government's policies. When the Khmer-Krom farmers face land disputes with the authorities, the Khmer-Krom representatives, such as people working for the ethnic affairs or even in the National Assembly, have no right or power to help resolve any issues.

## **The Land Rights Issue**

As the indigenous peoples of the Mekong Delta, most of the Khmer-Krom people are farmers. **Farmland is their life.** Unfortunately, the Khmer-Krom farmers have begun losing their farmlands for the following reasons:

## 1. Government management of land

According to Article 4. Land Ownership of Vietnam's latest 2013 Land Law reform, "*Land belongs to the entire people with the State acting as the owner's representative and uniformly managing land. The State shall grant land use rights to land users in accordance with this Law.*"

While this law was reformed in 2013, it maintains the communist ideology of the "people's ownership" and "state management." Article 4 even allows the people in Vietnam the right to use the land, but the State decides whom the land will be handed over to, and the local government is responsible for addressing disputes over land.

This controversial law causes land grabbing corruption and pushes thousands of Khmer-Krom families deeper into poverty due to losing their farmlands. Khmer-Krom farmers have organized and stood up for their land rights and, as a result, were imprisoned for charges under Vietnam's penal codes.

## 2. Violations of freedom of expression and arbitrary detention related to land rights

Below are some of the examples of challenges the Khmer-Krom have faced in different provinces in the Mekong Delta in trying to advocate for access to their agricultural lands:

In Soc Trang province, Mr. Huynh Ba, a Khmer-Krom land rights activist, led Khmer-Krom farmers many times from Soc Trang province to the Ethnic Minority agency in Can Tho province to demand the return of their confiscated farmlands. The representatives of the Ethnic Minority agency have no power to resolve any of the issues. Because Mr. Huynh Ba was the leader, he was arrested on May 30, 2009, and sentenced to two years in prison under Article 258 (*abusing democratic freedoms to infringe upon the interests of the State*) of the 1999 Penal code.

In An Giang province, Mr. Chau Hen was arrested and imprisoned for leading a protest for demanding the return of his confiscated farmlands in An Giang province. In March 2011, without legal representation, he was sentenced to two years' imprisonment under Article 245 (*causing public disorder*) and Article 143 (*destroying or deliberately damaging property*) of the 1999 Penal code. The confiscated farmlands of the Khmer-Krom people in An Giang province have still not been returned, and this issue has not been resolved to this today.

In Kien Giang province, while facing extreme financial hardships during the COVID-19 pandemic, the Khmer-Krom farmers demanded the return of their confiscated farmlands so they could farm to provide food for their families or sell. On December 3, 2020, the Vietnamese authorities of Giang Thanh district, Kien Giang province, brought Mr. Huynh Van Dep, Mr. Tien Dam, Mr. Tien Nam, and Mrs. Thi Pich to face trial, where they were sentenced from one to two and half years in

prison. These farmers were accused of the alleged crime of "Resisting a law enforcement officer in performance of his/her official duties" under article 330 of the Penal Code.

- Mr. Huynh Van Dep (born 1979) was sentenced to two years and six months in prison.
- Mr. Tien Dam (born 1992) was sentenced to two years and three months in prison.
- Mr. Tien Nam (born 1992) was sentenced to one year in prison.
- Mrs. Thi Pich (born 1956) was sentenced to one year's probation.

## Lack of Strong Institutions

### 1. Freedom of Religion and Belief and Freedom of Association

As indigenous peoples of the land in the Mekong Delta, the Khmer-Krom have been practicing Theravada Buddhism and building more than four hundred temples on their ancestral lands for thousands of years. The oldest temple, Wat Sambor Rangey, was built in the year 373 in Tra Vinh province.

The Khmer-Krom temple is not just a place of worship, but it is also the educational community center for the Khmer-Krom to study their language and preserve their culture. Even Vietnam's constitution guarantees the right to form an association (Article 25) and freedom of religion and belief (Article 24), yet the Khmer-Krom cannot organize an independent religious organization.

The Law on Belief and Religion requires all religious groups to register with the Government Committee for Religious Affairs and report on their activities. However, this registration can be refused at the government's discretion for unknown reasons. With its ability to regulate religious groups' activities, the Vietnamese authorities use the Law on Belief and Religion to silence whoever complains about their religious rights being violated.

The Khmer-Krom Buddhist monks have been forced to join the Vietnam Buddhist Sangha (VBS) established by Vietnam's government to represent Vietnamese Buddhism. If the Khmer-Krom Buddhist monks in a temple refuse to be members of the VBS, they will be threatened and intimidated until they agree to join; otherwise, they have to leave their monkhood.

As of today, the VBS has successfully controlled how the Khmer-Krom practice their religion, such as:

- Appoint the Abbot (head monk) in the Khmer-Krom temples
- Change the Khmer-Krom temple's stamps to have only Vietnamese language
- Change the Khmer-Krom Buddhist Identification to have only Vietnamese language
- Force the Khmer-Krom Buddhist monks to attend the so-called workshop "*National Defense and Security*" to train and brainwash the Khmer-Krom Buddhist monks
- Force the Khmer-Krom to hang the Vietnamese Communist founder, Ho Chi Minh's picture in the temple along with Vietnam's flag instead of the Buddhist flag
- Prohibit Khmer-Krom Buddhist monks to speak in the Khmer language in the conferences to study the Khmer-Krom Theravada Buddhism

- Monitor the teaching curriculum in the Khmer-Krom temples.

Peaceful activism and expressions of dissent by Khmer-Krom people are seen as a threat to national unity. National security provisions in Vietnam's Penal Codes, in press and publication laws are used to criminalize peaceful freedom of expression and freedom of assembly. In addition the Vietnamese government effectively bans the formation of independent associations advocating for human rights, and tightly controls all religious organizations. Only the associations under the government's control are able to operate in Vietnam. Authorities require approval for public gatherings and systematically refuse permission for meetings, marches, or public gatherings they deem to be politically unacceptable.

In 2007, over two hundred Khmer-Krom Buddhist monks at the Pali language school in the Soc Trang province organized a peaceful protest to demand religious freedom. The authorities used military force to arrest and disrobe nine Khmer-Krom Buddhist monks. Five Khmer-Krom Buddhist monks were sentenced from two to four years in prison for "causing public disorder" under Article 245 of the 1999 Penal Code.

## **2. Mother Tongue and Multilingual Education**

Most of the Khmer-Krom youths now cannot read and write the Khmer language fluently. Even though the Khmer language has been allowed to be taught in public schools, specifically in boarding schools where the Khmer-Krom are most populated, the Khmer-Krom students can only learn Khmer for about two hours a week. Thus, the Khmer-Krom students cannot master their Khmer mother tongue language. To preserve the Khmer language, the Khmer-Krom Buddhist monks have tried to open Khmer classes in their temples. Unfortunately, the Khmer-Krom Buddhist monks frequently face oppression because the government aims to control what is taught at the temples.

In 2013, the Vietnamese authorities' ordered Venerable Lieu Ny, an Abbot of the Tra Set temple, to defrock Venerable Thach Thoul, a monk who simply demanded the ability to teach the Khmer language freely in his temple. However, Venerable Lieu Ny refused, and the police oppressed both Ven. Lieu Ny and Ven. Thach Thuol to the point that they tried to escape their beloved temple to Cambodia for their safety. Unfortunately, they were arrested and sentenced from four to six years for "fleeing abroad to act against the people's administration" under Article 91 of the 1999 Penal Code.

Lacking mother tongue language skills and not having bilingual education since elementary school, most of the Khmer-Krom students cannot compete with the Vietnamese students in public school. The Vietnamese government provides boarding schools in some areas for the Khmer-Krom students to study. However, the quality of the boarding schools is not good. Many Khmer-Krom students have dropped out of high school to look for works to support their families.

### **3. Lack of access to government, higher education and other sources of economic opportunity and civic representation**

Having no land for farms, the Khmer-Krom youths have left their beloved villages to look for work in the big cities far away from their family. Lacking education and technical skills, most of the Khmer-Krom workers can only find jobs at factories, as waiters or waitresses in Vietnamese restaurants, or as servants in wealthy Vietnamese families. For many of the Khmer-Krom living in rural areas, the youth do not have access to higher education due to limited colleges or vocational schools nearby or other reasons out of their control that prevent them from attending. Many youth do not even finish high school because they have to work to help provide for their families.

Some fortunate Khmer-Krom students can continue to study at the University. However, most of the Khmer-Krom students who graduated from University cannot find a job. Firstly because they are Khmer-Krom, they do not have connections. To get a job position in the government, they have to be members of the communist party. Secondly, in some positions, they cannot compete with the Vietnamese students due to lack of English and computer skills. While studying at the University, the program does not teach English and computers at the level that the job market requires. The Khmer-Krom students cannot afford to study English and Computer at the private learning center.

Vietnam has not allowed workers to form the Independent Labor Union. Thus, when the Khmer-Krom workers face injustices at their workplace, it is difficult for them to look for help. For example, during the COVID-19 pandemic, some Khmer-Krom workers faced discrimination in hiring process and were the laid-off because they are Khmer-Krom. Some of the Khmer-Krom workers wrote letters of complaint to the Vietnamese authority, but did not receive any response. In July 2020, KKF also sent a letter to a company in Vietnam to urge them not to use discrimination policies against Khmer-Krom.

Living far away from their beloved family and temples in their village, the Khmer-Krom workers cannot go back home to celebrate their cultural festivals. If they go, they might lose their job when they come back. The Khmer-Krom workers have written appeal letters to the Vietnamese government asking for days off to return to their village to celebrate the Khmer New Year in April and Bonn Pjum Ben (Don-Ta) festival in September. The Khmer-Krom workers still receive no response from the government. When the police saw that Khmer-Krom workers were sharing the appeal letter, the police went to the Khmer-Krom worker's house, asking him to remove his appeal letter from Facebook.

Meanwhile, Khmer-Krom women are some of the most at-risk groups vulnerable to domestic violence and financial hardship. Couple with a lack of education and poverty, most Khmer Krom women are left behind. With no independent NGOs operating in Vietnam to help protect women's fundamental rights, it is difficult for the Khmer-Krom female workers to find support and report issues if they were abused or mistreated.

#### 4. Using Cybersecurity Law to silence Khmer-Krom

On June 12, 2018, the National Assembly of Viet Nam passed the Law on Cybersecurity, which became effective on January 1, 2019, to control how the people in Vietnam use the Internet, regarding what they can share. Moreover, on 3 February 2020, the Government of Vietnam issued Decree No. 15/2020/ND-CP and became effective on April 15, 2020. The Vietnamese government has used the Cybersecurity law and Decree 15 to summon the Khmer-Krom to see the police. Two Khmer-Krom youths were fined.

On October 15, 2019, Tran Thi Sophia. Alleged crime: connecting with KKF's members and sharing KKF's activities.

On January 6, 2020, Duong Khai. Alleged crime: sharing information on KKF's social media. The authority contacted his company and laid-off him during the COVID pandemic. His company refused to hire the Khmer-Krom. KKF sent a letter to his company asking to comply with Business and Human Rights. He is re-hired now.

On February 2, 2020, Venerable Seun Ty, a Khmer-Krom Buddhist monk living in Cambodia, visited his family in Kampuchea-Krom. His passport was confiscated because he shared information about Khmer-Krom activities abroad on his Facebook page while he was in Cambodia.

In February 2020, Kurt Ly, a Khmer-Krom man living in the US, visited his father, who was sick in Kampuchea-Krom. While he was in his hometown, he shared his village pictures on Facebook, having a keyword "Kampuchea-Krom." The cyber-army force detected and summoned him for interrogation for more than 4 hours. He was forced to sign a confession for not violating again. He had to sign, and if not, he would not be allowed to go home.

On May 5, 2020, Khmer-Krom farmers livestreamed on Facebook footage of the Vietnamese Policies deploying armed forces to stop the Khmer-Krom farmers from farming on their farmlands that authorities confiscated. On June 7, at 7pm, the Vietnamese police arrested Mr. Huynh Dep, who was just a driver of the excavator on May 5. He is being sentenced to 2 years, as mentioned in the land right section above.

On June 2, 2020, Thach Cuong was fined 7.5 Million Dong (about \$360) for sharing "fake news" violating Decree 15.

On June 8, 2020, To Hoang Chuong was fined 7 Million Dong (about \$350) for sharing information relating to KKF's activities violating Decree 15.

On July 3, 2020, Danh Minh Quang. Alleged crime: sharing "fake news." Fortunately, he was not fined.

## Culture on Display

As the indigenous peoples living on their ancestral lands in the Mekong Delta for thousands of years, the Khmer-Krom people have a rich and unique culture. Unfortunately, the Vietnamese government has exploited the Khmer-Krom culture to attract tourists to make profits for the government, not the Khmer-Krom.

The Vietnamese government built a Khmer-Krom Dharma hall (called as Preah Vihear in Khmer) at the Cultural Village of Vietnamese Ethnic Group in Dong Mo, Son Tay district, Ha Noi. This temple is a copy of the Khmer-Krom temple (Khleang temple) in Soc Trang province. The Dharma hall is a sacred place that the Khmer-Krom Buddhist followers use to worship. It is now being used as a display to attract tourists to visit the cultural village in Hanoi. Moreover, the Vietnamese government ordered the Khmer-Krom Buddhist leaders in the Mekong Delta to select at least one or two Khmer-Krom Buddhist monks to stay inside the Dharma hall. Instead of being able to practice their religion in peace and amongst their community, our spiritual leaders are forced to put their religion on display. Those who get selected must be there from three to six months, and those who refused would face punishment.

Two famous traditional sports in the Mekong Delta are boat racing in Soc Trang and Tra Vinh provinces and Ox (Bull) racing in An Giang province. The Khmer-Krom had organized the Boat racing and Ox racing themselves during their cultural festivals for hundreds of years. Unfortunately, Viet Nam's government has exploited the boat racing and ox racing festivals to attract tourists to make lots of profits from providing the tourists services and advertisements. The Khmer-Krom people do not gain a penny from those profits, except the winning teams, who may get some awards. These traditional sports should be preserved and used at the cultural festivals for the Khmer-Krom to enjoy, instead of changing the traditional ways these sports have been performed to commercialize and attract tourists.

## Recommendations

KKF would like to provide the following recommendations from this report that would achieve justice for these human rights violations, prevent future human rights violations, and allow the Khmer-Krom to exercise their right to self-determination.

- First and foremost, we call on the UN OHCHR and member states to urge Vietnam to recognize the Khmer-Krom people as Indigenous Peoples officially. Despite supporting the adoption of the UNDRIP in 2007, Vietnam has not established a legal system for formalizing recognizing the indigenous peoples within their borders. By recognizing the Khmer-Krom as indigenous peoples, the fundamental rights enshrined in the UN DRIP would provide the Khmer-Krom with the ability to lay claim to their ancestral lands to not only support their traditional livelihood of farming but allow them the right to protect their culture and identity. And it also provides the power to exercise their fundamental human rights, specifically freedom of speech, expression, and religion and belief, without being subjected to fines, threats, imprisonment, and police brutality.



- We call on the OHCHR to help create a committee consisting of qualified, unbiased members from different countries to investigate and study the situation of the Khmer-Krom in the Mekong Delta to provide evidence for more vigorous dialogue around the issues that Khmer-Krom face. This committee would help to ensure accurate reporting on human rights violations, land disputes, living conditions (i.e., access to resources, causes of poverty, etc.), regulation of Khmer-Krom Theravada Buddhist temples and monks, Khmer language education, abuse against women, gender disparities, access to higher education, unjust punishments for sharing information about Khmer-Krom on social media, and the exploitation of Khmer-Krom monks and culture. This committee would write a report on their findings to publicize the human rights violations that the Khmer-Krom experienced in Vietnam to pressure Vietnam to change their policies, retroactively dismiss charges, and recognize the Khmer-Krom as Indigenous Peoples.
- We call on Vietnam to comply with ICCPR and ensure that the Khmer-Krom people can exercise their rights to self-determination, particularly their right to free trial and equal protection. They should also create mechanisms to provide access to legal processes for Khmer-Krom in cases where there is a violation of their rights.
- We call for Vietnam to end the exploitation and profitization of the Khmer-Krom monks, culture, and religion at the Cultural Village of Vietnamese Ethnic Group in Dong Mo, Son Tay district, Ha Noi. We also urge the Member States to take practical steps to ensure that this appropriation of indigenous Khmer-Krom culture, especially for the purpose of economic growth and profit, does not occur.
- We urge the OHCHR and all Member States to pressure the Vietnamese government and call on them to repeal the Law on Cybersecurity and Decree 15/2020/ND-CP. These laws infringe on the fundamental freedoms of speech, expression, assembly, and press and disproportionately target groups like the Khmer-Krom that do not align with the "State's interests." These laws allow the Vietnamese government to violate any human rights without consequences since people cannot share these injustices online, through the post, or any telecommunications.
- We ask that the Khmer-Krom people be able to freely form association without fear and intimidation from the Vietnamese government. The Khmer-Krom Theravada Buddhism branch should form its independent association without needing to be part of the Vietnam Buddhist Sangha (VBS). The VBS represents Mahayana Buddhism, which is a different branch of Buddhism. Only by allowing free and independent association could help our spiritual leaders fully exercise their rights and control over the Khmer-Krom people's religious affairs.
- We ask that the Khmer-Krom who have spoken out and protested against these religious violations be released from prison, cleared of their charges, and given compensation and a public apology from the Vietnamese authorities. These religious violations are still occurring today, but more and more Khmer-Krom people are too afraid to speak out from fear of being punished, silenced, brutalized, and imprisoned.
- We call on Vietnam to provide all public records and forms such as the census in the Khmer language to ensure that the Khmer-Krom people could read and understand it.